

0141

REPORT
OF THE
INDIAN ACT
CONSULTATION MEETING

CHILLIWACK, BRITISH COLUMBIA
NOVEMBER 18, 19, 20, 21, 22, 1968

E92
C353
v. 14
c. 2

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

Table of Contents

Monday, November 18, 1968

Selection of chairmen	1
Opening remarks by Mr. W. Mussell on behalf of the Minister the Honourable Jean Chrétien and general discussion	2
Motion for a separate B.C. Indian Act	4
Remarks by Mr. Pringle M.P. and Mayors Brittain and Holman.	4
Discussion on name of Act	5
Discussion on delegation of Ministerial authority	6
Discussion on application of the Act.	7
Discussion on status of children of unmarried Indian mothers.	9

Tuesday, November 19, 1968

Presentation of briefs.	14
General discussion on briefs.	18
Discussion on control of reserve land	19

Wednesday, November 20, 1968

Motion re rights of B.C. Indians and general discussion	32
Discussion on agenda and review of motions passed	37
Discussion on various aspects affecting Indian status	39
Discussion re a registry of Indian lands and rights to Band lands	48
Discussion re selling reserve land.	53
Discussion on right to deal with estates under provincial law	53
Discussion on pledging property for funds	56

Thursday, November 21, 1968

Continuation of discussion on use of property	58
Discussion re Canada Pension Plan	60

Discussion on education and questioning of Mr. Hall, Regional Superintendent of Education	64
Discussion re Medical Services with Dr. Murie, Department of National Health and Welfare.	72
Discussion on voting privileges.	75
Discussion on surveys.	76
Discussion re operation of farms	77
Discussion on Justice of the Peace appointments.	78
Discussion on liquor	78
Discussion on leases	79
Discussion on use of Band funds.	80
Discussion on changing the Band local government system.	81
Discussion re voting age	82
Discussion re age to hold office	82
Discussion on Council election system.	83

Friday, November 22, 1968

Continuation of discussion on Council election system.	86
Discussion re local government	89
General discussion	91
Remarks by the Honourable Robert Andras, Minister without Portfolio.	92
General discussion	95
Selection of delegates to the Ottawa meeting (See results on page 107).	104
Closing discussions	105
Adjournment.	108

Appendix A - Lillooet Bands Submission	109
B - Fraser Valley Bands Submission.	113
C - Squamish Bands Submission.. . . .	123
D - Musqueam Bands Submission	132
E - Fraser Valley - Answers to Questions - "Choosing a Path".	137

REPORT OF THE INDIAN ACT CONSULTATION MEETING
HELD AT
CHILLIWACK, B.C.
NOVEMBER 18, 19, and 20, 1968.

Chairman
Mr. Simon Baker,
270 Whonoak Road,
North Vancouver, B.C.

Co-Chairman
Mr. Gordon Hall,
7518 Chilliwack River Rd.,
R.R. 2, Sardis, B.C.

BAND SPOKESMEN

BAND

Anderson Lake

Cheam

Chehalis

Homalco

Hope

Katzie

Klahoose

Lakahahmen

Matsqui

Mount Currie

SPOKESMEN

Chief Arthur Thevarge,
D'Arcy, B.C.

Chief Albert Douglas,
Box 33,
Rosedale, B.C.

Mrs. Rose Charlie,
Harrison Mills, B.C.

Chief Solomon Harry,
Churchouse,
via Stuart Island, B.C.

Chief Peter D. Peters,
Box 842,
Hope, B.C.

Chief Joachim Pierre,
Box 248,
Port Hammond, B.C.

Chief William Mitchell,
Squirrel Cove, B.C.

Mr. Dave Johnson,
General Delivery,
Deroche, B.C.

Miss Judith Julian,
890 Ferry Road,
Rosedale, B.C.

Chief Baptiste Ritchie,
Box 129,
Mount Currie, B.C.

BAND

Musqueam

Peters

Popkum

Scowlitz

Seabird Island

Sechelt

Semiahmoo

Skahwahlook

Skahwahlook

Skwah

Skway

Sliammon

Soowahlie

Squiala

SPOKESMEN

Mrs. Gertrude Guerin,
6314 Salish St.,
Vancouver 13, B.C.

Chief Frank Peters,
R.R. No. 2,
Hope, B.C.

Chief James Murphy,
Box 2, R.R. No. 1,
Rosedale, B.C.

Mr. Wilfred P. Hall,
Box 4,
Harrison Mills, B.C.

Chief Vincent Harris,
R.R. No. 1,
Agassiz, B.C.

Mr. Clarence Joe,
Box 217,
Sechelt, B.C.

Chief Bernard Charles,
16010 Beach Rd., R.R. No. 2,
White Rock, B.C.

Miss Pauline Chapman,
3228 Dumfries St.,
Vancouver 12, B.C.

Miss Lucy Chapman,
3066 Dollarton Highway,
North Vancouver, B.C.

Mrs. Genevieve Mussel,
Box 70,
Chilliwack, B.C.

Chief James Joseph,
45820 Railway Avenue,
Chilliwack, B.C.

Miss Jeanne Galligos,
c/o School Board,
Powell River, B.C.

Mrs. Marjorie Kelly,
Box 12, Vedder Crossing,
Sardis, B.C.

Mrs. Theresa Jimmie,
Box 186,
Chilliwack, B.C.

<u>BAND</u>	<u>SPOKESMEN</u>
Squamish	Chief Joseph Mathias Joe, 221 Paitsmauk Rd., North Vancouver, B.C.
Sumas	Mrs. Elizabeth Williams, Kilgard Rd., R.R. No. 4, Abbotsford, B.C.
Tsawwassen	A/Chief Peter Jacobs, R.R. No. 1, Tsawwassen Dr., Ladner, B.C.
Tzeachten	Mrs. Clara Campbell, 6356 Vedder Rd., Sardis, B.C.
Union Bar	Mrs. A. Alex, Box 655, Hope, B.C.
Yale	Chief Stephen Emery, Box 52, Yale, B.C.
Yakweakwioose	Chief Richard Malloway, 7122 Chilliwack River Rd., Sardis, B.C.
Burrard	Chief John L. George, 3198 Dollarton Highway, North Vancouver, B.C.
Boothroyd	Chief Ernest Thomas, Box 140, Boston Bar, B.C.
Boston Bar	Chief Jules McHalsie, Box 11, North Bend, B.C.
Bridge River	Chief Gordon James, Box 533, Lillooet, B.C.
Cayoose Creek	Mr. Henry Thevarge, Lillooet, B.C.
Clinton	Mrs. Lorraine LeBourdais, Box 283, Clinton, B.C.

<u>BAND</u>	<u>SPOKESMEN</u>
Fountain	Mr. Victor Adolph, Box 71, Lillooet, B.C.
Kanaka Bar	Chief William Sampson, Lytton, B.C.
Lytton	Mr. Timothy Spinks, Box 83, Lytton, B.C.
Lillooet	Chief James Scotchman, Box 391, Lillooet, B.C.
Spuzzum	Chief James Johnson, Spuzzum, B.C.
<u>OTHER REPRESENTATIVES</u>	
North American Indian Brotherhood	Mr. William Campbell, 3245 Renfrew Street, Vancouver, B.C.
Vancouver Indian Centre	Mr. Benjamin Paul, 615 Blundell Road, Richmond, B.C.
Homemakers' Club	Mrs. Wilma Mussel, Box 62, Wellington Avenue, Chilliwack, B.C.
<u>CONSULTATION TEAM</u>	
Hon. Robert Andras	Minister Without Portfolio
William J. Mussell	Special Assistant to the Minister
Walter Dieter	President - National Indian Brotherhood
C.I. Fairholm	Department of Indian Affairs and Northern Development
G. Poupore	Department of Indian Affairs and Northern Development
W. Fox	Department of Indian Affairs and Northern Development

CONSULTATION TEAM

Paul McTaggart

Department of Indian Affairs
and Northern Development

Arnold Fraser

Department of Indian Affairs
and Northern Development

George Rimek

Department of Indian Affairs
and Northern Development

Les Smith

Department of Indian Affairs
and Northern Development

Steve Roberts

Department of Indian Affairs
and Northern Development

Keith Miller

Indian News

J.V. Boys

Regional Director - B.C.

W.A. Barnes

Department of Indian Affairs
and Northern Development -
Vancouver.

N.E. Whitehead

Department of Indian Affairs
and Northern Development -
Lytton, B.C.

D.F. Van Blarcom

Department of Indian Affairs
and Northern Development -
Chilliwack, B.C.

Monday, November 18, 1968.

Mr. J. V. Boys called the Meeting to order and introduced himself to the delegates. He welcomed them to what he hoped would be a fruitful series of discussions. He suggested that during the morning the meeting would probably be just getting organized so that if the delegates were not satisfied with the seating arrangements it could probably be rearranged after lunch. He requested them however, once this had been done to retain the same seat each day to make it easier for the recorders. He suggested that the first order of business should be the election of Indian chairman and co-chairman. He noted it was not necessary to choose a delegate for this purpose. He called for nominations for Chairman.

It was MOVED by Mr. Albert Douglas and SECONDED by Mr. Clarence Joe "that Chief Simon Baker of the Squamish Band be Chairman."

It was MOVED by Mr. Bernard Charles and SECONDED by Mr. Baptiste Ritchie that Mr. Percy Paul be Chairman. Mr. Paul declined to stand for the position as he was not sure that he could attend all of the meetings.

It was MOVED by Mr. Peter Peters and SECONDED by Mr. Richard Malloway "that Chief Gordon Hall of the Skulkayn Band be Chairman."

It was MOVED by Mrs. Gertrude Guerin and SECONDED by Mr. Albert Douglas "that nominations close."

Upon a show of hands Mr. Boys declared the Motion CARRIED. He appointed a committee of Mr. Walter Dieter of the National Indian Brotherhood and Mr. Gus Gottfriedson of the Kamloops Band to supervise the election.

The Committee reported the results of the election, that Chief Simon Baker of the Squamish Band had been elected as the Chairman. Chief Baker was invited to assume the Chair.

Mr. J. V. Boys then enquired as to the position of Co-Chairman.

It was MOVED by Mr. James Scotchman and SECONDED by Mrs. Gertrude Guerin that Chief Gordon Hall of the Skulkayn Band be accepted as Co-Chairman.

On a show of hands Mr. Boys declared the Motion CARRIED and Chief Gordon Hall the Co-Chairman.

Mrs. Gertrude Guerin of the Musqueam Band suggested that one member of the group be given a copy of the tapes.

Mr. Boys advised that it should be possible to do that, and he would make arrangements for it. He noted that it took some time to reproduce tapes and that he was not too sure when they would be available. He enquired whether the meeting would designate someone to receive them or whether it would be acceptable to leave them with the Chairman.

IT WAS MOVED by Mr. Paul and SECONDED by Mr. James Scotchman that the ballots be destroyed.

On a show of hands Mr. Boys declared the Motion CARRIED.

Chairman Simon Baker advised that he was gratified to be able to be Chairman of the Meeting. He thanked the delegates for their support. He noted that although the election was close in the voting, he believed that he and the Co-Chairman could work together as he knew Chief Hall well and had been associated with him in many matters in the past. He suggested that the delegates become acquainted and requested each to rise and identify himself.

Mr. Boys noted that Mr. Chr tien, the Minister, was unable to be present but was represented by his Special Assistant, Mr. William Mussell.

Mr. William Mussell advised that he was pleased to have the opportunity to be in his home town for this series of consultation meetings. He stated that the Minister had planned on being present at the meeting but had been requested by the Prime Minister to return to Ottawa for a meeting that day. He had requested Mr. Mussell to attend the meeting as his eyes and ears and to report back to him. He advised that the Minister felt that the round of consultations presently under way were a first step toward what he hoped would be meaningful communication between the Indian people and the Federal Government. He noted that the discussions were being taped and would be studied by the Minister personally with a view to establish legislation which the Indian people would like to have. He was of the opinion that there was no legislation in Canada that had a more direct bearing than the Indian Act. He noted that the first round of consultations would end in December and the results of this round would provide a general framework which would give the drafters of the Act some general directions to follow. He advised that there would be a second round of consultations because of the significance of the Act to the Indian people of Canada. Mr. Mussell mentioned that the Minister fully recognized the importance of the involvement of the people in their own affairs. He advised that the Minister had said in the past that he was not a very good colonialist and having to deal with the number of decisions involved in Indian Affairs, he felt that these could be handled more readily at the local level or at the Band Council level if the Councils wished this responsibility. He said that the Minister was also in favour of local, regional, or provincial areas establishing strong associations or organizations. He added that by strong he meant associations representing as many of the people as possible. Through such strong local, grassroots organizations the process of communication could be more readily established and continued. He advised that this meeting was the delegates and they should establish the priorities as to the kind of items they felt they would like to have the Government know, which was one of the reasons for the meeting. On behalf of the Minister he wished them well in their deliberations and knowing many of them as he did he was sure the discussions would be lively and fruitful. He advised that he was there to listen and would do so for the rest of the day. He thanked the delegates for the opportunity to speak.

Mr. Boys at the request of the Chairman, introduced the guests and departmental officers. He suggested that the delegates decide on an agenda, priorities, and procedures and the hours of sitting. He noted that the Hall was required after 5 o'clock each day. He also advised that the discussions would be taped and requested each delegate to speak up and each time to identify himself before speaking. He said that before the meeting ended and probably toward the close of the meeting, they would be asked to name a delegate to represent them at a meeting to be held in Ottawa during January, to further discuss the recommendations of each of the meetings.

Mr. A. Douglas suggested that since the meeting was only one or, if not the largest meeting in Canada that one delegate would be insufficient, and that there should be more.

Mr. Boys agreed it was a large meeting. He suggested that the point be raised when the selection was being made. He advised that their wishes would certainly be considered by the Minister. He said the departmental officials at the meeting were there to listen, to try and interpret the present Act and policy; participate in the discussions but not to make suggestions or defend the present Act. He was hopeful that the meeting would base its discussions on what should be in the future Act that would be of real advantage to the Indian people in the years ahead.

Chairman Simon Baker suggested that the form of an agenda was important. He inquired as to the thoughts of the delegates in this respect. He noted that there were 5 days available for a good discussion. He suggested that Mr. Mussell had advised what the department felt and noted that it was up to each delegate to speak his mind and express his thoughts in the best manner. He said that he would not be a strict chairman but that it was necessary to have an agenda to keep the meeting in order.

Mr. Scotchman MOVED that an agenda committee representing each area be established to consider an agenda between then and lunch.

Mr. Fairholm said that in many of the previous meetings, the delegates had gone into a closed meeting to establish their agenda and priorities.

Mr. Clarence Joe MOVED "that the delegates have a closed meeting to discuss the agenda." The motion was SECONDED by Mrs. Guerin.

Chairman Simon Baker upon a show of hands, declared the Motion CARRIED.

Mr. John L. George also suggested that the delegates appoint their own recording secretary to assist the chairman.

A discussion of the times of the meeting was held.

It was duly MOVED and SECONDED "that the hours of the meetings be from 9 to 12 and 1 to 4:30 with a coffee break during the morning and afternoon session."

Mr. Clarence Joe believed that the meetings were sufficiently important that all delegates should attend regularly during the hours prescribed and should confine themselves to business.

Chairman Baker on a show of hands declared the Motion CARRIED. He closed the meeting at this time on the basis of the previous motion.

Mr. Benny Paul pointed out that the Indians in British Columbia were not under treaty and that therefore they should have a special B.C. Indian Act, at least until the land question was settled.

Mr. Vincent Harris said that all the Bands in the Fraser Agency wanted a B.C. Indian Act.

It was moved by Mr. Charles and Seconded by Mr. Paul "that there should be a separate B.C. Indian Act."

Mr. Joe and Mrs. Guerin suggested that in the new Act there should be a clause which would make revision of the Act possible every 5 or 10 years according to the needs of individual or groups of Bands. Such Bands should have the possibility of approaching the Federal Government and getting the revisions which would meet their needs.

The motion was put and carried with 1 voting against.

Mr. G. Pringle the local Member of Parliament was asked to speak.

"I would be very glad to say two or three words if I may. You know I'm your M.P. from this area. This is my first trip to Ottawa and I would think that I should find myself wanting to be going to have you or wanting to be on your good side rather than the other way, I am here to observe and to listen and to learn as much as I possibly can. I appreciate the opportunity in Ottawa to be able to refer problems and have discussions with people like Bill Mussell who is Special Assistant to the Minister, Jean Chrétien. I understand that Mr. Mussell has told you the Prime Minister called a special meeting this morning, and I spoke to the Minister before I left, and he expressed his regrets at having to return to this special meeting in Ottawa, but I am sure that he will be back again as soon as he can to meet with you people if you have not already met with him before. The same goes too for the Honourable Minister without Portfolio, Mr. Andras. Now as you know I live here in Chilliwack, this is my home, and my address in Ottawa is just Jerry Pringle, House of Commons, and if there is anything I can do as your representative and as your Member I want you to know that I would be most happy to do it at any time that I possibly can. If you are having any special meetings and you would care to send me your minutes so that I can put the minutes in my file this will help me in my work. I know there is a great deal to be done. I realize this and I know that you know there is a great deal to be done. You will have to have many discussions. There will have to be give and take. There will have to be suggestions from you, there will have to be suggestions from government, there will have to be a meeting of minds and unanimity amongst the Indian people themselves but I feel and I am sure the rest of the Members of Parliament feel that there is a real need and a real requirement. We are looking forward optimistically and feel sure that we will be able to, with your consultation, will be able to provide a new revised Act which will be satisfactory and will help us all get around well together in the future as citizens of Canada. Thanks very much sir for letting me come up and speak to you."

The meeting welcomed the two Mayors, Mr. Holman and Mr. Brittain who both spoke briefly.

Mayor Brittain: "Mr. Chairman, honoured guests, ladies and gentlemen. What you are gathered here for today is much too big a subject for me to comment on to any extent. However, I would like to welcome you on behalf of our municipal council and I do hope that your deliberations will be most fruitful. It was interesting to read in your booklet "Choosing a Path" and in it was this sentence: "I hope you will tell us openly and frankly what you think is best for the Indian people." In Canada we should not be speaking of the Indian way of life any more than we can talk about the white man's way of life. I think if I was of Indian origin I would have only one answer. I would just want to work, live and play like any other Canadian. I would expect no more than to have the same benefits and abide by the laws of the country as any other Canadian. The early life of the Indians was very remarkable and colorful, especially in their way of living. As we have quite a number of Indian reserves, I think sixteen in our municipality, I would certainly like to see advancement by the Indian people. There are acres of arable land lying idle some of it which should not be. I am very happy to see that Chief John Hall has constructed a trailer court on the reserve lands. Our council, I am sure, will do their share and cooperate in providing a new life for the Indian people".

Mayor Holman: "Mr. Chairman, Ladies and Gentlemen. I understand that there are fifty-six separate bands in the lower mainland and sunshine coast as far north as Lytton represented here at this conference. I would sincerely hope your discussions will be fruitful. During the past year or so a phrase has come to light that I don't think we have heard to any extent. It was used mainly by our friends to the south. It is called the credibility gap. I would sincerely hope that there is no credibility gap between this group of people and the members serving in our eastern department in endeavouring to serve your wishes. Your topics are undoubtedly extremely serious. They affect your lives and your livelihood. I would hope as Mayor Brittain has expressed that you can reach a fruitful agreement and better the conditions that exists in many instances. On behalf of the city and our residents I welcome you to our area and thank you for inviting me here."

The meeting then moved in camera.

Consultation resumed.

Mr. Malloway in discussing Question No. 1 suggested that there should be a separate British Columbia Indian Act.

Mr. Adolph suggested that the new Act should have another name which would be given by Indian people.

Mrs. Guerin and Mr. Jacobs said that their Bands wanted to retain the name Indian Act.

Mr. Joe Mathias also wanted to retain the name but suggested that the new Act should be flexible and subject to revision as individual Bands saw fit, by a legal commission which should be set up at Ottawa composed of Indians and non-Indians.

The meeting discussed Question No. 2. "Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?"

Mrs. Guerin: "My Band feels that Ottawa should delegate more authority to the Regional office."

Mrs. Mussell: "My Band recommends that more authority be given to the Bands and their councils, to the Regional office, but not to the Superintendents."

Several spokesmen agreed.

Mr. Joe Mathias agreed and suggested that a Board of Appeal be set up in Ottawa to which a Band could appeal if they did not agree with the decision of the Regional Director. He also suggested that the Regional Director should have a special assistant who was an Indian and who would have the same powers and authority as the Regional Director.

Mr. J. Adolph said that field staff should have authority only in consultation with Band Councils.

Messrs. Douglas and Joe agreed. Mr. Joe suggested that in view of the fact that many people did not have full knowledge of the Indian Act they should have the advantage of legal counsel.

Mr. B. Paul agreed that more authority should be given to Band Councils but added that important Band business such as land transactions be settled by referendum of the whole Band.

The chairman pointed out that matters affecting lands would come up later in the meeting.

Mr. J. Pierre spoke of the need for flexibility in the Act so that Reserves in varying environments would be able to develop at their own pace and according to their own wishes.

Mrs. G. Mussell: In speaking for about 10 Bands who had discussed this question stated that Band Councils would never be able to take full responsibility until they were given the authority. Even under Section 68 their expenditures had to be approved by the Minister. She stated that decentralization was essential to avoid long delays - but that more authority should be given first to the Band Councils and second to the Regional Office.

Mr. V. Harris in agreeing stated that Chiefs and councillors should be compensated financially for their work on behalf of the Band as are municipal councillors.

Mr. Ritchie stated: "We are striving to control our basic business and we should be given the authority. If this had been done a long time ago we could have avoided many mistakes and improved our reserves. The officials have to follow orders. We want more authority ourselves."

Mr. John George agreed with more authority to expedite business, and compensation for councillors. They could not live on prestige alone. They even had difficulty finding money to attend meetings.

Mr. B. Ritchie agreed stating that many of the younger chiefs had to take time off from work for Band business and this worked a hardship on their families.

The Chairman agreed that compensation must come for their work.

Several others made the same point.

Mr. G. James added that Band councils should also have free postage.

Mr. B. Paul moved "that more authority be directed to Band Councils and to the Regional Office but not to Superintendents, and that Chiefs and Councillors be compensated for their work on behalf of the Band."

Seconded by Mr. Douglas.

Mr. Joe moved an amendment "that the Regional Director have the same authority, as the Deputy Minister, reporting directly to the Minister."

The amendment was withdrawn.

The motion was put and carried.

Question No. 3 was presented for discussion.

Mrs. Guerin said that her Band would not agree to exemption of any persons from any section without their consent and that the Band should require 90% majority in favour.

Mrs. Clara Campbell stated that her Band wanted a 2/3 majority of the Band to decide this matter.

Chairman Baker read Section 4 (1) and (2) of the Act.

Mr. B. Charles moved, seconded by Mr. Albert that the right of the Governor-in-Council be rescinded in this matter and "that the right of the majority of the Band be left until later."

Discussion on the motion.

Mr. Fairholm explained that this section was now used on the request of the Band to permit the sale of liquor on land leased for golf club purposes, motels etc. It had also been used to provide the possibility of another election system in one or two bands.

The discussion continued on the necessity for consultation of the Band and of the percentage majority to be required. Mrs. Guerin pointed out the necessity for 90% was to avoid people being thrown out of the reserves if they were not liked by the Council.

Mrs. Mussell pointed out that the system of elected Band Councils was still new to the people and that the Bands still wanted to participate in decision making. Perhaps after more experience they would accept the Band Council's role more clearly.

Mr. Joe supported this point of view and stressed its importance. He spoke of a notice from Ottawa to sell a piece of property, which the Band ignored because of respect for the people living there which is an Indian characteristic.

Mr. B. Charles amended his motion "that the delegation of authority to the Band Council be with a 2/3 majority of the Band Membership."

Co-Chairman Baker said that to require a 2/3 majority could be crippling because general meetings of the Band were rarely attended by a quorum.

Mrs. G. Guerin asked if it were not already in the Act that if a meeting did not have a quorum a second meeting called 30 days later had the power to decide the issue. Mr. Baker agreed.

Mrs. G. Mussell said it was important to notify every elector by mail and give them a chance to vote.

Mr. Joe Mathias stressed the importance of maintaining this section of the Act to permit of flexibility and to allow Bands to develop at their own speed.

Mr. B. Charles rephrased the motion to read: "That the delegation of authority be given to the Band Council subject to a 2/3 majority vote required, and depending on the option of the Band with regard to a larger majority."

The motion was seconded by Mr. Albert Douglas.

Discussion still continued on the giving of this power to the Council. The point was still made that Section 4 (2) should still be retained for purposes of flexibility.

Mr. Frank George pointed out the dangers of giving too much authority to the Council particularly in matters dealing with lands. The Band should have the chance to decide, even if the people did not have the necessary experience.

Mr. Baptise Ritchie agreed that the Band Council in matters dealing with lands should get the consent of the Band.

The motion was put and carried with 1 voting against.

Break.

Chairman Baker suggested that discussion move to Question 4 - Should children of unmarried Indian mothers take their mother's status regardless of who the father might be?

Mr. Richard Malloway answered "yes".

Co-Chairman Baker asked Mr. Malloway if he would give his reasons for saying yes.

Mr. Richard Malloway said it was unfortunate but he was not at the Band meeting when the answer was decided.

Mrs. Genevieve Mussell also answered yes because it was the accepted procedure in general society for a child to relate to its mother.

Mrs. Gertrude Guerin said the Musqueam Band agreed with the views expressed by Mrs. Mussell.

Mr. John L. George observed that at present the child was put on the Band list and he saw no need to change the Act in this respect.

Mrs. Gertrude Guerin added that the Musqueam Band said the matter should remain the same as it is in the present Act to provide for challenges to membership if required.

Mr. Clarence Joe said he would go along with it wholeheartedly. He added that they had cases on his reserve where an Indian woman continued to live with a non-Indian. They had a large number of children who were members of the Band but he felt that the father should bear responsibility for upkeep of the children.

Mr. William Mitchell said his Band also had cases where Indian women were living with non-Indians. He thought the two should be responsible for the upkeep of the children. He agreed that, in the first instance, a child of an unmarried Indian woman should be put on the Band list but not after that, such as cases where an Indian woman continued to live common-law with a non-Indian and had other children.

Mrs. Genevieve Mussell pointed out that there was provision in the Act where the Band Council had a time limit to protest the addition to membership of a child. The Band Council had an opportunity to protest the Band, she said.

Mr. Victor Adolph said his Band felt it was one of the areas which could be dealt with by the Band Councils who knew the situation and people. He thought the Band Council would not be a cruel instrument.

Mr. Clarence Joe said he always felt that children born out of wedlock were always kicked around. His Band did not like the way they were treated and it was in the interest of such children that they made representation some time ago for the children of unwed mothers to be added to membership lists.

Mr. Richard Malloway acknowledged that the Band Council had an opportunity to protest the addition of children where the father was a non-Indian.

However, he said the people did not want to see children roam around and this was the reason why they had answered yes.

Mr. William Mitchell supposed that when an Indian woman was married to a non-Indian and her husband died, the woman should be given an opportunity to return to the Band.

Mr. Fairholm asked if there would be any opportunity to protest the law if child took the status of the mother in all cases. He asked whether it would be automatic. Mr. Fairholm went on to explain that when a protest was made, it was made on certain grounds that the child was not entitled to be a member. If the right to be a member was conferred on every child, there would be no grounds for protest. He said he detected two views - one where a child would take the status of its mother in all cases - and the other where the Act should remain the same where protests could be made if deemed necessary by the Council or any ten electors.

Mr. Richard Malloway thought that the two views expressed the same idea but the approach was different.

Mrs. Genevieve Mussellasked what sections in the Indian Act covered the matter under discussion.

Mr. Fairholm replied, Section 12 (1 a), and Section 11, paragraph (e). He said that to grant membership to every child of an unmarried Indian woman and a non-Indian father would, in effect, wipe out Section 12 (1 a).

Mrs. Genevieve Mussell replied that this was not what was intended as the Band should have the right to dispute membership into the Band.

Mrs. Gertrude Guerin (Musqueam) said they wanted the provision concerning such children left the same way it is in the Act to give the Band or Council an opportunity to protest.

Mr. Vincent Harris (Seabird Island) felt that the children born under such circumstances remained Indian, that they were not recognized as having white status. It was his opinion that the children could not be turned away when they were young but, instead, given to the age of 21 before anybody could protest their right to membership.

Mr. John L. George said his Band answered yes to the question. As far as he was concerned, he felt there should be limitations. If a non-Indian took advantage of a young Indian girl, there could be 9 or 10 children added to membership in many cases where the father was a non-Indian. This, he thought, would be letting things get out of hand.

Mr. Albert Douglas felt that, regardless of the circumstances, the Band should accept the children until the age of 21 when their right to membership could be dealt with.

Mrs. Genevieve Mussellacknowledged that the lack of some control posed quite a burden on some Bands and that it might pose a much greater problem in a generation or so.

Mr. James Scotchman said the decision to rule on admission of such children should be left with the Band Council.

Mrs. Gertrude Guerin said the matter should be left the same way as it is now in the Act. She gave an example where, on her reserve, two children were born of the same parents, an Indian mother and a non-Indian father, who were living in common-law. The father claimed the first child and it remained a non-Indian. He did not claim the second and it was put on the list. Both parents died and the children were then raised by the grand-parents. One of the children was an Indian and the other a non-Indian which made a difficult situation for the brother and sister.

Mr. Joe Mathias said his Band would prefer that the onus of proof that the father of such children was an Indian should be left with the mother.

Mr. Bernard Charles wondered whether someone would propose a motion which might serve to give the delegates some direction.

Mrs. Genevieve Mussell wanted to have some further clarification on the subject and asked whether the child of an Indian woman was not of Indian status from the day it is born.

Mr. Fairholm said that under the change made in 1956, it was made effective that when the child was born, it automatically went on the membership list, subject to a protest within twelve months on the grounds that the father was not an Indian. The issue at stake in his view was what was raised by Mrs. Guerin where there were two children born of the same mother, and one was a member of the Band and the other not, because in one case the Band Council had lodged a protest and in the second case, it had not.

Mrs. Gertrude Guerin explained that in the case she referred to, it wasn't that a protest had been lodged but rather that the non-Indian father claimed fatherhood that resulted in one child being on the list and the other was not. She moved that the status of all illegitimate children remain as it is in the present Indian Act, which gave an opportunity for the Council to protest.

Mr. Clarence Joe said they were dealing with the lives of children and all issues respecting the various circumstances should be considered in the interest of the children.

Mr. Fairholm told the delegates that that was one reason why the question was raised. Complications arose when the children did not have full rights within the family unit to which they belonged.

Mrs. Genevieve Mussell asked what would happen if the authority to decide were left with the Band Council. Maybe, she said, some Bands might be active while others might not.

Mr. Joe Mathias wondered, with regard to protests, whether the Branch had any records of successful protest cases.

Mr. Fairholm pointed out that Statistics were shown on Page 39, Table 1, of the supplementary notes. (An exchange of short questions and answers followed with respect to explanation of the statistics given)

Co-Chairman Baker said his Council had protested many cases. However, he said there were complications and hard feelings because many of the subjects of protest were to someone on the Council. Maybe more responsibility should be put on the mothers.

Mr. Clarence Joe thought that the mother was going to be an increasing problem.

Mr. Albert Douglas seconded the motion put forward by Mrs. Guerin.

Co-Chairman Baker asked for a vote. It carried. He then directed discussion to Question 4 (a) in the notes. --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.

Mrs. Genevieve Mussell asked if one did not have to adopt the child before it takes the status of the father.

Mr. Fairholm said: "Perhaps some explanation would be in order, and I'll give it by way of an example. Suppose I live common-law with a person and we have a child. The child would be illegitimate in the eyes of the law. Suppose we have two children and about four years later we get married. Under the Legitimization Act, where we acknowledge that these are our children, they are deemed to be legitimate from the day of birth, when we get married. So there are illegitimate children legitimized by law. Now let us apply it to an Indian case. Suppose an Indian girl lives common-law with some non-Indian and she has a child. The child goes on the membership list and is then a member of the Band. But two years later this couple marries. In the eyes of the law, that child is legitimate as of the day of birth."

Mrs. Genevieve Mussell asked if it was automatic.

Mr. Boys said there had to be an application in B.C.

Mrs. Genevieve Mussell then asked if it had to go through the courts.

Mr. Boys said no, and that if there was an application made in the province it then became automatic and did not have to go to the courts.

Mrs. Genevieve Mussell said she knew of many, many cases where this had not been done because the parties did not have the knowledge that it could be done. She said it seemed that Indian people were not informed of these kinds of things.

Mrs. Gertrude Guerin said there had been several cases on her reserve where legitimization had been done and the children adopted into the Band in instances of marriage between members of different Bands.

Mr. Richard Malloway said he could not understand how an Indian could get married and merely state that a child was his and that it would then be admitted to the Band.

Mr. Fairholm replied that the case he had referred to was where a child was already a member of the Band, but he was an illegitimate child. The real father was a non-Indian who subsequently married the Indian mother. He had

claimed the child was his own, the mother agreed and the child would be legitimized. You had then a case where a child is a member of a Band and its parents were non-Indian.

Mr. Clarence Joe cited a case where an unwed Indian woman had children, later married someone else, the children went with their mother. A few years later the parents were separated, and the mother and children returned to the reserve. After that, they had decided to keep the children on the Sechelt Band lists to protect the children.

Meeting adjourned.

Tuesday, November 19, 1968

Chairman Simon Baker asked the delegates, in his opening remarks, to speak loudly and frankly; they did not need to be afraid to speak out because of the presence of the officials of the Department of Indian Affairs - these officials were at the conference to assist the Indian people in the discussions. He said that he felt that the meeting held yesterday was one of the best ones he had ever attended, and asked the delegates to try to make this meeting also successful.

Mr. Benny Paul moved a motion with a preamble to the effect that since the assembly had spent the best part of a day discussing three questions and part of a fourth in general terms from the sample questions presented in the "Choosing a Path", and whereas it was in the best interest of the purpose of this consultation to broaden the flow of communications so that the more fundamental issues that were of concern to the Indian people could be raised and elaborated, he moved that further discussions of the sample questions presented in the "Choosing a Path" be tabled and that the three briefs that have been prepared for the presentation to this meeting be now read and discussed by the delegates rather than be presented without the benefit of such discussions and that the briefs be read in the following order:

- (1) Brief from the Lillooet District Indian Council;
- (2) The Fraser Valley Band brief;
- (3) The brief of the Squamish Indian Bands;

Mr. Albert Douglas seconded the motion.

In a brief debate which followed the introduction of this motion some of the delegates expressed views that they were not prepared to deal with and discuss the three briefs referred to in the motion. Other delegates felt, however, that the briefs dealt with the 34 questions anyway, that all the delegates had had plenty of time to do their homework and should therefore have no difficulty in discussing the matters contained in them; they suggested that these briefs should be read first.

Mr. Clarence Joe raised the point that he understood that the consultations were not final and that the delegates would have another opportunity to discuss the issues before the proclamation of the new Indian Act and asked Mr. Fairholm if this was so.

Mr. Fairholm said that it was correct to say that the delegates were not making final decisions and that there would be a further opportunity to discuss what would be in the final law. As already mentioned, there would be a meeting in Ottawa attended by representatives of each of the meetings that had been held across Canada and by a nominee from each of the major Indian organizations. These people would meet sometime early in the new year to review reports of all the meetings. There might be some areas where there might be differences of opinion and it might well be that they would suggest that there should be some way found that would accommodate both views within the law, or more than one view or one course of action within the law. At Kelowna, the Minister of Indian Affairs, Mr. Chrétien had

indicated that following that meeting, it was the intention to draft a bill and that at a later stage, there would be a further opportunity for the band councils, or bands spokesmen, or bands, to review the draft of specific proposals and sometime following that they would be made into law. So there would be this further opportunity given.

Mr. Victor Adolph said that before a vote on the motion was taken he wanted to say a few words to the press. He felt that they were in for a little reprimand because the Indians did not want the press to make their presentations public prior to the Indians themselves making their own presentations. He said that at the press conference held the previous night the Indians got a promise from the press that their presentations would not be released until 3:00 P.M. on Wednesday and yet they already had been printed in the papers that morning.

The question being called, 27 delegates voted in favour of Mr. Paul's motion, 1 was against, Motion Carried.

Mr. Victor Adolph then read the brief of the chiefs and councils of the Lillooet Bands. (see Appendix A)

Chairman Baker called the meeting to order. He ruled that the brief from the Interior had been read and there were 2 other such briefs. He enquired whether it was the wish of the delegates to read all three briefs before discussion or to discuss each one individually.

Mr. Albert Douglas believed each should be discussed when read.

Mr. V. Harris believed that all three should be read before discussion.

Mrs. G. Guerin thought it would be too confusing to discuss in total, she agreed they should be done separately.

Mr. Richard Malloway thought each should be discussed separately while they were still fresh in the minds of the delegates.

It was moved by Mr. Scotchman: seconded by Mr. Malloway that the briefs be discussed one at a time.

Mrs. G. Russell thought that there would be a number of similar recommendations in each brief and therefore believed it advisable to have all three read before discussion; otherwise the same points would be discussed with each brief.

Chairman Baker thought that if each were discussed separately contradiction could arise. He also thought there would be some points in each brief that would not require discussion. In this way discussions could be limited to the points where there was divergent views and the delegates would know what each brief had to say on any given point.

Mr. Clarence Joe agreed with Mrs. Russell - He thought that if they were discussed separately it would involve considerable extra time in debate.

Mr. Gordon James believed that since the briefs were lengthy if they were read and not discussed separately it could cause confusion.

Mr. Joe Mathias suggested that a specified time for discussion of the briefs be allocated on each day. A further discussion of the advisability of reading and discussing separately or all at once was held.

Chairman Baker on a show of hands declared the motion defeated (13 for: 19 against). He advised that the meeting therefore would proceed with the reading of all three briefs and discussion would be held in total. He requested the spokesman of the Fraser Valley group to read their brief.

Mr. Benny Paul: He advised that the brief was the joint submission of 15 bands - Seabird Island, Semiahmoo, Chehalis, Skulkayn, Tzeachten, Soowahlie, Skwah, Cheam, Popkum, Hope, Peters, Skawahlook, Yakweakwioose, Sumas, Union Bar. He read the brief of the Fraser Valley Bands. Shown as appendix B.

Chairman Baker noted that the next brief was long and considering the time enquired whether the meeting wished to hear it then or take

an early lunch and defer reading the brief until after lunch.

Mr. B. Charles thought that the noon adjournment could be postponed so that the delegates could discuss the three briefs over lunch if they so desired.

It was moved by B. Charles; seconded by V. Harris "that the brief be read at this time."

The chairman declared the motion carried and requested the spokesman for the Squamish Band to proceed.

Mr. Joe Mathias read the brief of the Squamish Band. Shown as appendix C.

Chairman Baker thanked the speakers and adjourned the meeting for lunch.

Chairman Baker explained that some of the people whose names were mentioned in the Briefs were not present and gave the list.

Some of the delegates explained that they were empowered to speak for some of the Bands not represented here.

Mr. Charles moved, seconded by Mr. Douglas "that a period of time according to the wishes of the delegates be set aside to clarify certain points set out in different Briefs in order to save time."

Mr. Harris asked if this was intended to be an in camera session.

Mr. Joe Mathias asked if it were intended that this should take place in small groups.

Mrs. Guerin asked if questions should be asked only of those who presented Briefs or of Departmental officials.

Mr. Charles said that he merely wanted to clarify points at issue so that a united front could be presented.

Mr. Joe Mathias suggested that the Briefs be tabled at this time and the next morning be set aside for the suggested discussion.

Mrs. Mussell said many things in the Briefs were common to all.

- (1) There should be an Indian Act.
- (2) The Federal Government had responsibility for the Indian people.
- (3) The issue of Taxation.
- (4) The protection of aboriginal rights.
- (5) Minerals, fishing rights etc.
- (6) Authority of Band Councils.

Mrs. Mussell thought they could discuss the common points.

Mr. Charles asked if the motion of the morning to have the Briefs read provided for discussion?

Chairman Baker said it was in the motion but they want to know where to start.

Mr. Paul read his motion of the morning.

The motion of Messrs. Charles and Douglas was put to the meeting and carried by a vote of 24 - 0.

Mrs. Gertrude Guerin suggested that the meeting discuss the similarities in the 3 Briefs.

Mr. Fairholm said that all Briefs suggested more authority be given to Band Councils, also Hunting and Fishing Rights.

Mrs. G. Mussell suggested that the meeting discuss the recommendation that there be a separate B.C. Indian Act in view of the attention it had received in the Press.

Mr. John L. George stated that following the questions in "Choosing a Path" would bring out all the points covered in the Briefs.

Mr. Paul disagreed because it did not spell out the flexibility required for Indian people who wanted to identify themselves as Indians and wanted the best for the Indians of Canada. He stated that in the Province of B.C. the Indians wanted to be given the prerogative of deciding what was best for them, and they also wanted to manage their own Reserves. They did not feel that the Federal Government should take the attitude that it had taken in the past. It had been stressed that the B.C. Indians needed a special Act regarding the management of their Reserves. He added "we should compare the Briefs and clarify the differences and become more solid in our submission."

Mr. Albert Douglas agreed with Mr. Paul.

Mr. B. Charles stated that his motion did not restrict discussion by anybody on any particular issues.

Mr. Pierre said "I'm a fisherman and believe that we should have a discussion immediately on our fishing rights."

Mr. B. Charles requested that the meeting proceed immediately to implement the motion that had been carried.

Mr. Joe Mathias requested that his alternate Mr. P. Joe be seated at the table to help him clarify some of the points in the Squamish Brief.

The request was granted but without the right to vote.

The Chairman asked where the meeting wanted to begin its discussion.

Mr. Douglas questioned statements 4 & 11, (1) on pages 4 & 5 in the Squamish Brief. This section was read.

4. "It is our recommendation that the status of the children of unmarried Indian mothers should be determined as at present with this exception - that all such children should be excluded from Indian status unless within a fixed period of time the mother applies for Indian status for the child and such is recommended by the Council by resolution."

11.(1)

"The proposal to establish a register of Indian lands recording the rights and interests of the Band and the rights and interests of individuals should be established along lines similar to the Torrens System now used in some land registry offices. The Department should be prepared to issue certificates showing the interest of individuals, Band

corporations and the Band as a whole in individual pieces of property and the Department should be prepared to establish a fund similar to the Insurance Fund now established by the B.C. Government for the provincial registry. The purpose of this is to make it possible for the interest of Bands, Band corporations and individuals to use the registered interest they have for the purpose of raising institutional mortgages for development. The use of this registry is closely related to the proposal of this Band made under No. 12 that the Reserve land should be leased by the Crown to the Band on a long-term basis and the Band, through its Band Council would, in turn, sublease portions to Band business corporations and perhaps in some cases to individuals and to non-Indian lessees on shorter-term leases designed to meet the requirements of each case. Before the Band Council could sublease a portion of land, it would be required to hold a certificate of lease from the Crown covering that portion and showing the legal description of the parcel, and after subleasing that parcel, the Band Council would submit the document to the Central Registry at the Indian Affairs Department in Ottawa for registration.

The Squamish Band, however, wishes to be recorded strongly as opposing the suggestion that at some time in the future the registry of Indian lands might be transferred to provincial land registry offices. In our view the registry should be permanently established in the Indian Affairs Branch at Ottawa. We are aware of the attitude of certain provincial registrars to the effect that registration of subdivisions in their registry office has the effect of alienating road allowances from the Reserve permanently. There are also further reasons for wishing to maintain the registry in Ottawa."

Mr. Joe Mathias said "The Crown of Canada are trustees of the land and by virtue of this they own it. We are trying to lease land from the Crown and then the Band can sub-let on whatever terms it chooses. The land will be released from the Federal Government into our hands."

Mrs. G. Mussell "If the Band Councils were recognized as legal entities and thus were able to negotiate leases, would it not serve the same purpose?"

Mr. Joe Mathias "The Department of Indian Affairs has charge of Reserve Lands. Any change would have to be passed through Parliament."

Mrs. Mussell "Could Mr. Fairholm explain how much control the Government has?"

Mr. Fairholm "The Band has the use of the land but the legal title rests with the Crown. But I think the Squamish Band is suggesting a legal, technical way of overcoming ownership by the Crown."

Mr. Poupore said "I gather from this Brief that it is intended that the Indian people would not have the right to sell, which means they

would not hold title to their land. You cannot sell something you don't own. They would acquire the land by lease and would have the right to sub-lease. In this way they would prevent an inadvertent alienation of the land."

Mr. P. Joe "We want to lease the land so that we can have control and have it registered, and sub-lease it in order to make money on it. When you look at a map now it shows our land as Indian Reservation and we have no control."

Mr. Joe Mathias said "At present in order to lease land to a non-Indian we have to approach the Minister and he grants the lease. This takes time and we lose opportunities and we get no returns. In N. Vancouver land was leased out and it is being taxed by the municipality at the rate of \$300,000.00 and they only pay us \$100,000.00. We want those taxes so that we can put services on our Reserve."

Mrs. G. Mussell "Can I ask Mr. Poupore if it is true that the Band could collect taxes on Sub-leased land? Would they have full power to sub-lease and collect taxes?"

Mr. Poupore "As the Act now stands it would be possible to go a long way towards achieving the objective of the Squamish Band. I hesitate to say that taxation would be possible. I gather from this proposal that it would not be necessary to accept surrender of the land and if the lands were not surrendered I doubt if the taxation powers of the Province or municipality would survive. If it didn't survive then I think taxation by the Band would be possible."

Mr. Fairholm added that he thought the technique of a Head Lease and Sub-lease could provide what the Band wanted.

Mr. Poupore said "That was possible under the present Act."

Mr. J.L. George asked "If I lease from the Crown must I pay for it?"

Mr. Poupore replied that a lease for 99 years was possible at the rate of \$1.00 a year.

Mr. Joe Mathias noted they were leasing land and the lessee was sub-leasing for more money.

Mrs. G. Mussell "This is a vital issue. It astounds me that many Indian people have understood that the Reserve lands were held in trust by the Government. These gentlemen say that the land actually belongs to the Crown. If this is the case the Federal Government ought to have made this clear to the people a long time ago. It is their fault."

Mr. B. Paul said there were no provisions in the Indian Act to protect the legal entity of the Indian people. Protection of the Indian people at all times should be spelled out in the new Act. He said they wanted their lands protected and recognized in every Court of law.

Mrs. G. Mussell said the request from the Fraser Valley was presented with the understanding that our lands were held in trust by the Federal Government and that the reason they were not able to negotiate as a Band Council was because they were not recognized as a legal entity and that therefore to lease land they had to surrender it. Now that this other information had come to light that if the lands do not belong to the Indian people but to the Crown, what is it saying to the Indian people? To think that all they have left from the vast domain that was once theirs is not even owned by the Indians."

Mr. Fairholm quoted the definition of a Reserve from the Indian Act as follows:

"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."

Mrs. Mussell "This is so easily misunderstood and it should be clarified in the new Act."

Mr. D. Adolph "If it is in the Act to protect the lands for the Indian people why has this authority vested in the Minister been used detrimentally to the Indian people?" He cited a case at the Fountain Reserve where the International Salmon Commission offered \$25.00 an acre for the land. He wouldn't sell it for \$1,000,000.00. In the 1940's this land was expropriated by the Minister under the War Measures Act and given to the Salmon Fisheries. They had done nothing with it. If it were held in trust for the benefit of the people, it should have been used that way."

Mr. Gordon James "We have tried to get this land back and there has been very little correspondence."

Mr. Joe Mathias "We must get power to counteract Federal & Provincial expropriation. If we lease the land the expropriating authorities must pay us adequately."

Mrs. Gertrude Guerin "Do all lawyers place the same interpretation on the Indian Act as Mr. Poupore does? We always felt that the land was ours, and we feel we are entitled to a settlement. If Mr. Poupore has another idea that we do not own our lands, where do we stand?"

Mr. Richard Malloway "Why lease land from the Crown when the Crown has not paid us for it? The Crown should be leasing from us. This is why I didn't agree with this section."

Mr. B. Charles "I think these Briefs are aiming at the same point - getting control of the land. They suggest 2 different ways."

Mr. Joe Mathias said "Squamish people are well aware of the Lands Claim in B.C. We also have lands to reclaim. Under the present system we do not have control so we suggest that until the Lands Claim is settled - and we don't know how it will be settled - we need something that give us control to develop lands and speed things up. We are beside a Metropolitan

City and we need to develop. Other Bands will face the same problem. We have lost large sums of money. We still support the Indians of B.C. in getting their land back.

Mr. V. Harris "It seems to me we are beggars for our own lands. We were born here, we signed no treaty, how did the Crown get control of our land?"

Mr. Douglas speaking on Section 36 of the Indian Act asked where the special Reserves existed.

Poupore replied that there were none in B.C. but that in Eastern Canada some lands were granted to Religious Orders in trust for the Indian People.

Mrs. G. Mussell asked, "Do these special Reserve lands still belong to the Crown? It has been a shock to discover that we do not own the few acres of land set aside as Reserves for the Indian People. We are speechless. The land question is a vital issue for the new Indian Act."

Mr. Fairholm said There were two questions involved -

- (1) The aboriginal rights to land which goes beyond the Reserves -
- (2) The actual management of Reserves, where the title rests with the Crown.

Mrs. G. Mussell "I would say to Mr. Fairholm that the Indian Land Question would involve Reserve Lands as well."

Mr. John L. George "I came as a delegate to revise the Indian Act. I don't want to approach the Queen to lease my land back. If people from the Department are here to listen I suggest we want control of our land and not have to lease it from the Queen. This point should be rectified."

Mr. B. Charles said that this question should be clarified in the new Act by definition.

Mr. Joe Mathias asked Mr. Poupore the difference between legal and beneficial ownership of land.

Mr. Poupore "What I say has no bearing on the B.C. Land Question, which the Indian people have put forward and which claim at the moment is not accepted."

Legal Title of Reserve lands is vested in the Crown. The Crown owns the land. The Crown however can only deal with it under the terms of the Indian Act. The Minister can not deal with it without request of the beneficial owner - the Indian Band."

Mr. Joe Mathias "Can you tell me in what position are non-Indians in regard to legal and beneficial ownership?"

Mr. Poupore "The contract in the non-Indian sector re beneficial ownership arises where the trustee holds title to the lands for a purpose

and is limited by the terms of his trust for the beneficiary. When I own land privately I can do what I will with it - but to own it as a trustee I must use that land for the beneficiary. I can be called to account as a trustee.

The Crown holds the Reserve as trustee for the beneficial owners, the Indian Bands. The terms of the trust are not spelled out. The dominant condition of the trust is that the lands must be used for the use and benefit of the Bands. The Bands are not legal but beneficial owners of their lands."

Mr. P. Joe "This is a serious question which could affect the B.C. Land Question in years to come. Were we not wards of the Crown at one time? Hence the trust. We are no longer Wards. If this were put in the Act the Act should be so flexible that it could be used only by the Squamish Band. We have never surrendered to the Crown. This is the heart of the B.C. Land Question. I have never seen a Chief's signature giving over our land."

Mr. R. Malloway "I agree. This should not be put in the Act, it could be used against us. Let's be careful about leasing from the Crown."

Mr. Poupore "There are two types of surrender -

In the Act it refers to surrender for the use and benefit of the Indian people.

The other is surrender of the aboriginal title which has never taken place according to the Indian people."

Chairman Baker said that discussion of the registry of Indian lands would continue. He encouraged delegates to ask questions if they did not understand any of the matters under discussion.

Mr. Benny Paul asked, if title to reserve land were vested in the Crown, what position would the Government take with regard to surrenders.

Mr. Clarence Joe believed that the meeting was for the delegates in attendance and that they should have some privileges. He noted the Branch had legal advice present and he felt that the legal advisers of the Indians should be allowed to take an active part in the meeting as well. He moved - "that the legal counsel to the Indians be allowed to enter discussion."

Mr. Benny Paul seconded the motion.

Chairman Baker called for a vote. The motion carried.

Mrs. Gertrude Guerin asked what the reason was that the Department of Justice had not attended the judgement that was brought down by Judge Kirke-Smith, in the Surrey, White Rock case.

Mr. Poupore "I do not know the reasons why the decision was made by the Attorney-General of Canada not to be there. The notice in respect to that case was served on the Attorney-General and in all matters of the Crown, it is the responsibility of the Attorney-General to advise the Government as to the extent to which it will or will not appear in cases before the court. The decision of the Attorney-General was not to appear. The reasons for it are not known to me."

Mrs. Gertrude Guerin asked what the Department planned on doing about the matter now. She said the Indians felt that the decision should be appealed.

Mr. Poupore "When I left Ottawa, a little over ten days ago, that matter was being discussed by the Minister and officials of the Department in conjunction with the officers in the Department of Justice, and I would hope the Attorney-General of Canada. I do not know what decision was made or if any has yet been made. I am unable to advise you simply because I do not have the knowledge."

Mrs. Gertrude Guerin felt that it was very wrong for the Department of Justice to ignore the case completely. She thought that something from the Federal Government would have taken precedence over the Provincial Government and that the decision would have been much different if the Federal Government would have appeared.

Mr. Bernard Charles gave the details of the court case in question for the benefit of those delegates who were not familiar with it. He said the judge had ruled that surrendered lands could not be legally considered a part of a reserve once they were surrendered.

Mrs. Gertrude Guerin said that they felt that when they surrendered land, they surrendered use of the land only for the time of the lease and not the political jurisdiction of the land.

Mr. Henry Castillou (Solicitor) "Is there actually a difference in thinking in relation to their Legal Department as to the actual problems of B.C.? We know that under Section 13 of the terms of Union there are certain specific points set out as to the charge of Indians in the management and trusteeship of their land. The Government takes this position-- that there was no particular agreement until around 1933 under Order in Council 1036 on most of the reserves in British Columbia. They say that because of this, the Province has a certain position. But I think that there is no position that any Government can take until we are exact in the extinguishment of native title of B.C. I say that they may be looking at it from rever-sionary interest which I understand that also exists in Ontario, Quebec and the Maritimes as to the reserves and reserve land going back to the Indians. But we not only have this to apply to the Indian rights in B.C., we have insisted that there was no treaty except for certain small areas in B.C. with the Indians in B.C. and consequently the Government cannot enter into such agreements as 1036. In this regard, I suggest that Mr. Poupore who comes from Victoria and perhaps has been easternized to the extent that he is listening too much to his eastern advisers, that he look again with a great deal of care to the position that is B.C. I would ask Mr. Poupore to comment on the way this is to be handled in the Department of Justice in regards to whether or not we have a constitutional question on taxation. I would ask that he further state the position if he can as to whether he really can answer anything or whether it is the Department of Justice that we have to go after."

Mr. Poupore "The point raised by Mr. Castillou, in my view, relates to the aboriginal title question. They involve, as he has mentioned, fine points of law, they raise constitutional issues. In this area, the only people who can speak for the Government, apart from the Ministers of the Crown, are the law officers of the Crown who are in the Department of Justice. I am able to answer any questions which anyone may wish to put to me about the administration of those rights of the Indian people which are spelled out in the Indian Act. To go beyond that, it is not within my power and in this respect with regard to Mr. Castillou's question, I regret that I can't either answer or comment. I cannot say the position the Crown may wish to take on a matter of its legal position. I can, as I say, answer questions as to the Crown's administrative practice and procedure as spelled out in the Indian Act."

Mr. Henry Castillou asked Mr. Poupore if it was his own personal opinion, that because of the absolute difference in relation to the background of the Indian title, that he could come to an absolutely different conclusion than the Department of Justice made because of the unique position of the B.C. Indian title.

Mr. Poupore "At the risk of appearing a coward, may I reiterate what was said at the beginning of this meeting. My role here as stated by Mr. Fairholm, is to listen to the recommendations of the Indian delegates assembled here as to the changes that they wish to see brought into the revisions of the Indian Act. My function is not to explain or to justify positions which have been taken in the past or to anticipate positions that may be taken in the future, nor to justify any such positions. Nor is it my function to anticipate positions the Crown may wish to take on a matter of law and interpretation of that law before the courts. On that ground, as I say even at the risk of appearing a coward, I decline comment on Mr. Castillou's question."

Mr. Fairholm "I think that we would be very interested in any suggestions that might be put forward that can go into the record as to how some of the problems that you mention might be overcome. I'm not talking about the aboriginal land claim now but any other ones that might find their way into the legislation. If there are any suggestions to make and this of course is the purpose of the meeting--as to how to improve the legislation for the future so that some of these problems that may have arisen in the past will not arise in the future. At least we can try to correct them by the kinds of suggestions that are put forward which can be considered. I should say that all the records of this meeting as well as the records of the other meetings will be sent back to each spokesmen across the country."

Mrs. Gertrude Guerin said she felt that it was a little bit wrong in that officers come out from Ottawa and say that it is impossible for them to answer questions for the delegates. After all, she said, it was the delegates first opportunity to question the officials. She added that it was nice to be listened to but if they didn't get any answers, it was useless.

Mr. Albert Douglas (Cheam) said he felt the same way as Mrs. Guerin.

Mr. Henry Castillou "The point I am making is, actually, I submit that as far as matters of taxation, etc. are concerned, Indian Affairs should not take the position because it undermines the constitutional question. It relates to extinguishment of rights of Indian lands in B.C. As you say, because of the leasing system, that this might or might not correct an error, it cannot be done until the basic point is settled--and that is the extinguishment of native entitlement in B.C. This is the problem that will have to be settled before anything else can be forthcoming on taxation or any other constitutional matter. I believe Mr. Poupore would agree with me that he cannot attack this problem as he would in any other province until that matter is settled. And I submit that until the Indians' action comes to some specific agreement in relation to extinguishment of native title that Order in Council 1036 or any other particular agreement such as the agreement on native rights in B.C. that was signed in 1943 between the Provincial and Canadian Government are not in effect. And I say that the only document that can be used is Section 13 of terms of union. This is my view."

Chairman Mr. Baker thought that the lawyers were allowed to speak for the purpose of registering the views of the Indians in their brief that was presented.

Mr. Benny Paul said that it came as quite a surprise to know that they have no legal entitlement in their land. He said it was paramount that their title be recognized by the Federal Government, and that the authority of Band Councils be recognized in every court of law. He said that specific terms of reference as to the land title should be spelled out in the new Indian Act.

Mrs. Genevieve Mussell said that they were not present to deal specifically with the land question. She wondered if it would be better to proceed with the question of leasing lands.

Mr. Timothy Spinks said he was terrified to find out that he did not own his own land. He thought they should settle the Indian land question first and then worry about the Indian Act after.

Mr. Vincent Harris said he thought there was a time and place where they would be dealing with the land question. At the present time, he said, they should deal with the Indian Act, as he believed that amending the Act would not endanger their position on the land question. He suggested that the land question be tabled.

Mr. Paul Riecke (Solicitor) "The Squamish brief referred to the opinion by the Band of a long term lease of their reserve lands from the Crown for a period suggested of 99 years. I realize that this does create a problem in your mind in that many were not aware before that the actual legal title to these lands were in fact held in the name of the Crown Federal. The Squamish Band, in its discussion felt that until the Indian land question is taken up and they agree, as they say in their brief, that it must be taken up, and must be taken up immediately, but realized that this is going to take a long time to settle. In the meantime, they have work to do, they have lands to develop so they were trying to find a practical way of working this land in the meantime. They proposed this idea to lease the land for 99 years. They proposed at the same time to make it perfectly clear to the Government, that in doing that, they were only looking for a practical, workable solution, and that they were definitely not giving up any rights whatsoever to the claim they have on the B.C. land question. In light of that, we would like to pose a question to Mr. Poupore--because in the view of that one Band, if Indian Bands in B.C. were to request and obtain a long term, say a 99 year lease of their land in the name of the Band Council, then it is their opinion that in fact would give them the legal right to deal with the land and would give them complete control over the land with one exception, that they would not be able to sell it. I would like to pose a question to Mr. Poupore if he could see that result being achieved and if it would be possible to obtain an amendment to the Act to permit the lease being made in favour of the Band."

Mr. Poupore "I do see this possibility".

Mr. Castillou "The reason I brought this up is that I consider in relation to extinguishment of native entitlement that it is absolutely imperative to relate to the position of the Indians in B.C. in regard to several matters such as taxation, the right of the Indian to retain minerals that have been taken away from them by Provincial agreement. I submit this, the present time in the rights of the Indian Act until it is so changed, so that it will encompass the fact that non-Indians do not have to pay taxes to a provincial or municipal government, then they will be continued to be taxed regardless of any section. However, if we go into the constitutional problem in relation to the extinguishment of basic title, when we add this change it is changed and noted in the courts and the Supreme Court of Canada, that the Indians of B.C. have to meet with this in order to establish their conditions when the Indian Act is changed. I would like Mr. Poupore to comment on that." He went on to state that even if the Act is changed, it will be subject to interpretation by the court.

Mr. Poupore "Any statute, whether it is of the Parliament of Canada or a Provincial Legislature is subject to interpretation by the courts. I should think the determination as to whether the Indians of B.C. have a unique position in law is a question equally for the determination of the courts."

Mr. Fairholm had one question for clarification. "I take it that this would be at the request of the Band and it would not force other Bands to adopt the proposal you're suggesting."

Mr. Joe Mathias said they expressed in their brief that they did not want to force their wish on other Bands. He read Section 3 of his brief.

Mr. Peter D. Peters related how they had trouble with leasing on their reserve which is next to the Town of Hope. They had the land appraised and a figure was set at \$50,000. They were told by the Town that they could not lease the land for the purpose intended as the town would then zone it. He said the place was still idle.

Mr. Henry Castillou "On this point, as to leasing back, as I see it, it depends on how you redraft the Act. If you lease back you make the Band Council a legal entity, that's the way I see it, otherwise they wouldn't be able to hold title. To make a Band or Band Council a legal entity, it would specifically have to be stated in the new Act, that they would not be taxed the same as a corporation that is formed by anyone, they would have to be in a position where they would not be taxable. Consequently, you make a Band or a Band Council a legal entity, what is your position then on the constitutional problem in regard to the Act being able to make this little group a legal entity without paying taxes. Could this be done?"

Mr. Poupore "I have no clear answer that I can suggest to that question. It is a very good question. I am very much aware of the problem facing the Federal Government, in respect to legislation unilaterally taking away provincial taxing authority. I am unable to say now whether this can be done. The question is being investigated, but what the answers will be, I don't know."

Mr. Castillou "This is why I suggest that the constitutional problem is the basic issue as to extinguishment of native rights. I am not talking about the land question which is so important in relation to the new Act. I suggest that no one can answer this until extinguishment takes place. The title itself is important in relation to the new Indian Act and I think that such an agreement between the Province and the Federal Government where mining rights are taken from the reserve are not valid, and that the section in the Indian Act at the present time wherein they reached an agreement between the Provincial and Federal Government is actually an Act included without notification by the Indians except for small areas covered by the Treaties. I think the taxation and mineral questions cannot be settled until the constitutional question is settled."

Mr. Jules McHalsie said the Indians were the true Canadians. Regarding lands, he said their forefathers never signed any documents nor did they go to war to lose the land, and asked how the Crown got it.

Mr. Poupore "With respect, in my view, that is the basic aboriginal title question. I do not think I can comment on that question at this time in this discussion."

Mr. Clarence Joe said that, in other words Mr. Poupore was telling them that there was no document in Ottawa or in the Province to show that the land was owned by the British Crown. He said that they have documents to show that they have title.

Mr. Poupore "What I tried to say is what I've been trying to say since I was first up to answer the first question directed to me. I am an officer of the Department of Indian Affairs. I am not an officer of the Department of Justice who are the law officers of the Crown. I am neither instructed nor capable of arguing the legal position of the Crown. I regret this but I am not able to debate this point because it is obviously a very vital point to all of you. I cannot in any way state the Crown's position in law with respect to the B.C. land question."

Mr. Joe Mathias asked Mr. Poupore who is qualified to speak on behalf of the Crown.

Mr. Poupore replied that the law officers of the Crown in the Department of Justice were qualified. He said that he was classified as an officer within Indian Affairs. He added that he was not authorized nor instructed to speak on the position involved with the Crown on a contentious matter between the Crown and the Indian people.

Mr. Bernard Charles asked if there was any possibility of getting someone from the Department of Justice to sit in at the consultation.

Mrs Gertrude Guerin said she was always under the impression that the Indian Affairs Branch were protectors of the Indian. She thought therefore, that Mr. Poupore should have some ideas of what should be done to help them.

Mr. P. Riecke said that in light of the number of questions that had been raised and related to the question of aboriginal title Indian Treaties, Indian land title, etc. there was one observation he would make. "On two occasions recently," he said, "a statement was made by the Minister that the Department was prepared to begin discussion with Indian people of B.C. on the questions that are vitally important to the Indians. If I am permitted to make a suggestion, I would suggest that this statement made by the Minister should be given very serious consideration by the Minister, as the discussions might lead to negotiations or settlement of the question."

Mr. Fairholm "On Tuesday, November 12, 1968 there was a motion on the order paper of Parliament for a resolution to establish the Indian Claims Commission, so that, I suppose the statement that was made by Mr. Riecke about what the Minister had said -- plus this other avenue that might be opened up about the Indian Claims Commission -- that there might be two avenues for the Indian people in the Province to further their interest in the land question.

Mr. Clarence Joe thought that the delegates should get the support of their members of Parliament because they want to find out about the questions that were never answered.

Mr. Poupore said with respect to the aboriginal question, the delegates might or might not be aware that the question is presently before the courts. He referred to a case concerning the Nishga group.

Mr. Castillou felt that the case of the Nishga's had little significance to the Indians present at the meeting.

Wednesday, November 20, 1968

The Chairman opened the meeting by introducing Miss Lucy Chapman who had joined the meeting as the alternate delegate for the Skawahlook Band. He then asked the delegates whether it was their wish to continue in the discussions of Section 11 contained on pages 4 and 5 of the Squamish band brief relating to land registry or whether they had any other suggestions as to the agenda of today's meeting.

Mr. Penny Paul then moved a motion with a preamble to the effect that "from the discussions to date and from the Briefs submitted, it is quite evident that the majority of the delegates are in agreement on the following points: -

- (1) That nothing that has been expressed thus far in our deliberations or that may be said in the continuance is to be considered as prejudiced to the extinguishment of unsurrendered title of the Native Indians of British Columbia commonly known as British Columbia Land Question.

Therefore, we wish to go on record that the Government of Canada state specifically that the Indians of British Columbia have aboriginal title to the Province of British Columbia - so that the Indians of British Columbia can then decide on the proper method for a negotiated settlement with regard to the extinguishment of unsurrendered title of the Native Indians of British Columbia;

- (2) That pending the settlement of this contentious issue, the Indian People of British Columbia, accepting as a pro tem working base only that the 13th Article of the terms of the Union required of or in the Revised Act, legal guarantees for the exercise of the Indian people of British Columbia of the inherent unextinguished hunting and fishing rights, hereditary and usufructury rights as well as the Health and Welfare and Medical Services that are needed for our wellbeing in the imposed conditions that we are made to abide by.
- (3) We also wish to re-affirm that there is a definite need for a British Columbia Act and I SO MOVE that our legal advisors draw up a new British Columbia Indian Act compiled from the Briefs submitted at all the consultations in British Columbia and that this new Act be ratified by the delegates so that our British Columbia delegates will be in a better position to express the proposed changes in the Indian Act.
- (4) We want to stress that we feel that we are here, not to revise the Indian Act as it presently exists, but to demand a special Statute to allow for the circumstances which exist in this Province."

Mr. Albert Douglas seconded the motion.

Mr. Joe Mathias asked Mr. Fairholm what would happen if the Indians of British Columbia made comments in regard to changes of the Indian Act - he wanted to be certain that these comments would not be used insofar as the British Columbia Indian Land Question was concerned.

Mr. Fairholm said that he felt from what he heard from the delegates at the meeting, that there was a real concern among the Indian people that in some way the discussions on the Indian Act would prejudice their claim to their aboriginal title claims. He said that this had come up in another meeting and that he, at that time, sought and received authority from the Minister of Indian Affairs, Honourable Jean Chrétien who was speaking on behalf of the Canadian government, to say or to sign a document stating that the discussions carried on at the meeting with respect to the Indian Act "shall be and are understood to be without prejudice to any right or claim which the delegates assembled at the meeting or the peoples they represented may have or wish to assert before an Indian Claims Commission or in any other manner." He said that if it would help the progress of the meeting he would have a statement to this effect drafted and signed; this had been done at another meeting because there was this concern, the Minister of Indian Affairs appreciated that there was this concern and had authorized him to make that kind of a statement. He said that he could only reiterate that he would be glad to do this again - to make the statement so that in their comments on the Indian Act and reserve lands the delegates would feel that it would not prejudice any claim or any right that they might wish to assert before any kind of tribunal or in any other way that they would wish to present their claim.

Mr. Fairholm said there were other points raised by Mr. Benny Paul in his motion such as that there ought to be recognition of hunting rights and other rights that he mentioned; this was, of course, the purpose of the meeting - to hear what the Indian people feel should be in legislation. There had been similar recommendations made by other groups and these were being reported to the government in the proceedings of the meetings. When the delegates read the minutes of the other meetings, they would see that these were there; insofar as a separate Act for British Columbia was concerned, he said that this was a recommendation that had already been made and it too would be made known to the government.

Mr. Richard Malloway said that since the briefs had already been presented, there was no need for any further discussion on them - they were clear.

Mr. Bernard Charles felt that Mr. Benny Paul's motion was pointing to the fact that the delegates agreed to agree with each other, and that it would be a way to carry on with the meeting.

Mr. Gordon James said that the briefs brought up at the meeting represented ideas of those bands who were their authors; there were, however, other bands who did not prepare any briefs but who sent their delegates to this meeting to discuss the 34 questions and present the views of their particular bands.

Chairman Simon Baker, said that more discussions were needed before a vote on Mr. Paul's motion was taken. The delegates who had no briefs had to have the opportunity to be heard - they should speak for themselves and express their views. He said that as Chairman he wanted to be fair and did not want to rush anything; there were still three days left. He then said that the motion was open for discussion.

Mr. Vincent Harris said that the delegates should go ahead with discussing the 34 questions in "Choosing a Path", and when during these discussions some of the points contained in the briefs was reached it also would be discussed along with the relevant question.

Mr. Joe Mathias said that Mr. Benny Paul's motion was quite lengthy and asked him to read it again so that the delegates would be able to understand it a little better.

Mr. Benny Paul said that his motion would establish a firm ground in the direction which the delegates were to take, and he then read again his motion.

The Chairman felt that some of the words were a little deep for many of the delegates present at the meeting and asked them whether they understood it or whether they wanted to have the meaning of the motion explained in simple English - he asked for their comments - he said that it was important that all understood the motion.

Mrs. Gertrude Guerin said that she thought that the delegates would discuss the briefs so that the officials of the Department of Indian Affairs would be able to grasp what they were driving at and carry it forward. She said that she was not prepared to vote on any motion because she was not given permission to do so, her band had tied her hands and that this situation had placed her in an awkward position.

Mr. Joe Mathias suggested that the motion required a great deal of thought, and it should therefore be left for a while.

Mr. Bernard Charles moved an amendment to Mr. Benny Paul's motion by adding another section saying that anyone who did not submit a brief be given an opportunity to express his views on any further consultation meetings of the Indian people.

Mrs. Genevieve Mussell suggested that Mr. Benny Paul's motion be tabled so that all the delegates had an opportunity to discuss it among themselves and to study it carefully. She felt that an assurance was needed to the effect that all that was discussed at the meeting would not in any way prejudice the fight of the Indian people of British Columbia for their land rights. She said that this should be done so that discussions could proceed without any anxiety or fear by the delegates. She said that she would like to move that the briefs should not be questioned, they represented thinking of certain groups of Indian people and the delegates at the meeting had no reason, and no right to question their thoughts. These briefs were placed on record and they should now be left alone; there were many issues in regard to changes of the Indian Act that the delegates should go on discussing now.

The Co-Chairman Mr. Gordon Hall said that the reason for the evening meetings of the delegates was to hear from those delegates who were afraid, or hesitant to speak out at the conference, and pass their views to someone who could voice these views for them, and to decide on the agenda for the next day. At their meeting held last night the delegates were unable to decide on the agenda for today. He said that he agreed with Mrs. Mussel insofar as the briefs were concerned.

Mr. Albert Douglas said it was again the issue of agenda that was causing difficulty. He felt that the main reason for this difficulty was the fact that when someone suggested a proposal or moved a motion, all the delegates fell in the line, and then they got bogged down every day.

Mr. Bernard Charles said that he felt that Mr. Benny Paul's motion did not restrict in any way procedures of the consultation meeting.

Mrs. Genevieve Mussell said that it seemed to her that Mr. Benny Paul's motion should either be recorded at the time, or tabled so that all the delegates were able to understand it.

Mrs. Gertrude Guerin asked Mrs. Genevieve Mussell to move a motion to this effect, and she said that she would second it.

Mrs. Genevieve Mussell moved a motion, seconded by Mrs. Gertrude Guerin, that Mr. Benny Paul's motion be tabled for the time being so that the delegates would have an opportunity to study it thoroughly.

The question being called, 23 delegates voted in favour of the motion, 5 were against it. Motion Carried.

Mr. Benny Paul's motion which was then tabled including Mr. Bernard Charles' amendment. The following is its final version:

From the discussions to date and from the Briefs submitted, it is quite evident that the majority of the delegates are in agreement on the following points: -

- (1) That nothing that has been expressed thus far in our deliberations or that may be said in the continuance is to be considered as prejudiced to the extinguishment of unsurrendered title of the Native Indians of British Columbia, commonly known as British Columbia Land Question.

Therefore, we wish to go on record that the Government of Canada state specifically that the Indians of British Columbia have aboriginal title to the Province of British Columbia - so that the Indians of British Columbia can then decide on the proper method for a negotiated settlement with regard to the extinguishment of unsurrendered title of the Native Indians of British Columbia;

- (2) That pending the settlement of this contentious issue, the Indian People of British Columbia, accepting as a pro tem working base only that the 13th Article of the terms of the Union required of or in the Revised Act, legal guarantees for the exercise of the Indian people of British Columbia of the inherent unextinguished hunting and fishing rights, hereditary and usufructury rights as well as the Health and Welfare and Medical Services that are needed for our wellbeing in the imposed conditions that we are made to abide by.
- (3) We also wish to re-affirm that there is a definite need for a British Columbia Indian Act and I SO MOVE that our legal advisors draw up a new British Columbia Indian Act compiled from the Briefs submitted at all the consultations in British Columbia and that this new Act be ratified by the delegates so that our British Columbia delegates will be in a better position to express the proposed changes in the Indian Act.
- (4) We want to stress that we feel that we are here, not to revise the Indian Act as it presently exists, but to demand a special Statute to allow for the circumstances which exist in this Province.
- (5) That all delegates who did not present a Brief be given an opportunity to express their views on the new Indian Act.

Break

Chairman Simon Baker - ruled that since Mr. Paul's motion had been tabled by a subsequent motion there was nothing before the meeting. He asked for the pleasure of the delegates.

Mrs. Gertrude Guerin - moved that a six member steering committee being one person from each of the groups presenting the briefs and three persons from the delegates at large not represented in those groups be formed to prepare an agenda for each day.

Mr. C. Adolph - seconded the motion.

There was a lengthy discussion respecting the pros and cons of having an established agenda for each day versus the consideration of the various questions outlined in the booklet "Choosing a Path" in the order given in the booklet during which discussion the mover and seconder withdrew their motion.

Mr. Vincent Harris - moved that the meeting consider the questions outlined in the booklet in the order given whether major or minor ones.

Mr. Victor Adolph - seconded the motion.

Chairman Baker - on a show of hands declared the motion carried. He noted that previously the meeting had discussed question 1 to 4(a). To refresh the minds of the delegates he requested the co-Chairman to read the summary of the first day meeting related to this question.

Co-Chairman Gordon Hall - read the summary of the first day's proceedings: -

"QUESTION NO. 1

"Should the name of the new Act be "The Indian Act" or would another name be better?"

One delegate stated that the Native people have always had the distinctive name of "Indian" and that this should be retained in the title of any new legislation. Another felt that the title should be the same as at present. Another agreed with the foregoing but felt that any new legislation should make provision for revision at regular five-year periods. One delegate stressed that the Indian people of British Columbia were not "Treaty Indians" and should have their own "British Columbia Indian Act".

It was MOVED, SECONDED and CARRIED "That the new Act be the "British Columbia Indian Act".

QUESTION NO. 2

"Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?"

Much discussion took place on this question with eight delegates favouring full Band Council authority, ten delegates in favour of full authority at the Regional level, four favouring compensation from public funds for Band Councils and two opposing delegation of authority to the Superintendent level. Opinions were also expressed that Band Councils should have legal assistance provided and that training programmes should be implemented.

MOVED, SECONDED and CARRIED that: -

- (1) Full delegation of authority be extended to Band Councils;
- (2) Full delegation of authority be extended to the Regional level but not to the Superintendent level;
- (3) That reasonable compensation from public funds be paid to Chiefs and Councillors;
- (4) Programmes be implemented to train Band Councils in the proper performance of their duties.

QUESTION NO. 3

"At present, persons or Bands can be excluded from the provisions of the Act without their consent. Should their consent be required?"

Delegates generally expressed the opinion that consent of the Band should be required. One delegate was in favour of a 2/3 majority vote of the Band, while another urged that a 90% vote should be a necessity for exclusion.

MOVED, SECONDED and CARRIED that: -

Consent should be forthcoming from the Band and by a 2/3 majority or by a greater degree of majority if determined by the particular Band.

QUESTION NO. 4

"Should the children of unmarried Indian mothers take their mother's status regardless of who the father might be?"

Many delegates expressed affirmative opinions on this question. Several stated exclusion was the responsibility of the Band Council and others felt this matter was adequately covered in the present Act. One delegate had an affirmative opinion except in those cases where the woman habitually co-habits with a non-Indian.

MOVED, SECONDED and CARRIED: -

"Provision covering determination of status of children of unwed mothers be left as in the present Indian Act".

QUESTION NO. 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?"

Initial discussion commenced on this question but the adjournment intervened."

Chairman Simon Baker - advised that the meeting would proceed with question 4(a).

Mrs. G. Mussell - said that it was her understanding that the illegitimate child of a common law marriage could be legitimized upon the marriage of its mother and father by a simple legal procedure and assume the status of the father. She enquired whether the purpose of the question was to make this automatic.

Mr. Fairholm - advised that it was a matter of the principle and not the method by which it was or was not achieved that was under question.

Mr. Poupore - noted that the child of a legal marriage between an Indian woman and a non-Indian man had a non-Indian status from the time of birth but the child of a common law relationship between an Indian woman and non-Indian man held an Indian status at birth. The question then was whether this latter child should lose such a status if its parents subsequently married.

Mr. Al Douglas - believed that once a child was a registered Indian it should retain that status until it is of legal age when it had the right to choose.

Miss J. Julian and Mrs. R. Charlie agreed with Mr. Douglas.

Mr. Clarence Joe - also agreed with Mr. Douglas but noted that there were many things involved such as the band assets of which the children were shareholders so that they should have the right to decide.

Mr. John George - agreed but believed there should be a limit to the number of illegitimate children.

Mr. S. Emory - believed the child should retain its Indian status until it is 21 years old.

Chairman Baker - on a show of hands declared that the meeting was in favour of letting the comments and thoughts as indicated on the tape be an expression of the meeting's opinion without putting it to a formal motion and vote. He advised that the meeting would proceed to question 5 which he read:

QUESTION NO. 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?"

Mr. Clarence Joe - believed this was a vital question. He did not believe that a woman marrying a Chinese would become Chinese. He noted that the band assets were involved. He also noted that immediately upon marriage the local Indian agent virtually forced the girl to sign a waiver without consultation with the band council, band, or parents. He believed this section was discriminatory and more authority should be given to the Council to deal with it. He noted that under the existing Act his daughter could be considered a trespasser when she comes on the reserve.

Mrs. Gertrude Guerin - said that her band had answered this as follows: (a) Yes; when an Indian woman married a non-Indian man she should assume his status as at present and (b) the widow of non-Indian status should be permitted to return to the reserve just to reside, if she desires, as a red ticket member with no privileges of the band; her children would be of non-Indian status but may remain with her in her home which she provides until they marry or at the age of 21 when they leave.

Mr. R. Malloway - advised that his band had answered the question in about the same way as indicated by Mrs. Guerin.

Mrs. Rose Charlie - said that her band had answered as (1) should be left on general list for a period of five years and (2) about the same as Mrs. Guerin.

Mrs. G. Mussell - mentioned that a number of people in her reserve were concerned over status. Many of the Indian women so marrying would like to retain their status and the loss of it was frightening to them. She added that there were a number of people who believed that such women should not have to face the loss of status as well as adjust to a new environment but should somehow be able to retain the status even if only conditionally. She believed some retain a common law relationship because of the fear of losing their status.

Mr. A. Douglas - said there was a difference of opinion in his band but some felt that the women by choosing to marry a non-Indian had in fact made her choice in respect to her status.

Miss J. Galligos - disagreed with Mr. Douglas. She did not believe there should be any wall. She thought that as a free individual in the band they should have the choice of status. She thought that if the couples were mature enough to choose; they should not have to face the loss of status. Insofar as children were concerned she thought they should be able to make the choice after the age of 21. She believed that women should have the same rights as men. - a man does not lose his status upon marriage to a non-Indian yet the non-Indian becomes an Indian and the reverse should be equally true or more so since she is the real Indian.

Mr. R. Malloway - agreed with Mr. Clarence Joe. He believed that when an Indian woman married a non-Indian she has made her choice.

Mrs. Wilma Mussell - enquired if anyone had considered the non-Indian point of view. She advised that her sons-in-law, who were white, were proud of their Indian wives and both wanted them to remain as Indian girls. She believed they should retain their Indian status.

Mr. Clarence Joe - noted that the matter became involved with the assets of the band. Many of the girls in his area claim they had a right to their share of these assets and many take legal advice in this respect. He suggested the meeting consider the assets that their women leave behind. He supported the women. She should only lose her status if she voluntarily chooses to do so.

Miss J. Galligos - indicated that her contention was not in relation to the assets or the privilege which may come from being an Indian but with the human right to have equal rights and status with men.

Mr. G. James - referred to the Human Rights Declaration, Article 15 (1) wherein everyone has a right to a nationality and under this the women should have the choice.

Mr. B. Ritchie - believed that when an Indian girl marries she knows she must leave the reserve and go with her husband and her children will bear her husband's name. However, he noted that if the husband died and left her destitute she would be welcomed back on the reserve.

Mr. V. Adolph - thought that status as an Indian was a heritage, so that if the woman so chose she could accept the status of marriage but if she survived her husband, was divorced, separated or deserted, re-entry into band membership should be at band council discretion.

Mr. Vincent Harris - believed that a mature girl had a mind of her own and would marry a non-Indian if she so desired. He agreed she made her choice when she married and she should take her share of the assets with her. He thought that if she returned to her Indian status the question could become uncontrolled. Under difficulty he agreed she should be able to return to live but with no privileges.

Mrs. G. Mussell - advised that some of the people in her community were concerned that some of the marriages were taking place only because of the assets which go with the girl and when the money was gone so was the marriage and the girl returned to her community. She thought that on the assumption that this was a difficulty that perhaps there should be some condition set out so that the girl retains her status and after a period of 2, 3, or five years she would have the opportunity to make a choice.

Mr. Clarence Joe - thought that Mrs. Mussell's point was well taken. He thought that after a few years the girl might be in a better position to make her choice.

Mr. John L. George - believed that the girl made her choice when she married. He noted that during the time of their forefathers if a girl married into another band, that was her choice. He noted that there were many Indian boys who would be waiting to marry them. He thought that the man

should wear the pants and the girl should take his status.

Mr. B. Paul - believed there must be some limitation as to the number of inter marriages or over a few generations the reserves would be entirely non-Indian. The limitation should probably be up to two or three generations whether it involved a girl or a boy, as in the United States. He agreed that insofar as widows or destitutes were concerned the band council should have the authority to say whether and under what condition they may return to the reserve.

Mr. V. Harris - noted that the Fraser Valley Band delegates had had a similar discussion and came to the conclusion that the Indian woman should take her husband status but if she was widowed or separated she should be permitted to re-enter the reserve with her children until the children reach the age of 21 years.

Mr. V. Adolph - noted that the children of a legal marriage assume the status of the father whereas the discussion was only concerned with the status of the women.

Mrs. Rose Charlie - said their band believed that when an Indian girl married a non-Indian she should be kept on the general list for at least 5 years, and then she could make a decision as to whether she desires to retain her status or assume her husband's.

Chairman - advised that it appeared to be that there had been sufficient discussion. He suggested therefore that after lunch the meeting would start on the rent question.

Mr. Fairholm - noted that if individuals or other groups had briefs they could be submitted before the end of the meeting and attached to the minutes of the meeting as an appendix.

The chairman declared the meeting adjourned for lunch.

The meeting directed its attention to the second part of Question #5.

Mr. Albert Douglas said he felt that when people marry, they should know what they were doing, and a non-Indian woman should become Indian.

Mr. William Mitchell said he believed that she should take her husband's status.

Miss Judith Julian asked what happens when a Canadian marries a Chinese.

Mr. Fairholm explained that if she married a non-Canadian, it would depend on the laws of that country. If, however, the Chinese were Canadian, she would remain a Canadian.

Mrs. Rose Charlie: "She should take her husband's status".

Mr. Baptiste Ritchie said that anyone who marries a non-Indian knows that she had to get out of the Reserve. But there are different opinions. He said the power to decide should be given to the council in the case of her husband's death and her becoming destitute.

Mr. Richard Malloway stated that they were discussing the question of white women marrying Indians.

Mr. Gordon James cited a case of a white woman who married an Indian and was separated, but who cannot change status until her husband chooses to enfranchise.

Mr. Vincent Harris said that there was no choice and she should take her husband's status.

Mr. Victor Adolph said with respect to the incident cited from the Lillooet area, the Band Council should have the power to delete her name from the Band membership if she so wishes.

Mr. Benny Paul: "When an Indian girl marries a non-Indian, she should have the privilege of retaining her property rights, but not to enjoy the benefits of Band revenue except subject to the approval of the Band Membership.

A brief discussion followed on whether the prepared answers of the various groups should be accepted, but it was decided that the delegates should express themselves freely on each question.

Mrs. Gertrude Guerin stated the opinion of the Musqueam Band on the question of adoption in Question 6 in two parts.

(a) In the case of an orphan child, where one of the parents was a member of a Band, then the child should be a member of the Band until the age of 21, when he could make his decision.

(b) If an Indian man has an illegitimate child of a white woman and he takes custody of the child, then the child would take Indian status until the age of 21 and then be free to decide.

Mr. Baptiste Ritchie: "The Mount Currie Band agrees."

Mrs. Genevieve Mussell: We must realize that there could be cases where the child is related through the mother. Therefore, we have recommended that non-Indian children who have been adopted should have Indian status.

Mr. John L. George said that he didn't see why Indians should adopt non-Indians when there are so many Indian children about.

Mr. Fairholm: "Adoptions are a matter of provincial law. Couples who want to adopt apply to the Court which must be satisfied that they can provide a proper home for a child. Under provincial law, their adopted children are recognized as natural born children."

Under the Indian Act, Section 2 (1) (b), a child includes "a legally adopted Indian child". That child, adopted by a Band member, becomes a Band member. But if they adopt a child who is not a Band Member, then that child cannot become a Band member. There are cases where an Indian girl has married out, and had children and her husband has been killed. Even if her children are adopted by relatives on the reserve, they cannot become Band members, even if brought up on the Reserve. The real issue is whether the adopted child should be a full member of the family. There are cases where a couple could not have, but wanted a second child, and adopted a non-Indian. That child could not be a member of the Band."

Mrs. Gertrude Guerin said that she was involved in the work of the Catholic Family Services Bureau and the real problem was to find homes for adoption. Therefore they thought that if a girl married out and died and her child was adopted by a Band member, then that child should become an Indian.

Mr. Stephen Emory stated that he thought that this matter had to do with Social Welfare.

Mr. Vincent Harris: "It is rare that Indians adopt a white child, but in the Fraser Valley, we feel that such a child should have Indian status."

Mr. Joe Mathias stated that in the interests of social justice, the child should have Indian status to keep the family together.

The meeting then discussed the second part of question 6 in the background notes.

Mr. Albert Douglas stated that a non-Indian child should gain Indian status and at the age of 21, could decide for himself, but an Indian

child adopted by a non-Indian cannot get back on the Reserve. He thought such a child should retain Indian status until the age of 21 when he or she could decide.

Mr. Baptiste Ritchie: "This child belongs to the people who adopt it. He can withdraw at age 21."

Mrs. Genevieve Mussell: "What about an Indian child who is adopted? He has no Indian status."

Mr. Fairholm: "An Indian child who is adopted, remains an Indian until he gives it up."

Mr. Benny Paul: "I know of people who are very concerned about this point because after adoption, the child is still an Indian and they do not have full control."

Mrs. Rose Charlie said that her Band thought that a child should remain as a member of the Band until age 21 when he could decide for himself.

Mr. Clarence Joe: "I have been involved in such cases. Children were orphans and members of the Band, and I have advised the authorities that they should not be adopted until they have the advice of the Council."

The meeting turned to 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?"

Mr. Clarence Joe: "I have had sad experiences with some of our members. If they are under 21, they should consult the Band Council. If over 21, they should be able to. Boys 17 or 18 want to withdraw, but they always want to come back".

Mr. Vincent Harris: "Should the term, enfranchisement, be dropped?"

Mrs. Genevieve Mussell: "Our recommendation is that:

(a) The word withdraw be used instead of enfranchisement.

(b) That the Section remain in the Act, but be handled by the Chief and Council and not by the Superintendent.

Mrs. Gertrude Guerin: "We recommend that the word, enfranchisement, be dropped and that an individual should be able to withdraw."

Mr. J. Mathias: "We agree with Mrs. Gertrude Guerin but we would like Mr. Fairholm to explain Section 12 (1) (a) (iv), of the Act."

Mr. Fairholm explained that Section 12 (1) (a) (iv) provides that if a Band male member marries a girl who is not a member of any band - a non-Indian girl, and they have a boy who later marries a person who is not a member of a band (a non-Indian), the children of this marriage were no longer Band members after the age of 21.

This was passed in 1951 and would soon affect Indian people.

Mrs. Genevieve Mussell said that she was non-Indian before marriage, and her son had married a non-Indian; would this mean that her grandchildren would not be Indian? Mr. Fairholm said this was the sense of the section. Others said that they had never understood this section.

Mr. Joe Mathias moved that Section 12(1)(a)(iv) be deleted from the Indian Act.

SECONDED by Chief Richard Malloway.

Motion CARRIED 39-0.

The meeting turned its attention to 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?"

Mrs. Gertrude Guerin: "My Band feels that under 21, whether married or not, they should remain Band members until they are 21."

Mr. J. Mathias: "The Squamish Band feels that they should not be permitted to withdraw until both partners are age 21."

Mr. Richard Malloway: "If they are able to enter into a marriage contract, they should be permitted to withdraw if they wish."

Mr. Stephen Emory stated that if they were under 21, they should not be permitted to withdraw. If they did, would it go under enfranchisement?

Mr. Fairholm: "This is their own choice."

Mr. Albert Douglas: "We agree that under 21 they should have the privilege only as couples."

Mr. Vincent Harris agreed.

Mrs. Rose Charlie said that it was entirely up to the couple.

The meeting directed its attention to 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?"

Mr. James Scotchman observed that no one should be deprived of their birthright even by their parents.

Mrs. Gertrude Guerin: (a) When the parents withdraw, their children should not. (b) The children may accept their Indian status at age 16 and may not reject it until age 21.

Mr. Victor Adolph quoted the case of children whose Indian status had been give up and they were later disappointed. He supported the age of 21 when they could decide for themselves.

Mr. John L. George agreed that they should not lose their Indian status until the age of 21 when they can choose. The revenue and assets that the Band have were important. Let the parents withdraw but not the children.

Mrs. Genevieve Mussell said "We felt that to avoid the possibility that parents could get their children's share of the per capita fund they should wait until they are 21."

Mr. Joe Mathias: "Our Band felt that children should be required to wait until they are 21 and make their own decision and that children born after withdrawal of the parents should be non-Indians."

Mr. Stephen Emory stated, "Is there any reason why children of Indian parents who have withdrawn should lose their status?"

Mr. Vincent Harris said that he supported the Fraser Valley point of view that children should have the right to decide at the age of 21.

The meeting discussed 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?"

Mrs. Genevieve Mussell said that in the Fraser Valley, the feeling was that the sections pertaining to this part of the Act should be withdrawn and that withdrawal should be an individual's matter.

Mr. Victor Adolph stated that they were again on this question of determining the status of children.

Mrs. Gertrude Guerin stated that 90% majority of the Band should be required and that the minority should be allowed to remain under the Act, and that the assets should be divided proportionately.

Mr. Fairholm said that a provision similar to section III of the Act had existed for 80 or 90 years. He quoted the cases of three Bands who had used it:

(1) The Wyandottes of Anderdon Band in Ontario in the 1880's or 1890's.

(2) In the 1950's a Band where one family only remained was enfranchised and took the land and assets.

(3) The Michel Band, about 20 miles from Edmonton, Alberta, which were enfranchised as a group in 1959. In all cases the land had been allocated and each took a per capita share of funds.

The Michel group established a Holding Company for mineral rights.

Mrs. Genevieve Mussell asked what was involved in the lands if the people withdraw.

Mr. Fairholm replied that this means all members giving up status at one time, and dividing the assets among themselves and so cease to come within the Act at all and get title to their lands. They cease to be a reserve and cease to be a band.

Mr. Stephen Emory asked what Band would want to withdraw?

Mr. Joe Mathias said that the Band should not be entitled to give up Indian status unless 100% of the Band wished to do so, but that rather it should be the choice of individuals.

Mrs. Rose Charlie said that her Band wished to delete this section from the Act.

The meeting discussed Question #11.

Chairman Baker read Page 14 of 'Choosing a Path' on the question.

Mr. Joe Mathias read from the Squamish Brief, Section 11, (1), (2), (3), (4).

11(1) The proposal to establish a register of Indian lands recording the rights and interests of the Band and the rights and interests of individuals should be established along lines similar to the Torrens System now used in some land registry offices. The Department should be prepared to issue certificates showing the interest of individuals, Band corporations and the Band as a whole in individual pieces of property and the Department should be prepared to establish a fund similar to the Insurance Fund now established by the B.C. Government for the provincial registry. The purpose of this is to make it possible for the interest of Bands, Band corporations and individuals to use the registered interest they have for the purpose of raising institutional mortgages for development. The use of this registry is closely related to the proposal of this Band made under No. 12 that the Reserve land should be leased by the Crown to the Band on a long-term basis and the Band, through its Band Council would, in turn, sublease portions to Band business corporations and perhaps in some cases to individuals and to non-Indian lessees on shorter term leases designed to meet the requirements of each case. Before the Band Council could sublease a portion of land, it would be required to hold a certificate of lease from the Crown covering that portion and showing the legal description of the parcel, and after subleasing that parcel, the Band Council would submit the document to the Central Registry at the Indian Affairs Department in Ottawa for registration.

The Squamish Band, however, wishes to be recorded strongly as opposing the suggestion that at some time in the future the registry of

Indian lands might be transferred to provincial land registry offices. In our view the registry should be permanently established in the Indian Affairs Branch at Ottawa. We are aware of the attitude of certain provincial registrars to the effect that registration of subdivisions in their registry office has the effect of alienating road allowances from the Reserve permanently. There are also further reasons for wishing to maintain the registry in Ottawa.

11(2) As to whether or not individual members could acquire specific rights to property, it is recommended that this should be a matter of Band policy in each case. Some Bands may feel that it is in their wider interest that the land be developed co-operatively as a Band and flexibility should be permitted for each Band to determine its own policy in that regard.

11(3) In any case the Act should specifically provide that neither the Band Council nor individual members should have the right to sell land to non-Band members.

11(4) Provisions should be made for the Band to exercise such powers as are now normally held by governments and public bodies to acquire land and interests in land when necessary for the benefit of the Band on payment of a fair price for it with a provision for arbitration in the event of disagreement."

Mrs. Gertrude Guerin: "The Musqueam Band feels that no B.C. Band is ready to answer this until the land question is settled."

Mrs. Genevieve Mussell: "We reserve the right to object until we see the sections of the new Indian Act."

Mr. Clarence Joe asked permission for Mr. Castillou to speak.

Mr. Fairholm asked for whom would he speak so that this would be of record.

Mr. Castillou said for Chief Vincent Harris (Seabird Island), Chief Albert Douglas (Cheam), Chief Richard Malloway (Yakwekwioose) and Mr. Clarence Joe (Sechelt).

Mr. Castillou remarked: "The point was brought up by the delegates yesterday in relation to the ownership by the Crown of Indian reserves. From what I understand, they were quite perturbed about the fact or at least the position taken that a particular reserve is owned by the Crown. I would like to suggest this is actually not so. I would like to put forward in support of this particular allegation some material which was presented to the Department of Indian Affairs by Mr. Hawthorne which is "A Survey of the Contemporary Indians of Canada". I would like to put forward this position on behalf of the delegates mentioned and I read from page 211 "The Legal Status of Canadian Indians".

"As the discussion proceeds, it will become clear that the legal status of Indians is exceptionally complex. The fact that Indian status ultimately relates to two levels of government in Canadian federalism is one major complicating factor. Section 87 of the Indian Act is far from unambiguous in its definition of the relation of provincial laws of general application to Indians. A second major difficulty reflects the fact that there have been comparatively few cases handled by the courts. Although there have recently been several cases dealing with hunting rights, it remains generally true that attempts to state categorically the precise content of Indian status are rendered difficult by the comparative paucity of cases which the courts have been called upon to decide. In addition, we have been distressed to note that legal scholarship in Canada, in contrast to the United States, has rarely addressed itself to the fascinating complexities of the legal status of this growing minority group. As a consequence of the preceding factors, we have been compelled to attempt the clarification of an especially complex area of law with few reliable guides to prevent us from falling into error."

"On page 213 it deals with the St. Catherine's Milling case. This is material I submit again that was prepared for the Indian Affairs Department as I understand. It states on page 213 in relation to the St. Catherine's Milling case:

"This point may assume particular importance in British Columbia if the future course of decision establishes that the Royal Proclamation of 1763 extends to that province -- a question on which the British Columbia Court of Appeal divided in the recent case", and then it states the citation, "If it is found that the proclamation does apply to the province, and this is taken in conjunction with the fact that the greater part of British Columbia has never been formally surrendered through treaties made with the Indians, this would suggest a broader ambit of federal authority in relation to "lands reserved for the Indians" than is generally conceded. In such a case, "federal authority", and I wish to underline this, "federal authority would extend not only to reserves as conventionally understood, but also to all the lands in British Columbia which have not been formally surrendered to the Crown by the Indians."

"It goes on to suggest that in relation to the Canadian Bill of Rights this would have a distinct backing in regard to whether or not the Crown actually owns Indian reserves. My position is on behalf of the delegates that I'm representing that I feel it is an extremely good point

that my position is most definite that the Crown does not own Indian reserves, and I take this position on a number of facts. One fact the St. Catherine's Milling case is not lost at the present time, that it has never really gone to court in relation to the area that I'm discussing, that as far as the position of the court is concerned that the federal government cannot, because British Columbia has not been surrendered, cannot take the position that Indian reserves are actually owned by the Crown, that the Indians are the owner of the reserves and as such I submit that in regards to the position of the Indians that if they are making leases that they do not have to receive the lease from the Crown, that they can lease themselves. Now I am putting that on the record because I understand there was a great deal of controversy in relation to this particular point yesterday. I wasn't here at that time and this is why I'm discussing it now. In regard to the St. Catherine's Milling case which is the case I understand is the Crown's case in regard to taxation etc. on non-Indian lessees of Indian reserves it states specifically in the Canadian Abridgement, Volume 22. "The effect of S.109 of the B.N.A. Act, 1867, was to give to each Province, subject to the administration and control of its own Legislature, the entire beneficial interest of the Crown in all lands within its boundaries, which at the time of the union were vested in the Crown, with the exception of such lands as the Dominion acquired right to under s.108, or might assume for the purposes specified in s.117."

Mr. Castillou then stated "the land was not vested in the Crown at the time of the union. He argued further that in The Royal Proclamation of 1763 provision is made for compensation to the Indians when their lands are taken and since this has not been done, in his opinion, the Crown does not own the land."

"At the present time the Proclamation of 1763 has not been recognized in the Courts in British Columbia. I suggest that under the Proclamation of 1763 it states specifically that compensation has to be made before any land comes under Crown tenure and until that Proclamation is recognized and land is actually surrendered and compensation made, my position is I feel that this is relevant, the Crown is not entitled to Indian reserves. The reserves in British Columbia are the property of the Indians. I am just bringing this up at this time as I understand that as far as the section itself is concerned under question that this has to do with its primary function that is who owns the reserve, and so on."

Mr. Joe Mathias of the Squamish band asked that their legal adviser be allowed to speak.

Co-chairman Mr. Baker said that point was cleared earlier in the meeting.

Mr. Paul Riecke said the Squamish brief stressed the fact that Bands who do not wish to carry out the procedures should not be forced to do so. He assured the delegates that the Squamish Band felt as strongly about the British Columbia land question as any other Band. However, he said, the Squamish Band has work to be done, land to be developed and they do not want to be held up any further and some other bands were in the same position. He continued: "Because of some limitations in the Act, it is not able to carry out some of the things at the present time and they wish to do so. It was for that reason, some of the things were put in the brief."

He said that none of the things in the Squamish brief should prejudice any other Band. It was suggested, he said, that by asking the Federal Government to lease lands back to the Band Council for a certain length of time, the Band may be prejudicing their position with respect to the land title claims. "The Squamish Band's position is that based on the statement made by Mr. Fairholm, as authorized by the Minister and prior to taking any subsequent lease the Squamish Band would be prepared to ask for a change in the Indian Act to permit the lease of lands by the Crown which now holds the registered title The registered title is in the Crown which means that any document at the present time to be a legal document that would be accepted by anyone who the Squamish Band wishes to do business with, would have to be decided by the representative of the Crown. The Squamish Band does not agree with this; nor does it prejudice its legal position. In the long run, they intend to press their claim as strongly as they can at the correct time and in the correct place. But in the meantime, for the purposes of allowing them to carry on, they are prepared to say to the Crown; We want you to lease the land to us, since title is actually registered in your name in the Land Registry Office and since it takes your signature. At present, we are asking that provision be made for this change so that we can carry out our business on a day-to-day basis. That is the position of the Band and I hope that if there are any further questions about that, that they will be raised."

Mrs. Genevieve Mussel expressed indebtedness to the Squamish Band for bringing to light certain vital points which were of great concern to the delegates.

Mr. Joe Mathias elaborated further on the position of his Band. He said his Council had been involved with the land question with no results. Consequently, he said, reserve land had not been put to good use. His Council was now concerned with ways to develop its holdings.

Mr. Phillip Joe of the Squamish band added that the Squamish band feels that the Act was holding them back. He said they wanted to change the Indian Act so that they could develop their lands.

Mr. Richard Malloway wished to clarify that they had no intention of giving up their land claim rights.

Mr. Vincent Harris of the Seabird Island band supported the expression of indebtedness as presented by Mrs. Mussel.

Mr. John L. George felt the proposal put forward by the Squamish Band to have land leased back to them would help.

Co-chairman Baker directed discussion to question 12 - Should the present rules about selling reserve land be kept or changed?

Mrs. Gertrude Guerin of the Musqueam band read the Musqueam band's view of the question as contained under Item 12 of its submission.

Mr. Stephen Emory said that uncleared reserve land sells for about \$50.00 per acre and he thought land should be leased instead. Also, he said, leases should be made in such a way as to take advantage of the increasing land values.

Mrs. Genevieve Mussel read Item 12 of the submission from the Fraser Valley Indians in reply to the question. (Their submission is entitled: "Fraser Valley Indians - Suggested changes to the Indian Act - Answers to questions "Choosing a Path"- See Appendix E)

Mr. Albert Douglas said the reason 90% was quoted in their answer, which was read by Mrs. Mussel, was because they were quite certain that they would never get a 90% turn out on a vote.

Mr. Vincent Harris supported the answer as read by Mrs. Mussel.

Mr. Benny Paul agreed with the Fraser Valley Indians' answer on the one point which states that the legal entity should be recognized. He recommended that the Government pass an Order in Council to recognize the legal entity of Bands.

Mr. Gordon James said that sale of reserve lands should be discouraged, and that where expropriation is invoked, a piece of land similar in size should be added to the reserve in compensation for the lands taken.

Co-chairman Baker moved discussion to Question 13 - Should Indians have the right and responsibility for dealing with their estates under provincial law?

Mrs. Gertrude Guerin read, in reply to the question, Section 13 from the brief submitted by the Musqueam Band.

Mr. Joe Mathias asked Mr. Fairholm how long it takes to settle an estate.

Mr. Fairholm: "I do not know whether I can tell you the exact time because it would depend on the complexity of the estate itself. There are some estates that involve no more than Old Age Pension cheques. Those can be handled very quickly. There is a very simple process in dealing with those. Where you have lands involved, and where one estate may involve another estate or several estates -- we have cases where we have half a dozen estates all involved in one -- because the property has been left to one whose estate

hasn't been settled yet -- some of them take months and months to deal with. It quite often comes back to having a clear record of what land belongs to who. If your land records are in poor shape and if people over the years haven't left wills or they haven't had the estates dealt with, first thing you know you have a very chaotic situation so that no one knows who owns what on a reserve. There are reserves, and I don't know whether this applies in British Columbia or not, where there is an estate that goes back almost 60 years and you have a large bunch going back to it. You can't find out who the heirs are in some cases. Until you can find out who all the heirs are, and get some agreement as to the disposition of the property, sometimes you get really stuck. There are still roughly 1500 estates that still exist. This is about the number that is with us all the time in the Department. The older they get, the more difficult it becomes to deal with them.

Mr. Bernard Charles said further problems arise when interest in Indian land and Indian monies have been assigned to non-Indians.

Mrs. Genevieve Mussell read the answer of the Fraser Valley Indians as presented under Item 13 of their brief;

Mr. Vincent Harris supported the reply given by Mrs. Mussel. He suggested that more delegates involved with the brief should express their concurrence.

Mr. Richard Malloway said it seems to take a long time for the Department to deal with estates when money is involved. He referred to the estate of his mother. His mother died in November of 1967, leaving roughly \$500.00 which was not given to the heirs but applied to some account.

Mr. Fairholm: "It's not so much the money being taken but it is put into the account of the estate and will not be distributed until they know who is to get the monies or the assets of the estate. Money, property and insurance that might be coming are all part of the estate and are all put into one pot from which payments to heirs are made, according to law or the Will. It is correct to say that the money is taken and credited to the particular estates as far as I know.

Mr. Richard Malloway replied that his mother's estate did not happen that way. He said his mother was in the hospital for nine years and she was getting pension money. He thought they were getting free hospitalization yet they were paying the hospital. When she died, they took the money to cover the amount owing.

Mr. Benny Paul directed a question to Mr. Poupore. He said there were a number of individuals who moved to employment off the reserve and then applied for off-reserve housing. He said he heard that some of these people are losing their privileges. He asked what the position of the Department was when these people are asked to give up their holdings on the reserve to qualify for off-reserve housing. He said he thought it should be spelled out that the people always retain their privileges and land on the reserve when they apply for off-reserve housing.

Mr. Poupore: "The only privilege which occurs in my mind which a Band member might possibly lose by reason of applying for a home under the off-reserve housing program is that which is enjoyed by a Band member who has his home on the reserve, in that the property he owns on the reserve is not subject to taxation. Off the reserve, he owns the property in his own right. He has a certificate of title in the Province of British Columbia and the same way as any individual in the Province, his property is subject to taxation. This makes his home subject to taxation. Insofar as his rights as a Band member as such they are preserved. I know of no other right or privilege a Band member loses as he moves off a reserve."

Mr. Benny Paul said he knew of a particular family who had applied for off-reserve building and yet when they want to improve their land on the reserve, they were told by the field staff that they no longer have any privileges. Those people, he said, are at a loss and he felt that situation should be clarified with the Chief and Band Councillors.

Mr. Boys: "I think maybe there is a misunderstanding here. Where an application is made for assistance for off-reserve housing, the applicant is asked if he has received assistance in the form of a house on the reserve in recent years. If he has already received help on reserve, the on-reserve house is released by the applicant. It is assigned to the Band Council for reassignment to another band member on reserve who may need housing. The Band member cannot within a short span of years get a house both on-reserve and off-reserve at Government expense."

Mr. Benny Paul said that that was not the point of his question. The point in question, he said, was in regard to the lands -- that there should be specific terms of reference spelled out that their lands would always be protected and that the privileges enjoyed by these individuals should not be affected. He said when they are living, everything is fine but what happens when they are deceased.

Mr. Poupore said he was at a loss to suggest to Mr. Paul the answer to his question on the basis of the details which had been given. He was prepared to discuss the matter further with Mr. Paul privately.

Mr. Timothy Spinks of the Lytton band asked whether, when a person dies, does his share of capital funds go to his estate.

Mr. Fairholm replied no that the only time when a share of the capital fund would be credited to an estate is where there has been a distribution by the Band to all the members and the person involved had died before he actually received the money. The amount to which he would have been entitled would go into his estate. Every time a person dies, he added, there isn't a share of Band Funds paid to his estate under the present law.

Mr. Albert Douglas of the Cheam band said he would like an answer to the question raised by Mr. Paul to be made public.

Mr. Fairholm: "I think there is one thing that might be bothering them. When the individual has a house on the reserve, and then he applies for

off-reserve housing, and it is allocated back to the Council in this case -- what is happening is that he thinks all his property is being allocated. I was wondering whether a solution might not be in that kind of a case where it is just a little site where the house is located, and the individual is then free to develop all the rest of his property. I think that if you were in a farming area that if you had a house along with 150 acres, you would hardly give up the whole 150 acres to get a house off the reserve.

Mr. Benny Paul said that this was his point in question and asked Mr. Poupore for further elaboration.

Mr. Poupore: "In respect to the point raised by Mr. Douglas, I wonder if I might question his suggestion of the answer which reflects the point raised by Mr. Paul be made public. The reason why is that I appreciate the principle involved and the concern of the delegates as to the principle but I am also concerned about the privacy of the individual concerned and whether he would wish his personal matters made that public. For that reason, I would have to say I hesitate to immediately make the matter public because of the aspect of the invasion of privacy.

Mrs. Gertrude Guerin thought that a general answer could be given without naming people.

Co-chairman Mr. Boys "There are many cases where applications have been made for off-reserve housing where the applicant has a house on the reserve that he has built himself. He retains the ownership of that property. The provision of the house off-reserve is without prejudice to his property generally to his land property. He is simply required, if he has a house at public expense within recent years, to make arrangements with the Band Council for the transfer of that house to some other Band member who may need it. There is no prejudice to his property generally."

Mr. Benny Paul said that this was why the term 'ordinary resident' should be spelled out.

Co-chairman Baker moved discussion to 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?

Mr. Stephen Emory wanted a definition of the term 'real estate'.

Mr. Fairholm explained that it meant land and things affixed to the land. He said under Section 88 of the present Act, it is not possible to pledge individual property.

Mr. Richard Malloway replied 'yes' to the question because the existing law was a drawback to people like himself because they could not use their cattle, implements, etc. as security.

Mr. Victor Adolph also said 'yes' to the question to encourage private enterprise on the reserve. He said the bands were at present very reluctant to extend credit on security Indians can now offer.

Mrs. Gertrude Guerin read Section 14 of the Musqueam Band' brief in reply to the question.

Mrs. Genevieve Mussell said the Fraser Valley Indians answered yes to the question. Her personal view was that the choice of pledging personal property was up to the individual and that protective measures suggested by the Musqueam Band was not necessary.

Mr. Albert Douglas answered 'yes' to the question, mainly because the individuals earned the possessions they had and had a right to pledge it.

Mrs. Rose Charlie said that each individual should decide.

Mr. Joe Mathias felt that the Band members may pledge their property to other lenders other than the Band Council if they wish to do so.

Mr. Bernard Charles supported the view presented by the spokesmen of the Fraser Valley delegation.

Mr. Albert Douglas also supported the reply the Fraser Valley delegation gave.

Mr. Baptiste Ritchie of the Mt. Currie band agreed with the reply given by Mr. Adolph that the Act should authorize the pledging of personal property as security because if it is in the Act, someone will benefit from it.

Thursday, November 21, 1968.

Chairman Simon Baker announced that the Minister without Portfolio, Honourable R. Andras would not be arriving until late that night. He then turned over the chair to the Co-Chairman, Gordon Hall.

Co-Chairman Gordon Hall said that all personal feelings of the delegates should be left outside of the building; they should work as a team for their better future. He said that the briefs expressed the feelings of the Indian people. He suggested that the delegates should ask for more representatives from each of the consultation meetings for the Ottawa Conference to be held early in the new year. He spoke about the question of Indian rights; there should be a separate Act for the Indian people of British Columbia. In dealing with specific matters affecting the Indians of British Columbia, he mentioned that more jobs should be made available for the Indians in the Department of Indian Affairs because they were the people who alone understood in the best way the real interests of the Indian people. He felt that these consultations had somewhat improved because a few years ago they would have been held behind the closed doors, without the participation of the Indian people. He said that the Indians would support any idea which was of the benefit to their people. There were many people in the past who really wanted to help the Indian people but they were prevented from this by the head office at Ottawa. He suggested that a full investigation be held by band councils into the operations of the Engineering Section of the Department insofar as contracts and equipment in connection with projects on reserves were concerned. He said that it was for the first time that he actually saw a poster for positions of Assistant Community Development workers that was opened to persons of registered Indian status, and that was an encouraging development. He mentioned a letter of the Bishop of New Westminster of 1884 and concluded by reminding the delegates that there was much work to be done before the Indians would be in a position to be satisfied with their lot.

He then suggested to the delegates that the meeting proceed with the questions listed in the "Choosing a Path", and read Question No. 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?

Mrs. Gertrude Guerin said that her band felt that an individual should be able to pledge any land other than the immediate lot around his residential dwelling as security for loans.

Mr. Vincent Harris said that their answer was an affirmative one insofar as their Band Councils were concerned.

Mr. Albert Douglas said that he felt that individuals should be able to pledge their right of possession to land to their Band Councils.

Mr. Clarence Joe said that he would say yes to Question No. 15 on the condition that such a member of the band obtained the legal title from his Band Council and that an Indian should never put up the land on which his home was situated as security for a loan.

Mr. Victor Adolph said that their opinion in regard to this question was to answer yes to Band Councils, no to the government, and never if it would open the door to alienation of land from band ownership.

Co-Chairman Hall then read Question No. 16. Should Indians be able to borrow from any source using their income from leased out property as as security for the loan?

Mrs. Gertrude Guerin said that her band felt that individuals from the band should be able to borrow using their income from leased out property as security for the loan.

Mr. Clarence Joe said that he was in full agreement with Mrs Gertrude Guerin.

Mr. Richard Malloway said that he went along whole-heartedly with the ideas expressed by the previous spokesmen.

Mrs. Genevieve Mussell read the paragraph on Leasehold Income from page 14 of the notes and asked Mr. Fairholm for an explanation.

Mr. Cy Fairholm said in answer to the question that if an individual had land leased out to someone, for example on a 5-year basis for \$1,000 a year, he should get in 5 years the amount of \$5,000. But if he wanted to borrow right away an amount of \$4,000, he could pledge his income that he would receive from his lease as security. If he did not meet his payments on his loan, the person who lent the money would be entitled to receive rent in return. He just uses as collateral his future income in order to get money now. "There are cases where bands have done this and used the Minister as guarantor - they have been able to get money now, based on what they would get from their lease in the next 5 or 10 years, in order that their project could be proceeded with now. It just means using future income as security for the loan."

Mr. Bernard Charles wondered whether this provision was really necessary.

Mr. John L. George said he felt that this provision would be of benefit to many bands so that they could borrow from any source using their income from leased out property as security for the loan.

Mr. Baptiste Ritchie said that he had experience in these matters; he said that although he himself would not use his income from a lease as security for a loan, in general, such a provision should be put into the Indian Act so that this would be possible.

Mr. Vincent Harris said that this should be used because it was of benefit to reserves.

Mr. Clarence Joe said that it was about time that the Indians had the same chances as non-Indians and that the Indians should be able to do what was suggested in Question No. 16. After all, the Indians were quite capable of handling their own business.

Mr. Benny Paul said that he was in agreement with the previous speaker but some protection was needed. There were on some reserves land-owners who held a great proportion of arable lands who could, by using this provision, increase even more their land possession, as it was the case in the Okanagan area.

Mrs. Gertrude Guerin said that this provision was used by her band to rebuild their village; they were able to borrow this money with the Minister's help. She then asked Mr. Fairholm whether or not there was an economic development fund at the present time.

Mr. Cy Fairholm answered that there was no such fund at present; there was a small revolving loan fund but he referred the delegates to page 18 of "Choosing a Path" where it was stated that it was the government's intention to establish in the new Act a development fund which would make it easier for Indian Bands to find capital for worthwhile purposes. The National Advisory Board had already asked for such a fund but there were no details available about the way in which this fund would be administered.

The Chairman then read Question No. 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?

Chief Arthur Thevargé asked for an explanation of this question.

Mr. Cy Fairholm said that the Canada Pension Plan was of a very recent origin - it only came into effect on January 1, 1966. He mentioned that all the delegates had in their working sets a booklet on the Canada Pension Plan which listed on page 6 seven benefits which the Plan provided as follows:

1. A pension for you when you retire;
2. A pension for you if you have to stop work because you are disabled;
3. Benefits for your children if you are disabled and cannot work;
4. A pension for your wife if she is widowed;
5. Benefits for your children if you die;
6. Pensions for disabled widowers;
7. A lump sum payment to your estate at your death.

Mr. Fairholm explained that Indian people who earned all their income on their reserves, unless they were in the federal civil service and contributed to the Superannuation Plan, were unable, under the existing law to contribute to this Plan even if they wanted to. The reason for this was the fact that the contributions were based on the taxable income; since income earned on a reserve by an Indian person was exempted from taxation, there was no income at all for the purposes of the Plan. He explained that on page 16 of the background notes there were listed two alternatives which could bring the benefits of the Canada Pension Plan to Indians who earned their living on reserves.

Co-Chairman Hall said that before he would adjourn the meeting for coffee-break, he wanted to wish a happy birthday to Miss Jean Galligos.

All those present gave Miss Galligos a hearty round of applause.

Mrs. Gertrude Mussell said that she wanted to read out to the delegates page 16 of the notes describing the two alternatives mentioned by Mr. Fairholm;

There are two ways of bringing the benefits of the pension plans to Indians who earn their living on reserves:

- (a) Remove personal property from section 86 thus making all income earned on reserves subject to Income Tax and the pension plans, or
- (b) Make provision in the new Act so that income which is exempt from taxation could be used for calculating contributions and benefits under the Canada Pension Plan. The same provisions could be made for Indians living on reserves in Quebec to be covered by Quebec Pension Plan.

If the first proposal were followed it would mean that all Indians earning income on a reserve who earned enough income to be subject to Income Tax would have to pay tax. They would be treated equally with Indians earning their income away from reserves and all other Canadians.

If the second alternative were to be followed it would be necessary to provide in the new Act for the following:

- (1) Continue the exemption from income tax on income earned on reserves.
- (2) For the purpose of the Canada Pension Plan, an Indian's income earned on a reserve would be computed as though it were taxable even though it would not in fact be taxed.
- (3) Authority would be included in Section 66(2) to authorize payments to the Canada and Quebec Pension Plans or future contributory social security programs and plans on behalf of band employees.
- (4) A starting date would have to be established. Both plans became effective January 1, 1966.
- (5) The Province of Quebec would be asked to make similar provisions for Indians living there.

Mr. Richard Malloway asked Mr. Fairholm if he (Malloway) was put on the spot by the fact that he earned his living on his reserve.

Mr. Fairholm replied that he did not think so; there were three separate Acts of Parliament involved in this matter: the Indian Act, the Income Tax Act and the Canada Pension Plan Act. After a very careful review of the existing law, it was pretty well clear that there were only two ways of bringing the benefits of the Canada Pension Plan to Indian persons who earned their living on reserves, and these were listed in the notes as read by Mrs. Gertrude Guerin.

Break.

Co-Chairman Hall noted that the meeting would continue with the discussion of question #17 respecting the Canada Pension Act.

Mrs. G. Mussell noted that the Fraser Valley group believed that Indians should have the opportunity to participate in the plan but not to jeopardize the right of non-taxable income earned on the reserve.

Mr. Fairholm said that in effect then the Fraser Valley Group were in favour of alternative 2 on page 16 of the notes - i.e. continue the tax exemption yet permit income to be used as the basis for contribution to the Canada Pension Plan.

Mrs. Gertrude Guerin advised that her Band was in favour of computing income earned on the reserve for the purposes of the Canada Pension Plan as though it were taxable even though it would not be taxed. She added that the band was also concerned with the matter of holiday pay for casual labour and suggested this should be set at 4% or whatever the regulations of the Minimum Wage Relations Board were.

Chairman Baker noted that in his reserve there were a number of members working on the waterfront who were covered by a pension plan. However, there was also members working for the Band on the reserve and this number was likely to increase in the future. He added that because of the lack of such a plan for these people some of the more capable members would not work for the Band. He enquired whether it was possible for the Band to establish its own pension system.

Mr. V. Adolph advised that he was in favour providing it was voluntary contribution without taxation.

Mr. Joe Mathias said the Squamish Band recommended that provision be included in the new Act so that income which is exempt from taxation could be used for calculating contribution and benefits under the Canada Pension Plan. He added that if contribution made to the C.P.P. were placed in a fund it could be in turn used for developmental and other purposes across the nation.

He recommended that the Band should have authority to establish its own plan so that the fund so generated could be used to develop the reserve while retaining a sufficient fund to meet its commitments as necessary.

Mr. B. Paul agreed with the second proposal in the booklet. He also believed that it should be the individual's choice and decision. It should not be an outside decision - it should be the individual's choice. He added that until the annual income of the Indian across Canada reaches that of the non-Indian this choice should exist.

Mrs. G. Mussell noted that the question also refers to a starting date. She enquired whether there was any discussion in this respect.

Mr. Fairholm noted that there would be two possible courses here - (1) to try and make starting date retroactive and (2) the starting date would

be the date the new Act came into effect. He added that the Indian people earning their living on the reserve have already lost three years of possible contribution which would have an effect mostly on the benefits available primarily to those of the 40-55 year age group.

Mr. Baptiste Ritchie was of the opinion that the plan was similar to a union - you were either a member or did not receive benefits which he thought was fine for those earning a reasonable salary. However he enquired as to what would happen to those that have little or no salary.

Mr. B. Charles enquired how the proposal would work for an Indian who earned money from both on and off the reserve. - Would or could it be set up to take both incomes into effect.

Mr. Fairholm believed that the mechanics would be to declare both incomes as a total income for the year which would be retained by the appropriate department as the record of earnings no matter where it was earned and the contribution would be based on this total. In answer to an inquiry of Mr. Malloway, he advised that there were some examples of the amount of benefits shown on page 20 of the booklet on the C.P.P. He noted that the longer and greater the contribution the larger the pension.

Co-Chairman Hall enquired if there was any further discussion. There being none he suggested the meeting proceed to question 18 on Education. He read the question in the background paper.

Mr. J. Boys introduced Mr. Ray Hall, Regional Superintendent of Education.

Mrs. G. Guerin advised that her band felt Section 119 (a) and (b) should be eliminated from the Act and that the Indian parent should retain a choice of schools their children attended.

Mr. A. Douglas requested Mr. Hall to explain the Provincial School Law.

Mr. R. Hall advised that this was a long statute and it would be difficult and very time consuming to go through it entirely. He noted that basically the Act was set up to give each child an opportunity to obtain as much education as he was both capable and willing to take and it involved compulsory attendance from ages 7 to 15. He suggested that specific points could be answered or clarified.

Mrs. Rose Charlie enquired if Indian schools were to be phased out.

Mr. R. Hall said that negotiations had been held from time to time and some consideration had been given to the possibility of the Province assuming this field but that nothing was definite as yet. He added that if an agreement was reached it would result in enabling legislation only and would not be put into effect without the approval of the appropriate Band Council.

Mrs. Rose Charlie enquired as to whether it would be possible to

continue the current schools under Federal jurisdiction if so desired in the event the Province assumes the educational field.

Mr. R. Hall said that in his opinion when there were Indian day schools and it was necessary to continue them for one reason or another. There could be three options - (1) the schools could be operated by the local school board with Indians being able to sit on the Board and to vote; (2) the Federal Government upon request could continue to operate them; (3) the Band could establish their own school board and operate them with necessary grants to do so.

Mr. A. Douglas noted that the Federal grants to schools were considerable greater than the apparent costs for non-Indians and noted that a private school operated at a cost to the parent of \$9.00/month for a family of four whereas the Federal Grants for four Indian children would be \$100.00. He asked the reason for this.

Mr. R. Hall advised that the Federal government gave a grant of \$25.00 per month per child regardless of what school the child attended according to the agreement with the province. He assumed that the \$7.00 charge for the private school was over and above the \$25.00 grant paid by the government. He noted that the capital grant was on a private basis related to the number of Indian children attending the school concerned. He advised that grants were paid to each parochial and provincial government.

Mr. Benny Paul enquired as to who gave the Indian Affairs Branch the power to negotiate between the Provinces and Federal Government without any Indian involvement in deciding self determination, self initiation, self responsibility, which has been avoided for many years. The Indian people were a responsible people but at the same time they were being obstructed by the structure.

Mr. R. Hall noted that the Minister was given the authority to negotiate regarding Indian education by virtue of the Indian Act. He added that in practice integration did not take place without the consent of a Band Council by resolution.

Mrs. G. Mussell said a number of band members in her area who feel strongly about the fact that they have no say as to what school their children should attend. She enquired as to whether the Band Councils were involving the Band members in the decision on integration.

Mr. Joe Mathias enquired if the Federal government was phasing out Indian schools in the province.

Mr. R. Hall advised it was government policy, where possible, to have Indian children attend the same schools as non-Indian children but only after a favourable resolution of the band council.

Mr. John L. George questioned whether the Council should make such a decision. He believed that if parents were mature enough to have children, whether Indian or non-Indian, they should make the decision as to which school their children attend, and after making the decision the

Federal Government should continue to assume the costs.

Mr. Hall agreed that the financial responsibility for Indian children was with the Federal Government and to the best of his knowledge it would continue.

Mr. Joe Mathias did not believe that the Band Council had any meaningful choice in this subject. If the Federal government was in fact phasing out Indian schools, under what circumstances could the Indian school be kept operated if the Council so decided.

Mr. R. Hall advised that the council could decide in favour of an integrated system, in either parochial or public school system, or they could maintain and operate their own day school with federal grants equivalent to the cost of operation.

Mr. V. Adolph said they were concerned with the Indian residential school issue. He read a petition being circulated in the interior of B.C. "We the undersigned respectfully petition the Minister of Indian Affairs and Northern Development to consider our very strong feeling that (1) Indian school residence not be done away with or reduced in size until such time as we ourselves no longer see any need for them. At present the need is very great. (2) the enrollment for these residence be decided through consultation with Indian Band Councils before the beginning of the school year."

Mr. R. Hall in answer to a question of Mrs. Rose Charlie advised that regardless of the school the Indian children attend he is entitled to his school supplies being purchased at departmental expense to a maximum limit of \$22.00 per child per school year - both fees, ordinary school supplies and gym equipment. In a further answer to a question of Mrs. Charlie he advised that regardless of the school the children attend there was no change in the policy which would permit the Indian student to enter any school or course for which they can qualify at Federal government expense including attendance at University.

Mr. Joe Mathias disagreed with Mr. Hall's statement that the council had a choice. He noted that his council was told it was the policy of the Government to integrate the school system and the school in the Squamish reserve would be closed within one year. He noted that they were also told that they would lose control of the school building and the land if they did not agree to this. So they had felt it was in the best interest of the Band to accept the policy and so retain the land and building for the benefit of the band.

Mrs. G. Mussell believed the point here was that the government in fact made the decision without consulting the people. She thought Chief Joe Mathias had said that they were not given a choice - the decision was already made by the Federal Government and the policy set.

Mr. R. Hall said he believed this case was a very special and complicated one of which the Council was aware.

Mr. Joe Mathias agreed the Squamish case was a special one, but

his objection was on the basis that the council was told that the children must integrate as the school was to be closed down within one year. The children were forced to change schools abruptly and there was no gradual phasing permitted to allow the children to adjust to a new environment.

Mr. B. Paul referred to the Special Joint Committee of 1927 which had made the following recommendation which was ratified by the Parliament "in the opinion of the committee it is desirable that the system should be maintained and extended and that residential and day schools should be provided in districts not already provided for." He believed a Royal Commission or judicial type hearing should be established, to enquire into the situation at Squamish in which the Branch vetoed the actions of Parliament. He advised that there were many schools in B.C. which were being phased out, without consulting the people. It was important and vital to the Indian people to be given the authority whereby they could act in accordance with the decision of Parliament.

Mr. R. Hall advised there was no policy stated, nor any member of the Branch had stated, to the best of his knowledge, that the Branch was phasing out or closing any residential school.

Mrs. G. Mussell noted that Mr. Hall had advised that the Act gave the Minister the authority over Indian education. If this was so, and if we object to the government policy without consultation of Indian people in decision making, perhaps the meeting should consider these sections of the Act in order to make recommendation for changes that will prevent this in the future.

Mr. Gordon James believed they should be changed to give the chief and council the necessary authority to make this choice particularly where Indian student residences were concerned.

Mr. John L. George said he appreciated Mr. Hall's efforts in relationship to the Indian children's education but believed he was overstepping the boundaries without consultation. He thought that Mr. Hall should consult to see what the Indians wanted and not what Mr. Hall wanted.

Mrs. Rose Charles advised that they would like to retain their school. She stated that the high school students travelled a considerable distance by bus to school which would be more difficult for the little children to do.

Mr. Hall said this would be a decision of the band to make.

Mr. Joe Mathias believed sections 119, 120, and 121 should be removed from the Act. He also believed the parents of the child should have the choice of schools in the same manner as non-Indian parents, but children with no parents, i.e. orphans, these should be up to the council to make the decision.

Mr. Joe Pierrie read a letter from an Indian student attending school in the lower mainland from the northern areas in which she complained of the treatment accorded to some students by the parents in the homes in which they boarded, primarily relating to lack of freedom, individual

responsibility, discrimination and counselling. At the request of Mr. Hall he said he would turn the letter over to him for investigation of the situation.

Mr. V. Harris advised that in the opinion of the Fraser Valley delegates section 119 of the Act should be removed entirely and an expert should explain the provincial school laws so that the parents will have sufficient knowledge of it. The parents should have the right to decide the school that their children attend - public, separate or otherwise. No catholic child should be forced to attend a protestant school or vice-versa but there should be a written consent of their parents to such attendance.

Mr. B. Paul supported the recommendation of the previous speaker. He noted that many students have approached him in respect to the manner in which they are placed in boarding homes and that their counsellors were not willing to listen to their individual desires. He believed this was of prime concern particularly when it was considered that they were brought down without consultation with their parents. He believed that Mr. Hall should try to improve the condition that prevails among the students. He noted that 90% of the Indian girls that were lodged in a home for girls were from welfare homes and it would be better if they were boarded among Indian families. He noted that kindergarten among non-Indians average \$10.00 and enquired why the Indian children pay \$25.00.

Mr. Hall noted that the Department's grant amounted to \$25.00 per child per month regardless of the school attendance. He advised that some boards do not bill them for this amount but they are entitled to it. In respect to boarding homes, he noted that Mr. Paul himself was a counsellor and they had responsibility for placing students in these homes and do their best. He admitted that all placings do not work out but on the average the record was good. He advised that the counsellors now, do visit the reserves, and do talk to the parents before the children were brought to the lower mainland for higher education and this communication had improved the situation. He advised that the department would be prepared to accept as a boarding home, those chosen by the parents and wondered if this practice should be encouraged to give the parents more responsibility.

Mr. Bernard Charles enquired whether the department had considered providing residences on reserves in provincial areas where such schools were not available as it would give the students a better chance of acculturation and foster communication between the Indian people from various parts of the province.

Mr. Hall noted that a residence of this type was being considered at Terrace.

Mr. Al Douglas suggested that the Department make a survey of the Fraser Valley and the lower mainland for families having an Indian background. He thought that there were likely to be a number of them and if the children were placed in such homes they may adjust quicker.

Mr. Richard Malloway advised there were two sides to the story.

He believed that children coming from the indicated area had a number of adjustments to make regardless of the home. He noted that he had boarded such a student and the difficulties were many including inside plumbing, autos, television, telephone, as these experiences had been lacking in the education of the Indian children and he agreed and believed in this.

Mr. B. Paul wished to put on record three points (1) why were welfare Indian children not allowed to attend residential Indian schools such as Kamloops which the District Superintendent has deleted from the list for this school. (2) Was it possible for an Indian child to request a transfer from one counsellor to another, and (3) he believed that all delegates should agree with the petition referred to today and should sign it.

Mrs. G. Mussell advised that she had heard that two separate schools for Indian training were to be started by Indian Affairs. She enquired whether it would be possible to utilize some of the existing buildings such as schools or hospitals which were being phased out and which could be used for this purpose.

Mr. R. Hall advised that he had not heard of the establishing of any special schools.

Co-Chairman Hall at the request of the delegates advised them that the meeting would continue on the matter of education. He adjourned the meeting for lunch.

On a suggestion from Mrs. Mussel it was agreed that there be an evening session starting at 7:30 p.m.

The meeting discussed Question 18.

Mr. Paul asked why Indian children from welfare families were disqualified from attending Indian Residential Schools. He cited the case of 17 who had been disqualified at the Kamloops school this past year. He also asked whether students have the right to switch counsellors?

Ray Hall replied that there are many welfare cases in Residential Schools but that this number had been cut back in 1968. Welfare children were the responsibility of the Provincial Government and as such did not come under the Act. Principals preferred that they not attend Residential Schools for this reason. On the second point he stated that he had never had one request to switch counsellors. If there were adequate reasons he would agree.

Mrs. Rose Charlie of the Chehalis Band said Mr. Hall had agreed that they could keep their Reserve school open under the Federal Government.

Ray Hall "This would be the trend. Our day schools are becoming fewer but there are some which do not wish to become a part of the provincial system, and they remain a Federal responsibility."

In response to a question from Mr. Joe Mathias he said that grants would be available to bands based on the present costs of operating the school and subject to annual review in keeping with changing costs. The Indian people would have complete control of the school.

Mr. Joe Mathias asked if the Education policies being formulated were in keeping with the Indian Act.

Mr. R. Hall replied that he did not make policy but rather carried it out. Of course policies were open to interpretation.

Mr. Joe Mathias stated that the education policies must be changed so that the bands have control of education.

Mr. R. Hall couldn't agree more. All conferences had expressed their wish to operate schools under Provincial legislation rather than Federal.

Mr. Bernard Charles suggested that Indian Affairs set up residences on Reserves accessible to Provincial schools for children from isolated areas. Thus children would have a chance to preserve Indian culture.

Mrs. G. Guerin expressed concern because they said the truant officer could not go on the reserve. It was pointed out that this was a matter for the band council.

Mr. Paul asked for clarification whether the Province would extend University education to the Indians as well as grade school.

Mr. Hall replied that he did not know.

A discussion followed raised by Mr. Joe Mathias on adult education. There was misunderstanding of the relocation program, confusing it with adult education. It was pointed out that while the relocation program at the moment only provided for fourteen families, over 900 Indians were taking part in adult education classes.

Mr. Benny Paul explained that the relocation program was carried out in conjunction with Manpower and was designed for preparation for taking a job. It was suggested that this program be expanded.

Mr. Harris asked if the Department would help Indians go to university.

Mr. Hall explained that the Department pays for Indians requiring help to go through university to graduation for any profession provided the person met the academic qualifications.

Mrs. Mussell said that section 119 of the Act should be removed. She said the Provincial law on education should be explained and stated that no Catholic child should be forced to attend a Protestant School. The Act should be flexible enough to permit parents the choice of school their children should attend.

Mr. B. Paul complained that there was not enough money for counsellors to travel. He said that there should be more counsellors of Indian origin and in residential schools the Vice-principal ought to be Indian.

Mr. Joe Mathias expressed his disappointment with the placement officers. Children were educated and could not get a job anywhere.

Mr. Baptiste Ritchie said that reserve schools needed improvements and not only provincial schools. He said Mount Currie had 300 children in school.

Mrs. Rose Charlie asked why in certain areas white children did not come to school on the reserves.

Mr. Harris asked whether if the provincial system were chosen the Band Councils would be able to select the school to which their children would go? They should be free to choose.

Mr. Hall said he did not know.

Mrs. Guerin stated that parents should have a choice between federal and provincial schools.

Mr. Fairholm explained the question under discussion in reply to Mrs. Mussel who asked why on earth this question was on the agenda when the people did not know the provincial school legislation.

Dr. Murie of Medical Services was introduced. He explained that Dr. Thompson could not be there and that he was taking his place. He pointed out that the Indian Act did not provide health legislation but that the Federal Government did provide medical services for needy Indians who could not obtain these services from the province or municipality.

Mrs. Mussell read Section 72 (1) (g) of the Act on the responsibility of the Governor-in-Council to provide medical treatment and health services.

Dr. Murie replied that the Federal Government had not made regulations to provide medical services for Indians in the case of communicable diseases.

Mrs. Mussell stated that the Indians had always believed health was the responsibility of the Federal Government but that in recent years there had been subtle moves to get the Indian people to assume responsibility for their medical care.

Dr. Murie stated that he was not here to defend or justify Government policies but to explain present practices.

Mr. Harris agreed with Mrs. Mussell and said that Indian people had health problems and sometimes could not pay. Their name was put on a list in a drug store and they had to be labelled as destitute.

Dr. Murie said that needy Indians could have their names put on a list. Recently he had asked Chiefs to put such names on lists, and also those of marginal income groups.

There was considerable discussion of the indignity of being put on a destitute list and of the fact that people had to pay sometimes for necessary drugs even when their name was on the list.

Miss Galligos asked if pensioners were considered to be in the marginal income group.

Dr. Murie replied yes if the pensions were their only income. He also stated that Chiefs had been provided with identification forms for people whose names were not on the lists.

Mr. Adolph strongly protested the use of these public lists of names.

Dr. Murie explained that in the B.C. medical system children could sign the forms and illiterate people, when their mark was witnessed.

Mrs. Mussell "Do you know at the Convention of the Federation on Vancouver Island where there was a strong protest made to Dr. Thompson of the indignities suffered by people whose names must go on such a list. Sometimes they have to go to three or four drug stores. Some people were not aware they were on the list or even knew that a list existed. We suggested that individuals have identity cards entitling them to procure drugs."

Dr. Murie said that this had been suggested by the Squamish Band and that it would be taken into consideration.

Mr. Joe Mathias cited a case of a person who was needy, did not know a list existed, and during the past two years had to pay out some \$300.00 for medical supplies, and wondered if it could be refunded.

Dr. Murie said he would be willing to discuss special cases later.

Several other specific cases were mentioned.

In reply to a question from Mr. Mathias, Dr. Murie said that medical services had an arrangement with registered nurses in the interior of B.C. to dispense drugs. Mr. Mathias asked about ambulance charges and stated that in some cases these bills were sent to the Indian Affairs Department and to medical services and that nobody wanted to claim them.

Dr. Murie said that in some cases it depended on a settlement with the insurance company as to responsibility in the case of third party liability.

Mr. McHalsie stated that a diabetic sometimes had to run around to get pills when he needed them immediately.

In response to a question Dr. Murie said that Chiefs and Councils decided whose names should be on the lists.

Mr. Albert Douglas stated that as a Chief it was an embarrassment to decide who was indigent and who not.

Mr. John L. George spoke at some length as a Chief. He stated that he and many others had always understood that the health of Indians was an aboriginal right. He further elaborated on the indignity of designating some Indians as "destitute" in order for them to receive necessary medicaments.

Co-chairman Mr. Hall announced that discussion on medical service would continue as Dr. Murie of the Department of National Health and Welfare would be available for questioning.

Mr. Wilbur Campbell asked whether the nurses in the Chilcotin were registered and qualified nurses.

Dr. Murie: "The nurses I referred to were registered nurses and they work part time for us. They are employed by the Roman Catholic Mission - one at Anaham Lake and one at Anaham. They are registered nurses and they requisition drugs under the direction of qualified physicians and hold clinics in the area and they dispense drugs under the direction of a licensed physician."

Mr. Gordon James asked if the present drug list was honoured by all drug stores or just those chosen by the Department.

Dr. Murie: "It is a tremendous task to try to type lists for and supply lists once a month for every drug store in British Columbia. What we have tried to do is provide lists for those drug stores who normally do business with Indians. In certain areas, such as in your area for instance, there is only one drug store at Lillooet and, of course, he gets a list. But we also provide a list to the drug store in Pemberton which would list patients from your particular area. If a drug store asks us for a list, certainly we provide them, but it is true every drug store in British Columbia does not have a list. We have tried to provide lists for those drug stores that normally provide services for Indians."

Mr. Victor Adolph said he understood that previous to the list, the Pharmaceutical Association favoured National Health and Services inasmuch as they paid for the drugs at cost. He asked if National Health and Services find the expense too costly even after being favoured by the Pharmaceutical Association.

Dr. Murie: "Medical Services has entered into an agreement with the British Columbia Pharmaceutical Association to provide prescription drugs at an agreed upon fee, and it is at a cost-plus basis. It certainly has been well received by the British Columbia Pharmaceutical Association."

Mrs. Genevieve Mussell moved that Medical Health Services assume the responsibility of providing medical and health services (including dental and optical services), for Indian people and this should be implemented and spelled out in the Indian Act.

Mr. Richard Malloway seconded the motion but wanted the motion to include 'including dental and optical services'. Mrs. Mussel agreed to this.

Mr. Bernard Charles of the Semiahmoo band read a section from page 240 of the Hawthorne Report -- "The needs of Indians not under treaty receive no less attention from the government on that account. While this is generally true it is somewhat an over-statement, particularly with respect to the past. Confederation treaties, if it is taken to mean that little significance is attached to being 'treaty'. The main provisions of the treaties have been grouped into six main categories: (1) treaty presents, (2) annuities, (3) land, (4) hunting, fishing and trapping, (5) liquor, (6) socio-economic matters in the field of education, agriculture, health and welfare.

Mr. Albert Douglas said the treaties did away with the Indian doctors and this was why he thought there should not be a line drawn as to who should receive medical services.

Mr. Benny Paul emphasized that Treaty #8 states quite clearly that medical services were always to be provided to the Indians of Canada, and that they mention the moral obligation. He thought that it should become a legal obligation as well.

Mr. Gertrude Guerin said they wanted to add the provision of dental services mainly for the children.

Co-chairman Hall asked for a vote on the motion. It carried. He thanked Dr. Murie, who left at this point, and then directed discussion to Question 19: Should all adult members of a Band whether or not they live on a reserve be allowed to vote on surrender proposals?

Mr. Joe Mathias of the Squamish Band said it was his band's recommendation that surrender of reserve land be abolished. He read Section 18 of the brief submitted by the Squamish Band.

Mrs. Gertrude Guerin agreed with and supported the views given by the Squamish Band.

Mrs. Genevieve Mussell read her reply to the question as presented under Section 19 in the Fraser Valley Brief.

Mr. Bernard Charles of the Semiahmoo band asked Mr. Poupore, with regard to Section 58 (3) of the Indian Act and the controversy over surrendered lands, whether 'surrendered lands' might be ameliorated by 'unsurrendered lands'.

Mr. Poupore: "The provisions of Section 58 (3) allow the Minister at the request of an Indian member of a Band, the holder of a Certificate of Possession, to lease that land held under possession for the benefit of that Indian. It is not necessary, under this Section, for the land to be surrendered. Some bands feel that this Section should only be used where the lease is for the benefit of the individual Band member. Other bands think that if the band as a whole will benefit, an individual member may be allotted land and apply for the land to be leased and a provision built in to the allotment so that the lease revenue should not only be set

but that the lease revenue should all go to the Band. They see this as a device to enable the leasing of land without the necessity of a surrender. One Band that I can think of has, in fact, gone to the point of asking that a surrender be cancelled so that they can then turn around and allot the land to the Chief of the Band who in turn has asked the Minister to lease the land for his benefit. The allotment to him makes it clear that he leases it. I believe that 100 % of the lease revenue is turned over to the Band. The Department has acceded to the request of the Band in this case. The point you raised, Mr. Charles, about the judgement of the court recently that in surrender the land is liable to taxation under a municipal by-law, the Band feels that under 58 (3) municipal jurisdiction may not rise. In fact I think you are sure that it does not rise. This device has not yet been challenged in the court."

Mr. Bernard Charles wondered whether land already surrendered for a lease could be unsurrendered.

Mr. Poupore: "Quite honestly, I don't know. I would picture it would have to put back into the reserve subject to the leasehold interest. Whether the cancellation of the surrender to restore land to full reserve status would cancel out any jurisdiction which the municipality may have acquired by reason of the surrender, I don't know. It is one point that is being investigated at the moment. I haven't got an answer. Whatever answer is put forward, of course, I think every Band will appreciate it will have to be on the basis that it is an opinion and that it is subject to review by the courts."

Mr. Bernard Charles suggested that whoever was responsible for the matter in Indian Affairs inform the Bands of the decisions.

Mr. Poupore said that he was the officer in charge of investigation.

Mrs. Gertrude Guerin wanted to make it clear that the Department should investigate cases very carefully in the interest of the Indian so that there will not be another Judge Kirke Smith decision.

Mr. Clarence Joe to Question 19 answered 'yes' if they are available on the reserve. He said they always strike off the ones who are absent.

Co-Chairman Hall moved discussion to Question 20.

Do you agree that the Band Council, rather than the Minister should have the authority to order surveys and subdivisions undertaken?

Mrs. Gertrude Guerin read from her brief saying her band proposed that the band council should have the authority.

Mr. Baptiste Ritchie of the Mount Currie band said 'yes' to the question.

Mr. Clarence Joe said yes the band council should have full authority but that they would want the records which show the exact boundaries of the reserve. He felt that the cost of surveys should be borne

by the Department.

Mr. Vincent Harris of the Seabird Island band also answered yes. He asked Mr. Poupore if the band council authorized surveys would the Department pay for them if the Department owns them.

Mr. Poupore said with regard to who should be paying for surveys the Department might be expected to in cases where the Department requires a survey, but if a survey is required for the purpose of developing revenue for the Band, the Band council should pay. He could not give, he said, a hard and fast rule.

Mr. Clarence Joe said when a non-Indian applies for a lease, they usually make the non-Indian pay for the survey.

Mr. Richard Malloway answered yes to the question and thought that the Government should pay for the surveys.

Mrs. Genevieve Mussell advised that the Fraser Valley Indians agreed the band council should have the authority to order surveys.

Mrs. Gertrude Guerin wanted to clarify why she thought the Department should pay for surveys. She said her band owes a surveying company thousands of dollars and they have no way to pay the account.

Mr. Vincent Harris said when the band requires surveys such as in cases where they stand to get compensation, the Government, as the protector of the Indian, should pay for the survey.

Co-chairman Mr. Hall moved discussion to Question 21. Do you agree that the provisions giving the Minister authority to operate farms on reserve land should be repealed?

Mrs. Mussell said the Fraser Valley Indians felt very strongly that the Section should definitely be repealed.

Mrs. Guerin replied 'yes'.

Mr. Richard Malloway replied 'yes'.

Mr. John George of the Burrard band replied 'yes'.

Mr. Victor Adolph replied 'yes' also.

Chairman, Simon Baker opened the special night Session by reading Question No. 22 from "Choosing a Path."

"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?"

Mr. Albert Douglas said that this question was not applicable to the Indians of British Columbia.

Mr. Baptiste Ritchie said that this Section should be deleted.

The Chairman read Question No. 23.

"Do you agree that the section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed?"

Mr. Baptiste Ritchie said that the Indian people were Canadians and should therefore have same Justices of the Peace as other Canadians.

Mrs. Genevieve Russell said that this Section should be repealed.

Mr. Vincent Harris said that he agreed with Mrs. Russell.

Mr. Joe Mathias said that their band's recommendations went along the line expressed by previous speakers.

Mrs. Gertrude Guerin said that this Section should be eliminated from the Indian Act.

The Chairman read Question No. 24.

"Do you agree that the sections on liquor should be repealed?"

Mr. Gordon James said that these sections should be completely thrown out.

Mr. Baptiste Ritchie said that all the Indians were Canadians and should therefore have the same rights as non-Indian Canadians.

Mr. Richard Halloway said that they agreed that these Sections should be taken out of the Act.

Mr. Joe Mathias said that these sections should be repealed.

The Chairman read Question No. 25.

"Should Band Councils be able to enter into short term leases on their own authority? How long a term?"

Mr. Baptiste Ritchie said that his answer was yes, for a period of 10 years.

Mr. Gordon James said that this should be left to the discretion of the band.

Mrs. Genevieve Russell said that they felt that the Band Council should be able to enter into short term and long term leases but there had to be the consent of 51% majority of the members of the band eligible to vote, at a general meeting held for such a purpose.

Mr. Bernard Charles said that he agreed with the previous speaker; it would be up to each band to decide for what types of leases a 51% majority of the eligible members of the band was required.

Mrs. Gertrude Guerin said that the Musqueam Band felt that short term leases should be left up to the Chief and the Council without going through the band or the Minister. Any lease over 5 years should require approval of the members of the band.

Mr. Arthur Thevarge said that his band felt that "Choosing a Path" was really asking a single question, put forward in 34 different ways - and that was "did the Indians want to manage their own affairs?" They felt that they wanted an Indian Act but all that should be contained in this Act was a provision to protect their hereditary rights and privileges.

The Chairman asked for comments in regard to Question No. 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?"

Mr. Baptiste Ritchie said that he never entered into a lease which covered a period longer than 10 years. Longer leases, or leases involving land or timber should require a majority vote of the band members. He said that he himself followed this practice in regard to leases.

Mrs. Gertrude Guerin said that the Minister could not approve any lease without Band Council's approval which should come first before the signature of the Minister.

Mr. Joe Mathias said that where bands reached a stage where they were able to administer their affairs, all these matters should be handled by these bands themselves; where bands did not yet reach that stage, the Minister should handle these matters at the request of the Band Council.

Mr. Baptiste Ritchie added that the Minister could not make a

deal without the consent of the Band Council.

The Chairman read Question No. 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?"

Mr. Peter Jacobs said that band funds should be available for loans to band members.

Mr. Baptiste Ritchie said that if it was the opinion of the band council to grant a loan to a member of their band, it would be quite in order to do so, because the members of the Band Council knew the members of the band.

Mr. James Scotchman said that band councils should have full control over band funds and that majority vote should be required in regard to capital funds.

Mr. Joe Mathias said that where bands reached a suitable stage of administrative capability, bands or band councils should be able to make a loan from their capital funds provided that capital funds be used only for band development and band projects; at a similar stage of development, revenue funds should be solely under the band through its Council; band councils should have control over band funds as mentioned and should present their financial statements at annual meetings convened for this purpose.

Mrs. Genevieve Mussell said that the Band Council should be allowed to spend revenue funds up to 100% as it saw fit but in regard to capital funds, it should have the consent of 51% of the members of the band, with the exceptions of certain cases that would be spelled out in the British Columbia Indian Act where band councils would have a right to spend capital funds without consultation with the band at a general meeting. All Band members regardless of whether or not they resided on the reserve, should be allowed to vote in regard to expenditures from capital funds. Insofar as the question of the extent of Band Council's power over Band funds was concerned, this should be left up to each individual Band for decision.

Mr. Richard Malloway said that he went along with the ideas expressed by the previous speaker.

Mr. Albert Douglas said that he believed that the Fraser Valley bands stated clearly in their brief their opinion on this question.

Mr. Jules McHalsie said that he fully agreed with Mrs. Genevieve Mussell.

Mr. Cy Fairholm asked Mr. Joe Mathias a question in regard to their answer to the first part of Question No. 27 which stated, in part,

that "where the bands have reached a suitable stage of administrative capability and have so requested the Minister..." - he said that he interpreted it in the way that the very fact of making a request to the Minister indicated that they had reached this stage of administrative capability and that the Indians of the Squamish bands would not want the Minister to sit in judgement as to whether a band was capable of assuming this responsibility. He said that he raised this point because Section 62 and one or two other places in the Act stated that "where the Governor in Council declares that a band has reached an advance stage of development" - the question therefore remained - who was to determine this if not the Band itself."

Mr. Joe Mathias answered that this decision belonged to the Band Council, as it was stated further in their brief, and that when a band made such a request, it was ready to administer such funds. He then stated that local control over band funds was needed.

Mr. Baptiste Ritchie said that any loans made from band funds should come through in the form of resolutions of the Council; once through, it was available to every individual.

Mrs. Genevieve Mussell said that band funds belonged to the Indian bands, and the Minister should not be involved in any way.

Mrs. Gertrude Guerin said that they supported completely the views expressed by the Squamish bands. She said that she wanted to add that directors of development corporations should be subject to re-election each year - they now had two such groups on their reserve.

The Chairman read Question No. 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?"

Mr. Vincent Harris said that his answer to this question was simply yes.

Mrs. Genevieve Mussell said that she believed that this should be left to the people involved, they should be able to make their choice.

Mr. Timothy Spinks said that he fully agreed with the previous speakers - it was up to the band to make the decision in regard to their local government system.

Mr. Victor Adolph said that they felt that this should be required by law because some areas preferred their governments under the hereditary system and other areas under the electoral system.

Mr. John L. George felt that this matter required a vote by the members of each band; if a band decided to change its system of the local government, the hereditary Chief should be able to live in exile.

Mrs. Gertrude Guerin said that any changes of the local government should go through a majority of voters at a meeting called for such a purpose.

Mr. Joe Mathias felt that it was up to the majority of band members who were qualified voters to decide on their local government system.

The Chairman read Question No. 29.

"Should the voting age be that for provincial elections?"

Mr. Cy Fairholm pointed out to the delegates that on page 23 of the background notes there was shown the present voting age in all the provinces.

Mr. Gordon James said that in their area the age for voting was 21, but it should be changed to the legal age of the province, 19.

Mr. Bernard Charles wondered what was meant by voting age: did it mean, in British Columbia for example, that a person could only vote the day after his 19th birthday or during the year when he would reach the age of 19?

Mr. Fairholm replied that, with a few exceptions, a person had to be 19 on the day when the vote took place but he said that he was unable to give the details on this situation across Canada.

Mrs. Gertrude Guerin felt that voting age should be the same as that in a particular province - in British Columbia, 19.

Mr. Joe Mathias stated that the voting age should be either 19 or that age which would be determined by the Band Council.

Mr. Vincent Harris felt that the voting age should be 21.

Mr. Fairholm said that he thought that in all provinces a candidate had to be 21 years of age, but a person who could elect him could be younger, for example in British Columbia 19, and in Saskatchewan 18.

The Chairman read Question No. 30.

"Should candidates for Band Council have to meet the age requirements of provincial laws for municipal office?"

Mrs. Gertrude Guerin said that candidates for Band Council should be 21 years of age to hold the office.

Mr. Victor Adolph said that these candidates should be 21.

Mr. Albert Douglas agreed with the previous speakers -

candidates should be 21 years of age.

Mr. Vincent Harris agreed with the previous speaker.

Mr. James Scotchman said that he supported Mr. Victor Adolph's views because he spoke on behalf of his people.

The Chairman read Question No. 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?"

Mr. Baptiste Ritchie said yes to the question. He said that they lost many of their candidates for Chief; if this became the law then the best man would be the Chief. He said that in his time he lost five or six good men because he himself was the best man.

Mr. James Scotchman also answered affirmatively this question; but he felt this should be left to each band to decide.

Mr. Albert Douglas said that the majority of band voters should decide whether or not they wanted a single list of candidates.

Mr. Timothy Spinks felt that there should be two elections because most of the people want to vote separately for their own chief.

Mr. Gordon James said that in the area of the last speaker they had a system that was proposed and written, and turned down by the Department. It was more or less a single list where most of the votes went to the Chief and others to the Councillors. But since some of the candidates did not want to run for Chief, all the candidates would let the electors know if they ran for Chief or only for councillors.

Mrs. Gertrude Guerin suggested a single list of candidates; after the election the person who would get most votes would become a Chief Councillor and it would be up to the Councillors to elect amongst themselves the Chief. The reason for this was the fact that sometimes a person who got most of the votes was not suitable for the position of a Chief.

Mr. Joe Mathias felt that the Act should be flexible enough to allow bands to follow some reasonable system that they felt was the most suitable to their particular needs. In other words, the selection of chiefs and councillors should be left to each band for their decision, it was their internal matter.

Mrs. Genevieve Russell read the second paragraph contained on page 7 of the brief presented by the Fraser Valley bands to the effect that there was, unfortunately, danger on some reserves in British Columbia of a system of government similar to the old "Family Compact" type of control that strangled Lower Canada for many decades; some reserves had large families who could outvote others in respect to band Chiefs.

and Councillors.

Mr. Vincent Harris brought up the question concerning the past difficulties with electoral officers.

Mr. Fairholm said that he thought that one could train people to be good electoral officers, this could involve people in the band, in the community or an electoral officer who was an Indian could appoint a deputy to help him - there were many ways to ensure that there would be good electoral officers. Generally speaking, more and more electoral officers were being appointed by Band Councils; quite often it was a member of the band, but this was not necessarily followed in all cases. The person who was appointed should have some reasonable knowledge of the procedures to be followed. Mr. Fairholm said that he was sure that everyone on the staff of the Department of Indian Affairs would be willing to provide necessary advice in this field.

Mr. Clarence Joc said that in his area they had a very sad experience with the electoral system. He said that he often witnessed the fact that the elected Chief would sit at a meeting without saying a word, and all the talking was being done by a man who was defeated in the elections for Chief, but who had all the background knowledge. He said that the new Act should be flexible; in his area they were now seriously thinking about doing away with the Chief and having only 5 Councillors to run their business. He felt that this would be serving the progress of their area - some of the bands were so advanced in business that their Chiefs were just sitting around, unable even to talk and take part in the business before them, and the Council had to do all the talking and to take the necessary action. He said that they would contact the Minister with a request that they be allowed to vote just for five councillors and a chairman who would be elected by the councillors and who would act as the band manager. They would still honour, however, their hereditary Chief.

Mr. John L. George said that he did not entirely agree with the previous speaker that hereditary Chiefs were just sitting in a corner saying nothing. He said that there were Chiefs who did more work than all their Councillors.

Mr. Clarence Joe said that he did not want, in his remarks to refer to any of the Chiefs sitting at the Conference; he spoke, in general terms, about the situation of some bands across Canada.

Mr. Gordon Foupore said that he could only add that he had heard the same comments being passed about mayors and reeves in cities and municipalities across Canada.

Mr. Vincent Harris read a question of Miss Lucy Chapman. She wanted to know if her band should elect their Chief and Council since there were only 2 persons in the band, and most of the time she was alone on the reserve.

Mr. Fairholm said that there was really no answer to this problem. If a band was down to only 2 adults, in accordance with the band custom, one would be a Chief Councillor and the other a Councillor, or

both would be Councillors; it would be up to them to make this decision. He said that this situation posed a serious problem in some of the very small groups, when it came down to dealing with land, or band funds. It could well be that where there was no Council, there should be some way by which the Band itself could act provided there was some sort of majority of its members. They would then have all the powers as if they were the Council, and in this way certain things could get done which, because there was no Council, could not otherwise get done. This would require some legislative provision to make it possible for the band to act as if it were a Council.

Mrs. Genevieve Mussell said that when there was no band left on a reserve, the land would revert to the Province. She suggested that in this particular case the delegate could consider amalgamation with another band so that their piece of land would be protected. She said that in her area alone there were two or three similar cases and some of these people proposed amalgamation as the answer to their problem.

Mr. James Scotchman said that he knew a band in the North which consisted of only 2 women - one was a Chief and the other a councillor.

Mr. Albert Douglas moved a motion, seconded by Mrs. Genevieve Mussel that the meeting adjourn until 9:00 a.m. of the next day.

The question being called the delegates were in favour of the motion, and the chairman adjourned the meeting.

Friday, November 22, 1968.

The Chairman opened the meeting by reading Question No. 32. "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?"

Mr. Vincent Harris said that this question should be left up to each band for decision; each band would arrive at this decision by a majority of 51% band members eligible to vote.

Mrs. Gertrude Guerin stated that the Musqueam Band felt that each individual band should be able to appoint as many councillors that they required; the councillors should be elected for 4 years, their terms should overlap so that every 2 years one-half of the members of the Councils would come up for election.

Mr. Timothy Spinks felt that a two-year term for councillors was much too short; he agreed that only half of the Council should come up for election at one time.

Mr. Vincent Harris agreed with the previous speaker that a two-year term for councillors was too short. He stated, that in order to get the necessary experience they needed a longer term.

Mr. Richard Malloway brought to the attention of the delegates section 13 of the brief presented by the Fraser Valley bands dealing with tribal or district councils; insofar as the length of councillors' terms was concerned he thought that a three-year term would be most suitable.

Mr. Victor Adolph suggested that each band should be able to decide for itself what procedures they would like to follow in regard to the length of councillors' terms and the way of their election.

Mr. Clarence Joe said that he agreed with the idea that councillors' terms should overlap and that their terms should be longer rather than shorter, but he suggested that there should be some restrictions and rules which would govern, for example, the behaviour of councillors; restrictions and rules similar to those which were applicable for example to councillors in the city of Vancouver.

Mrs. Genevieve Mussell said that in connection with this question, she would like to bring to the attention of the Conference the difficult problem which the elected councillors faced when they assumed their duties. Some of these councillors had no idea what they should be doing, in some instances there were no written records which would help them by learning from the past activities of previous Councils, and they were completely lost. She said that it was imperative that there be some training program for new councillors so that they would understand what they were supposed to do and would thus be able to assume their responsibilities in a quicker and more efficient manner.

Mr. Benny Paul said that what the previous speaker had said was true; there had been a program arranged for band management and they were in process of trying to negotiate with the government to set up programs which would facilitate

band business. He said that it should be on record that the Indians demand that their chiefs, councillors and band managers receive special training in regard to band management.

Mr. Baptiste Ritchie said that if a man was capable, the people in the band knew about it and he would get elected and re-elected. As an example he gave his own case - he was elected and re-elected for the past 34 years.

Mr. Peter D. Peters said that he went along with Mrs. Mussell because lack of education was a serious obstacle for those who were responsible for the management of band affairs. He thought that a two-year term for councillors was quite sufficient.

Mr. Clarence Joe suggested that Mr. Fairholm should read those Sections of the present Act which fell under the Question No. 32.

Mr. Fairholm replied that the election provisions were in Sections 73 - 78, the term of office for a two-year period was set out in Section 77 and there was no provision in the present Act for overlapping terms. If the Indian people would want to have an option of one, two or three or so years it would be necessary to change the legislation to make that possible. If they would also want to have overlapping terms or staggered elections, then a provision would have to be included in the new Act.

Mrs. Gertrude Guerin asked why no one had ever made use of Section 77, (2) (a) (i) providing that "the office of chief or councillor becomes vacant when the person who holds that office is convicted of an indictable offence".

Mr. Fairholm replied that he knew cases where that provision had been enforced. First of all, there had to be some knowledge that there had been a conviction of a person of an indictable offence, and once that conviction took place then the person was automatically out of office. There was no option - the person was out upon conviction, when there was an indictable offence. But if no one knew about it, then it was perhaps possible for a person to continue to hold office.

Mrs. Gertrude Guerin asked for an explanation of "indictable offence"; she said she knew a chief who was elected into office while he was in jail.

Mr. Gordon Poupore said that "there were two ways by which to determine an indictable offence: in the criminal code they try to divide the cases in serious and less serious types of crime, crimes against the person, against the community, against the government and other various types of crime. There are two ways of proceeding in bringing a person to trial: one is on summary conviction, one is by indictment. The gravity of the offence dictates the type of trial procedure.

Sometime the accused person has a choice, he may elect, sometimes the prosecution has a choice, will they go by summary conviction or summary procedure or will they go by indictment. One must look at the individual offence and the procedure which dictates in the criminal code the manner in which the man will be brought to his trial.

It is quite possible for a man to be serving time in jail and not have been convicted of an indictable offence, who was there because he was convicted under summary procedure; this does not rule him out of eligibility for election."

Mr. Fairholm added that the most common kind of case where a person might have been in the jail would be a summary conviction for a liquor offence, and these, of course, were not indictable and did not disqualify a person.

Mr. Clarence Joe said that he knew cases where the magistrate would not listen to certain particular chiefs because of their behaviour. Thus if such a chief wanted to speak on behalf of a member of his band in the court, he was not allowed that and was almost thrown out of the court.

Mr. Vincent Harris said that Chiefs and councillors should receive salaries from the federal government in the same way as any departmental employee.

Mr. John L. George said that it should be left to the discretion of the band to decide on what type of administration they wanted to have. There were often difficulties involved in doing that - he had to pay himself in some cases for certain projects - the expenses involved should be paid by the government. He then stressed the point that the experience of old chiefs was very valuable even to those young people who were fortunate in having a good education.

Mrs. Genevieve Mussell said that there was a need for a more sophisticated form of education for Indian leaders than that which was available at present so that they would be able to assume effectively their responsibilities.

Mr. Albert Douglas said that before these people were able to take such training they required some form of financial assistance to be able to use such training.

Mr. Benny Charles noted that some of the delegates were repeating themselves and suggested to them that before they talked they should consider what had already been said on previous occasions.

Mr. James Scotchman said that insofar as Question No. 32 was concerned, he was in favour of 4-year overlapping terms, and of an increase in the number of councillors.

Chairman Baker noted that question 33 respecting local government was under consideration.

Mrs. G. Guerin advised that the Musqueam Band believed that individual bands should have wide powers to select the kind and degree of local government which suits the band and which is flexible enough to permit them to adapt as they go along and in addition there should be broad powers to permit the band to enter agreements with various organizations and governments to meet the requirements of band governments.

Chairman Baker noted that the briefs made many references to this point.

Mrs. G. Mussell noted that the brief of the Fraser Valley Delegates recommended that band council and bands be made legal entities but this required that their powers be set out in the Act and same type of check and balance to the councils power should be available for the band members.

Mr. Joe Mathias re-read section 3 (3) of the brief of the Squamish Indian Band.

Mr. V. Adolph referred to his brief on local government (page 3, article 3) "local band government should be left to the discretion of the individual band which may also determine the mechanics of election." He agreed with the expanded version of the Squamish Brief.

Mr. Malloway, Mr. Harris and Mr. Clarence Joe also agreed with the Squamish Band's brief, in respect to local government.

Mr. Joe Mathias enquired if the payment of salaries to chiefs and councillors was made by the Department whether this would make them civil servants and answerable to the Department.

Mr. Fairholm said he believed that under a type of unconditional grant system the funds could be made available to the band which would permit them to use the money for such purposes as they saw fit. If they then considered it desirable to pay the chiefs and councillors it would be their decision. He did not think this would make them a civil servant or responsible to the department nor did he think the bands would want them to be.

Mrs. G. Mussell noted that the Fraser Valley Delegation believed the question, as it read, should be answered - yes.

Chairman Baker noted that there being no further comments or discussion. He suggested that the meeting proceed to question 34 as follows "Should Bands who wish to do so be allowed to form Band business corporation to administer the business affairs of the reserve community?"

Mrs. G. Guerin read the Musqueam Band's brief in this respect "Bands to form corporation to administer their own affairs. These companies to incorporate under Indian Affairs would include broadly the same powers that are now held by companies under the Provincial and Dominion Companies Act. The specific powers to be included should be set out by and agreed

upon through the Band and Government. Indian companies should have the same status and position as individual Indians while in business on the reserve."

Mr. Vincent Harris advised that the Fraser Valley delegates agreed with the question but believed that the Act should include a section to the effect that such companies on a reserve should be exempt from taxation except by the Indian band itself.

Mr. Baptiste Ritchie believed that the council should be able to deal with its own business as a corporation and be able to deal with the world market.

Mrs. G. Mussell read section 14 of the Fraser Valley delegation brief - "Credit unions in British Columbia have been extremely popular in the non-Indian Society and together with co-operation are highly successful. Their powers and restriction are spelled out in the Provincial statutes. It is recommended that a complete reference as to how to establish such groups on Indian Reserves in B.C. together with their powers be placed in a new B.C. Indian Act."

Mr. Gordon James read article 6 of the Lillooet brief in this respect - "Band Councils and corporation of Indians on Indian reserves as legal entities be exempt from taxation."

Mr. Joe Mathias referred to section 34 of the Squamish Brief.

Mr. R. Malloway agreed that the answer to the question was yes but also believed that the Act should clearly spell out that such corporations or credit unions are to be exempt from taxation as long as they are run by Indians and on the reservation.

Mr. John L. George agreed with the previous speakers.

Mr. Joe Mathias advised that his band in considering the questions started with question 33 and 34 because they believed they were very important. He noted that Indian Councils had a unique position in Canada as they had responsibility for both the political and economic authority within the Band. He thought that this dual role give the council an advantage over the non-Indian community in the development of their reserve and lands.

Mr. V. Adolph agreed with previous speakers and reiterated that such companies should be exempt from taxation. He noted that currently enterprising Indians, in order to raise funds for an economic development were required to surrender the lands and form a corporation, and were then subject to taxation.

Mr. V. Harris referred to the brief of the Fraser Valley delegation which agreed with the previous speaker.

Chairman Baker advised that there did not appear to be any further comments on the question. He noted therefore that the meeting was open for general discussion or comments.

Mr. Fairholm noted that a number of briefs had been submitted but it also appeared that some delegate were reading from what would apparently be briefs but they had not submitted them. He thought that it might be useful if such briefs and any others, were in fact submitted so that they could be included as appendices to the minutes and therefore recorded as a complete submission.

Mr. Poupore in answer to a request of Mrs. G. Mussel respecting a clarification of section 123 advised as a general statement it would not apply to British Columbia. It was included to clarify the issuance of certain letters patent by the Government of surrendered Indian lands where the patent was called into question. Its intent was to say that where such lands were surrendered and sold in good faith that the title was good. He was unaware of any such cases in British Columbia and to the best of his memory the most recent case was prior to 1890.

Mr. Fairholm added that the section was a tidying up process to overcome a possible technical defect to ensure that the title was good and could not be challenged.

Mrs. G. Guerin in answer to a question Mr. Bernard Charles respecting the adjoining municipality's right to tax and zone unsurrendered lands noted that Musqueam reserve was both surrendered and non-surrendered land under development. It was the Band's intention to subdivide, service and develop the unsurrendered lands and for that purpose borrowed sufficient money. She added that the services were now in to the specifications of the City of Vancouver but the City would not let the band connect up the water or build a required outlet in the creek for access purposes and the point was now under discussion. The city had stated they will not service the development unless the land was surrendered.

Mr. Poupore in answer to a question of Mr. Clarence Joe for a clarification of section 35 of the Indian Act read the section and advised that such powers were normally referred to as the power of expropriation which power involves the taking of land for public purposes without the consent of the owner. He added that it was commonly granted to governments and appropriate agencies in the public utilities field and permits them to take any land required to provide a service to and for the community as a whole even though this may mean invading the rights of the individual or a small section of the community. He noted that the basic concept of this power is that no individual should be permitted to stand in the way of the public good. He advised that under ordinary circumstances such bodies are required only to file a description of the land required in the appropriate land registry office and the individual owner by such action loses his title to that land so defined and retains only the right to compensation. However he noted that under the Indian Act no authority had the right to expropriation over Indian lands without the approval of the Governor-in-Council and if approved by them it was not necessary to go through the usual mechanics of expropriation but the Governor-in-Council may grant the land subject to compensation and other conditions. He noted that this type of power is feared in Canada because it invades the right of the individual but it was limited to a public purpose and may be challenged in this respect in court - it cannot be used for private gain. He added that in actual practice

the Minister will not put a submission before the Governor-in-Council for approval to expropriate Indian lands unless and until the public agency proves that it has the consent of the Band council to the expropriation and to the compensation offered. The effective control by practice if not by law over such expropriation was in the hands of the band council. He noted that this right and protection is not enjoyed by anyone else in Canada.

Mr. Boys at the request of the Chairman introduced Hon. R. Andras, Minister Without Portfolio.

Hon. R. Andras: "Ladies and gentlemen: It's a very great pleasure indeed and a privilege for me to be able to join you for all too short a time. The consultation meetings that are taking place across the country with Indian people, I think are very very important. The first consultation meeting which I attended was in July in the Northwest Territories in Yellowknife. I know when I flew to Yellowknife, I had a few ideas about what the problems were but I began to change my mind very quickly in talking to Indian people and listening to what they had to say and in hearing what they had to say.

We've now had thirteen meetings right from coast to coast in Canada and while there are a variety of problems in different places, your problems here in British Columbia in some cases are quite different than the things that are worrying people say in the Maritimes or in Ontario or in Saskatchewan. On the other hand there are many things that bother Indian people, many problems that Indian people face in every part of Canada that are the same. Generally there has been impressed upon me and upon Mr. Chrétien, my colleague, who is the Minister of my Department, and through us and through the officials to the cabinet, to the Prime Minister these kind of problems that seem to affect you here in British Columbia as well as those people, your brothers and sisters in Manitoba and in the Maritimes. There has been insufficient attention paid to the honoring of promises made to Indian people over many years. The economic situation that many Indian people face in this country is less than satisfactory. All these things are common to Indian people, no matter what part of the country they live in. The consultation meetings started out and continued to be primarily for the purpose of getting your ideas on what changes should be made to the Federal Act known as the Indian Act. But in addition to hearing your ideas on that matter, it's been our opportunity and it's been a very good thing to have the opportunity to hear your ideas and your worries and your fears and your hopes about many other things that are not directly related to legislation and federal laws or even the Indian Act. Such things as your feelings about your land and land claims, and I know that in British Columbia the question of land claims is very very very important. Your feelings about the honoring or otherwise of treaty rights, hunting rights, fishing rights and those kind of things, have come up at every meeting. While they may have some bearing on the Indian Act itself they are telling us, informing us, that there are many other things that Governments in this country have to do, when I say Governments I mean more than one, not just the Federal Government because the Provincial Governments also are very much involved in bringing their new ideas, new policies that you want to see to help correct some of the situations that you all face.

I hope that during the course of today, before the meeting is over this afternoon that you will feel completely free, totally free to say to me,

what is on your mind. I cannot come before you with a whole set of answers to every problem. I cannot come before you nor can any person come before you at this time, and tell you that we are going to find the solutions to every problem. But I can tell you this, that this new Government, my colleague Mr. Chrétien, the Prime Minister and all of us in the Cabinet, and I think almost all of the members of Parliament, no matter what party they represent, now realize how very important it is this time to listen to what you have to say, to hear your point of view, in the making of new policies, in the development of new programs and the administration that would carry those programs out. Your point of view must be the most important point of view, in the making of these policies. It doesn't mean that we, as a government will be able to say yes to everything that may be asked of us, but it does mean that we must listen carefully and where it make sense in every way and where we have the resources, financial or otherwise, to do what Indian people are asking then we must do everything in our power to see that those things are accomplished. The consultation meetings have been a good beginning, to communication, and ladies and gentlemen, I think that probably the most important thing that we must together try and seek to accomplish is to open up the talks between us, to keep the communication flowing between us forever, because if you as Indian people cannot get your fears and your worries and your ideas across to those in Government or to the non-Indians of this country and in turn the Government or the non-Indians of this country cannot talk to you so that we have a beginning of understanding and of trust, then solutions can't be found. So I think above all, we must seek to accomplish the objective of talking together, not just at these consultation meetings that are taking place now, but as a continuing thing way out in the far distant future, and the more we talk together, the more we understand each other, the more we begin to trust each other and we, I think, as a Government have to do much to regain and to earn your trust because we haven't always done things that would permit you to trust us. I think that if we accomplish in these first series of consultation meetings the beginning of trust, the beginning of understanding, the beginning of some way in which we can continue to communicate then it will have been worthwhile.

Mr. Chrétien and I have said on other occasions and I say here again to you today, that this series of consultation meetings will not be the only consultation meetings. This I believe is the last of the first round of meeting to take place in the Province of British Columbia and then we have two more I believe, one in Alberta and one in Manitoba and I think we complete one about two days before Christmas. Then we are going to meet with spokesmen from each of the fifteen regional meetings in Ottawa sometime I hope in January or early in the new year to sit down and sort out everything that's been said and then we will set up the program for another round of consultations probably sometime next year I believe. What form exactly those will take I cannot say but we will be, we are committed to a second opportunity to consult about all the matters that have been brought up at the fifteen consultation meetings this year. So this is the beginning not the end. I personally feel that we've got to find the way in which we can consult with Indian people to have their point of view on a truly representative basis. This series of consultation meetings on the changes to the Indian Act and other matters will by the time it's finished will have taken probably the best part of a year or a year and a half as well as all the time that went into the preparation before that. And this

is very good but I think also we have to find ways to be able to talk to your representatives and know that they do represent your point of view on matters of perhaps lesser importance than say the major changes to an Indian Act and so on.

Now you may know that the other day there was introduced into the House of Commons what we call a resolution and that was placed on the House of Commons order paper to establish an Indian Claims Commission. This has been a matter that has been kicked around frankly for several years. The claims commission was introduced first in 1963 and there were many many suggestions that the way it was introduced wasn't totally satisfactory and many changes were recommended by Indian people and others, I think all told there were some 300 briefs sent in. And the legislation did not pass the House of Commons. It was introduced again in 1965 and again there were reactions to it suggesting change and the people of British Columbia particularly wanted a time delay, and now it has been two or three years, to think over what changes they would like to see in that legislation, particularly to permit the hearing of the B.C. land claims question. Now the Indian claims Commission is being tabled for action in the House of Commons sometime in the not too distant future. We hope it will do a great deal to resolve all the land claims, other kinds of claims, treaty rights between Indian people and the Government over the years ahead. I suggest to you though that with the knowledge that the claims commission will probably become law within the next year that you should begin now to think about it, and to study the kind of legislation that you feel should be included in that claims commission when we deal with it in parliament. You will have the opportunity to make your views known about that claims commission as about every other kind of legislation that we try and get through the House of Commons that affects your lives. That consultation must go on. I can't tell you the exact content of that claims commission bill now. I think that for the preparation of your ideas you might be very wise to study the Bill that was presented in the House of Commons in 1965, and make any recommendations for changes that you think should be brought to our attention, and I think you would be wise to do that at your convenience in the not too distant future so that we have the benefit of your thinking by the time it hits the House of Commons.

There are many other policies I hope will come about soon, but above all I hope we don't introduce policies without knowing what your point of view is because communication between us, and your point of view is the most important that I see. As usual I've talked too long and I would like to sit down and listen to what you have to say and I hope you will tell me quite frankly and openly, even if you want to call me a no good so and so you would be quite welcome to do it, because I want to hear what your point of view is as we have tried to listen right across the country. I look forward to meeting each of you individually during the day, I do hope we have time to chat on a personal basis. Thanks."

Mr. R. Malloway welcomed the Minister to the Fraser Valley area and thanked him for his attendance and remarks.

Chairman Baker also thanked the Minister for his attendance and adjourned the meeting for lunch to reconvene at 1 p.m.

Mr. B. Paul - "Mr. Minister, as you know we, the Indian people of Canada, have no representation in Government. We have always wanted to be represented. Is it possible for the Government of Canada to set up a special committee of Cabinet Ministers and that Indian leaders from across Canada be members of this Committee so that we will have direct representation? Another alternative would be to explore the system in New Zealand where the Maori people have direct representation in Government."

Hon. R. Andras - "Thanks very much. I think your point is very well taken, I'm speaking personally now, rather than stating any official policy in the government because very much of what we are doing, you could appreciate, is in the area of exploring together what kind of things should be done, or the kind of policies that should be, changes that should be made. And I do believe as you stated there is a need for that direct access to what would be, what I call an "Ombudsman", kind of function, in the ordinary course of administration of affairs, effecting you. You will have another resort. When you feel that a policy should be changed or decisions should be reviewed or you don't think at thing has been done the right way, we should have another resort, to have direct access to the Cabinet and to Parliament itself. It brings up a matter, which is very close to my heart and that is the need, I believe for Indian organizations as such, to develop strength and to result in the selection of representation by the Indian people themselves, not by anybody else. All spokesmen, who will truly reflect on a representative basis, the views of the people, that they are speaking for on every major policy change such as: the revisions to the Indian Act or the creation of the claims commission on the review of treaty rights. All those major policy changes. This kind of consultation is the thirteenth meeting of fifteen across Canada. A second round will be held later, if necessary. Every Band in Canada, has been in fact to the best of all our collective ability represented. That's one form of consultation in the sense of getting to everybody, that's the best way but many things have happened."

"How many times for instance, in the knowledge and life time of everybody here, in this room, has there been a series of consultation meetings like this. There haven't been before and this major line indicates a very good one. But for things that happened, on more of a day-to-day basis. I believe there should be the formation of a group such as, you're talking about representing the Indian people, who could collectively at any given time, over any problems, carry the voice of the Indian people, quickly, without having to organize all this kind of series of meetings. Particularly all the matters that go on will be handled in the ordinary course of events. But we all know that no one group of people have the wisdom to handle everything the way it should be. And when you feel that you haven't been treated properly, I do believe that you should have access to what I call a "Ombudsman". Can this be done? In one form or another, I believe it can and I'll go further and I say I personally believe that it must be done. Whether it will take the exact form that you're describing, I don't know but very close to it, very close to it, I think it's possible".

"I would hope to see, well let me tell you what I have known in the last few months, and you must appreciate that I haven't had very much time to learn but, it seems to me that there is a growth of the voice of strong Indian organizations, right across this country. There are the Indians in the New Brunswick Association, the Quebec Indian Association, the Union of Ontario Indians, the Manitoba Indian Brotherhood, the Saskatchewan Indian Federation, the Alberta Indian Association. They're all forming on what you will call "Provincial basis". And you know, they're having growing pains and problems in getting organized but, you begin to see that they are gaining strength and represent a voice of the Indian people in those provinces. Here in British Columbia, you have four or five, I guess, associations that have worked this way for some time."

"In British Columbia, we leave this up to you, to decide how you want to work, with five organizations or rather there is any way that you can unite? This is really up to you. I wouldn't be doing, what I don't ever believe should be done, if I suggested any other way to do it but, I am just stating a possibility that might fit into what you are suggesting."

"At the government level, there are many ways that this can be done too."

Mr. R. Malloway - "Mr. Minister, on the same line, I would like to say that the sooner this is done we will get a fair understanding. The longer it is delayed the more we will all lose out. So let's get on with it and don't forget about it."

Hon. R. Andras - "With your permission, if I might just add as I should have mentioned this before, that in the addition to the growth of the provincial organizations that I see, there are of course all the leaders - right over here, the President of Canadian Indian Brotherhood - which could unite the provincial organizations in some kind of National Secretariat. So they believe that some way along the line of that general approach, it would have to be worked up by you people, the answer to forming at least the advice. Three of the representatives of the Indian people would go into the committee that you are talking about. The other side of it, being the government political side, the Cabinet, and members of Parliament. And all these I do believe honestly, are possible if we all agree, that's the way to go. But each of us have our part of that job to do to make it possible, and your suggestions serves it pretty well, in agreement with what others have suggested. But we add much of it is up to you. *

Mr. Bernard Charles - "I would like to welcome Mr. Andras and to say that these consultations are bringing a new spirit among our Indian people. We hope we'll see a lot of you in the future. There are differences of opinion in evidence here. Let's all combine, youth and age to bring the best for our people. *

*In regards to Mr. Paul's suggestion and your answer, I would like to know what is being done in the meantime until the process you suggest is operative, about our constitutional problems such as the application of provincial taxation, mineral rights and off-shore rights? When we take such problems to the Federal Government they say 'Take it up with the Province'.

When we approach the Province they say 'you're a Federal responsibility.' Is there something being done to rectify these problems which we feel are a breach of trust? "

Hon. R. Andras - "Yes, I wished I could tell you that more has been done than what I really feel has. I think this is an area, that requires a great deal more priority than what my limited knowledge would suggest, has been given before. I can't tell you that it has, that very subject that you brought up, the question of constitutional relationships, responsibilities and access on one hand of Indian people to the benefits of provincial programmes and on the other hand, protection. That matter is very much the subject of discussion in Ottawa today. And I think it was being looked at before but as with all the problems of Indian people it is escalated now into others, and considered to be a very top priority of this new government. And, at this moment, no final plans, no final policies, no final structures have been decided upon and my personal feeling is that they shouldn't be decided upon without direct participation of Indian leaders in the policy making process, and this gets back to the previous question and it seems to me that almost everything that we have discussed here today is in anticipation of some of these things. We have seen one form or another come back to the requirement for a consultation mechanism, a consultation structure of Indian leaders truly representing the point of view of the Indian people so in that kind of policy making that you're talking about, the most important point of view of all which is that of the Indian people, would not be set aside. I believe it's got to be part of the process or nothing we come up with, is going to work. You people must feel that you have had a major part in the making of policy".

"It seems to me we come back to it all the time. I agree with you. It's just I'm taking too long I'm afraid but, in many ways, the provinces constitutionally and practically are in a better position to extend certain services to Indian people as they extend them to non-Indian people who are resident in the province. The provinces have better arrangements for welfare, for child welfare, for health, for education, for a whole lot of things. If a Federal Government attempted to set up similar services first they couldn't do it by constitution and, secondly in practical terms, if they attempted to do it, the number of people and all the rest of the structure would have to be built up to totally duplicate the services that already exist in the provinces. You know, I don't think this would be what you want or what anybody would want. So really, it gets down to a more sincere and consistent and determined negotiation, and that's the best word for it, negotiation with the Provincial Governments, to see honourable and fair terms of extending those services which, beneficial to the Indian people as they are, extend to every other part of the provincial residential population and yet avoid any entanglements in such areas as taxation. We have to negotiate with them. I don't think we've done it to a sufficient degree, yet".

Mr. Walter Dieter spoke of the growth of Indian Organizations across Canada and their relationship to the embryonic National Indian Brotherhood. He mentioned that in each region, the Yukon, the Northwest Territories, Alberta, Saskatchewan, Manitoba, Ontario, Quebec and the Maritimes, there was a strong provincial Association with representation on the National Indian Brotherhood. He said that to the forthcoming meeting of the Brotherhood in Ottawa in December he would be able to invite representation from the various native Associations in British Columbia.

Mr. Dieter stated that in recent months he had been soliciting financial backing for the National Brotherhood and had met with some measure of success. In addition a draft constitution had been prepared and would be considered by the December meeting, which he hoped would result in a strong national organization truly representative of Indians across Canada, and capable of speaking for them.

In conclusion Mr. Dieter wished everybody the compliments of the season and "a damn" good Indian Act.

Mr. Joe Mathias - "In view of the fact that the Federal government at the present time is in the process of cutting expenditures in all Departments, (one example is the Queen Elizabeth Observatory), how will these cuts affect the Department of Indian Affairs? How will it affect housing, economic development, and services to Reserves which are badly needed? Is the Government going to recognize the situation of the Indians as special and make these funds available? "

Hon. R. Andras - "I want to be totally open with you. Canada is a relatively, rich country, and it has tremendous potential with only twenty-one million people and undeveloped resources. But, even at that, Canada as every other country, has some limits at any given time, on its financial resources, and on its intellectual resources as well.

"And it is as you have pointed out, we are going through right now, what you might call "a re-examination" of the way we spend money, at the Federal Government level and Provincial as well. I don't see signs of curtailment of the budget funds available for the programmes affecting the Indian people through the department. The housing plan as you know, was planned over a certain period of time, and that period of time has been extended but, we are in the process now, of looking at what we call in Ottawa "the estimates of expenditures for the next year and beyond that". I can't say until that process is finished. I can't give concrete answers to what will or will not be available. But, we're doing two things, among many, but, two that I want to talk about. One is to examine how we are spending the money that is available right now. It may well be, that some of the things we're doing with that money are not the wisest things and it may well be that it is not benefiting the Indian people for whom it is designed to the degree that it should."

"So, there's one process that is taking place, a very serious examination of how the programmes are now being carried out, how valuable are they, and what improvements could be made, what more could be done to benefit the Indian people with the money that's already being spent. The second process is seeking and recognizing the pride of Indian people and their point of view in the making of policy and drafting of programmes."

"And provided the programmes, with your point of view in them, are acceptable and practical, we'll consider them. These consultations will go on for quite some time and I would hope to see them improve the consultations such as we were talking about a few minutes ago and as Walter Dieter was talking about just now".

"It's very important now, that we do come up with what we all might agree could be the right policies to help Indian people out of the situation in which they find themselves. We may find that the price tag is very sizable indeed. And it might be that when we do find out what the price tag is, we would have to be equally forthright and open with Indian people and the rest of the country and say - "the price tag, is such that what we want cannot be done overnight. And that may mean that, we'll have to say, we're going to have to accept the limitations of Canadian resources but at least we start down the right path and we programme it over a period of time that makes sense to all of us."

"I'd love if anybody could come out with a magic wand right now and wave it and all our problems would be over. But this isn't possible. But, I think that the priority that's going to be given to your situation as you're describing it will be very high indeed. I also want to be honest and say that it would have to be viewed in the light of priorities of other programmes in this country but, I don't think, I really don't think the Indian people would be short changed."

Mr. Harris raised a question of Indian soldiers who were unfairly treated on their return according to Section 123 of the Indian Act.

Mr. G. Poupore explained that Section 123 to which Mr. Harris referred does not exist in the present Act but had been in the former Act, until 1951.

Hon. R. Andras - "Yes, but with regards to veterans' pensions for Indian people who fought in the war, the only thing that I can suggest is that if you can give me or send me the specific details or examples, I would be delighted to take this up with the Canadian Pension Commission or the Veterans' Allowance Board. There are two kinds of pensions: There's the Canadian Pension Commission, dealing with pensions that were given to soldiers who suffered disability due to war wounds or war illnesses resulting from their service, that's one kind and then there's the other which is the War Veterans Allowances which is given to war veterans who fall on sad circumstances financially as they call it in some places. The Burned-Out Pension and some of this is available to wives and widows too. But if you can give me, you don't have to do it now, but if you want to send me specific examples of Indian people who, you feel have been mistreated in this way, I'd be very glad to take it up and I'll get an answer back to you. Give me the name and the situation and the address and so forth and I'll have somebody dig into it, as quickly, as we can".

Mr. Harris - "Mr. Minister, with respect to the ownership of lands, when Columbus came ashore, whom did he see first, the Indians or the white-man? Who is the aboriginal owner? "

Hon. R. Andras - "Mr. Harris, there's a book on this consultation which we call "Choosing a Path". I feel that I've been led down the path here. Well I'm very happy to go. To the best of my knowledge, yes. And here is where I get political Mr. Harris, and say "This is a matter that's got to be settled in the Claims Commission and the courts, and I wish you well".

Mr. Simon Baker - "Mr. Minister, There's a joke that I heard in Vancouver Island, in many of our discussions. They were discussing who came,

who discovered British Columbia first. I'm a man who lives right on the West Coast. They told the people at the gathering, that when Captain Vancouver and Captain Cook, first came to the West Coast and they claimed they found British Columbia and, this man got up and said: "While we were out there hunting bears, they saw this big sailing ship drifting around. They were lost." He said: "We found them, they didn't find us. So, we turned them in".

Mr. Arthur Thérage - "What is the position of Her Majesty when she treats lands for her own use? At one time she treated Indians as any other subjects."

Hon. R. Andras - "Well, as you know, the reserve lands are set aside in terms of the Crown for the use of Indian people. And I think this is one of the matters that's got to be very carefully reviewed in any changes to the Act, and I think that it is very important, when the Act is being considered for passage of Parliament, that your views as to what should really be, should be clearly expressed. I couldn't say as an individual Cabinet Minister, what Parliament would decide. But I think it would be very useful, very useful and significant to have the views of Indian people about this, clearly set forth in writing, so that amendments to the Act could reflect those points of view."

"And this is like other changes to the Indian Act, whether it comes up, or as I think it might, in open discussion during the hearings of the Claims Commission, when it is formed. That's when those kind of changes should be made. And all I can say is that my colleagues, in discussions about these kind of matters, are very receptive to change. We're seeking final and proper solutions to those kind of things, whether these should be the right of Crown or totally set aside and title given to Indian people. All of these questions are the kind of things that we're looking for answers to in these kind of meetings. And I hope that in the process Indian people through Indian Organizations again, have the resources to get the very best legal advice, independent legal advice to come up with answers and recommendations that benefit the Indian people".

"I can't give you a technical legal explanation, but I know it's a very important point and must be looked at. And looked at, not in the light of two or three hundred years of the past, but looked at in the light of today 1968, and the future, for you and your children and beyond, and what you people think should be done, and you should be listened to carefully indeed".

Mr. Clarence Joe said that there was considerable concern among the Indians over the reorganization of the Department and asked the Minister to explain the new organization.

Hon. R. Andras - "Well, it was a reorganization that I believe had been planned for some time, that had been presented to Cabinet before the last election and therefore, before this new Cabinet was formed. The rationale for the change, the reasons for the change that have been given, were to provide better services to Indian people, to provide a department or organization that would attract people from the general public to work in the Department with various skills. I'm quite aware of the controversy that it caused. I hope that it will be a change for the better. I don't know how far really the change has gone as yet. Representations have been made as you know from Indian Bands and

from Indian Organizations across the country. It is a decision being studied and reviewed by the Minister of the Department and by the Department officials themselves. I really can't give you details or comment much further on it except to say that the representations that are being made are certainly being talked over in Ottawa by the Minister and by other people concerned. I'm afraid that's not a very conclusive answer. I don't think I could comment further."

Mr. Harris referred to the Advisory Council and stressed the necessity for members of the Council to visit the people they represent and get their opinions and learn their problems. He asked whether members of the Advisory Council would have funds to travel and be compensated for such time spent.

Mr. Andras asked Mr. Fairholm to explain the present policy.

Mr. Fairholm - "Well Mr. Chairman, as I understand it, the old Indian Advisory Council sat for a three-year term of office which expired, and that you are now in the process of selecting a new representative and that the number of zones in the province have been increased. I think the last regional Advisory Council had representatives from three Indian Organizations, plus a member of the Homemakers Club, and it comprised eight or nine people.

"And I thought the question really was that once having been elected, how does the individual representative then get back to all the people in his zone, to find out what they wanted and whether there'll be any compensation for that person to do that. In the past, I think I mentioned this yesterday, or during the course of the week, what they got was just some compensation, fare, travelling expenses to the meetings that were held in Vancouver plus an honorarium of so much. There was not in the past any additional money available to go back and report to the reserve.

Hon. R. Andras - "Fine, I think I can make a comment now. I don't think that this decision has been taken yet Mr. Harris, I most certainly will make a strong recommendation. This does not mean that the recommendation will be accepted but, I will be making a strong representation that the representatives, so elected will be supplied with the necessary funds to return for consultation at Government expense. I think personally this is only fair and proper that it be done, and it is very necessary so that he will in fact be encouraged to go back to talk over with all his people what happened in Ottawa". This will be my recommendation anyway.

Mr. Douglas said that to do the job properly the members of the Advisory Council should be considered to be on full time and should also be paid a salary.

Hon. R. Andras - "I'll certainly take your suggestion into consideration. It makes sense to me".

Mr. Clarence Joe - "We have three organizations here, the Native Brotherhood, the North American Brotherhood and the Nishga Tribal Council, and I get disturbed when I hear that they are in Ottawa representing the Indians of British Columbia. It is not that I necessarily disagree with them, but that I have had no chance to consult with them. I recommend that the members of the Advisory Council be paid a salary and travel expenses. They are dealing with important issues."

Hon. R. Andras - "I think there's a great deal of sense in what you say."

Mrs. Mussell - "For your information this matter was mentioned at the Convention of the Federation on Vancouver Island and they recommended that a member of the Advisory Council should be a full time job and should be paid as such. Travel expenses should also be paid because they are dealing with very vital issues. At the same time these representatives should have terms of reference."

Hon. R. Andras "I agree. Who would set the terms of reference? Would the Indian people whom they represent?"

Mrs. Mussell - "We would."

Hon. R. Andras - "Just for clarification Mrs. Mussell, are you saying that if for instance you decide on a representative here to go to Ottawa, you should give him terms of reference. Well I think you're very wise. I would hope that you would leave such a representative sufficient flexibility to speak. This gets back to the whole basic question of representation doesn't it? It's so very very important."

"Let me reassure you though that in Ottawa, while the consultation process and the policy making process will take us further and we'll hopefully move along a little to what we all want to see, it will not make any final commitment. There will be further searching between us to find the right answers. And after that, particularly with regard to the Act changes, there will be another opportunity beyond that again to consult with Indian people on a much larger basis. I am, you know, very convinced, and I know Mr. Chrétien is, and the Government is, that every practical step must be taken before these major changes affecting the Indian people are made, to consult the Indian people."

"Now there is an end to how far and how long, because Indian people themselves want to see change made. And they don't want to see these changes take five years, ten years, fifteen years. So there's a happy balance between doing it too quickly which would be without consultation, and taking too long the other way, so that, you know, everyone of the two hundred and thirty thousands Indian people in this country have sat down at the table. That would be as you can appreciate, impossible. We'll never catch up to it because some would pass on and others will be born and we'll be going on forever. So somewhere between this situation and that one is what we want to find."

"I think really to a large degree, Indian people have got to tell us when they are ready. When we do come up with the answers they can't be answers that are going to satisfy every person involved from coast to coast or even within this room, I'm sure you have differences of opinion as to certain policies, and sections of the Act itself. Every other meeting has produced this. But that can never be an excuse to delay what you know to be the right policy changes".

Mrs. G. Mussell said that when they picked their delegate to the Advisory Council they told her what she could say and then they supported her.

Hon. R. Andras - "It seems to me that it will be a very wise procedure. You pick your person and you say: 'Look, generally this is what we want you to do. And he will have to judge from having listened to the discussions of this week - what are your wishes and what are your desires and how far he should go'."

Mr. R. Malloway spoke of the Couqueleetza Hospital which had originally been a school and then became a Hospital. There is talk of the Hospital being closed and that the building and land will be used by the army. He said that this building is needed for training for young people of the Reserve in vocations. He said the hospital was going to be taken away without consultation.

Hon. R. Andras - "I haven't heard of it. I don't agree that these kinds of thing should be done without full explanation and without consultation with the people directly involved. All I can do is to promise you that I will look into the matter, and try to get an answer back to you, as soon as possible. I don't know. You say there are rumors. I haven't heard them, and might not hear them, because you know I'm some distance away, but I don't like what you tell me. I think that it should be investigated and we should get an answer back to you, and I will ask Mr. Fairholm, here, through the Department, to inform you and inform me, Mr. Fairholm, if you will, as to what generally is the background to this? Let's get at it and get an answer back and see. I don't know what's behind it but, we'll give an answer back to you on that now".

"Well, I'll check into the paperwork down there and see what may have happened to that proposal, and try to get an answer back to you through channels, as soon as I can. I wish I could be more specific but, I haven't been familiar with it."

Mrs. Guerin asked "Is it not a function of Indian Affairs to negotiate all things for the benefit of all Indians? The following are areas in which the Department does not assist Band Councils.

1. The word surrender.
2. Foreshore aboriginal rights to waterways.
3. Taxation of Reserve Lands by surrounding cities or municipalities.
4. Why do Indian Affairs always say the foregoing are matters of Provincial Jurisdiction when the Provincial Governments do not administer Indian Affairs? If the Federal Government takes a stand on these matters, the Provincial Government would not have a leg to stand on.

Hon. R. Andras replied "All I can say is 'Wow'! Well the question of land surrender as I think I mentioned to that gentleman over here, that whole question has got to be very carefully looked at in the revisions to the Act and in the administration of it. And just about every consultation meeting has brought up the question, the very word itself is not very acceptable to a lot of people. We use it another way but nobody likes the word. I would just simply refer the answer I gave earlier. These other matters again as you mentioned in your opening comment, have been brought up before earlier, and I think that we must, as a federal government, accelerate our activity in negotiations with the provincial governments on both sides of the question to make arrangements to provide to Indian people those provincial programmes that are of benefit, and because of the existing of structures things could be done better by the provincial governments. That includes the reference to taxation as well".

"Now as to the passing of the buck. I found it extremely frustrating myself. I have only been in politics for three years and I know it's one of the big frustrations I've encountered on getting to Ottawa, and finding that there is just so much we can do. Sometimes I think there are more laws that say we can't do this than there are that say we can do this. I'm afraid, I do now know that the constitution does pose very real problems in the division of powers between federal government and provincial governments and that the constitution is very much out of date. It doesn't permit either the federal government or the provincial governments, today in 1968, in my opinion to deal efficiently with the new problems that exist now, as compared to several hundred years ago. I'd further say, as you probably know, the Prime Minister himself is a constitutional expert. He takes very strong views on the need for considerable revision of the constitution and we are studying that now in Ottawa, and in fact next month."

"There was a federal-provincial conference early this year which was I think perhaps the beginning of the new approach. They didn't get very far, but it's going to take some years to do this. And there's another conference to be held in mid-December and we are very busy preparing for it in Ottawa and I'm sure the provincial governments are in that position with regard to changes and who's responsible for what. It is a very unsatisfactory answer, I know. If I could, with a stroke of a pen, I would change a lot. But such is not the case. And all we can do is to try to get it brought up to modern times."

"May I just add that we in Canada have the view that governments really operate, that the municipal government in a town is a junior form of government and it reports to the province and has to do what the province says. But, to a degree only this is true. Then we also feel provincial governments can be told what to do by the federal government, but the constitution does not permit that. It gives certain rights to the provinces by the B.N.A. Act and certain rights to the federal government. And to change this, is a tremendous job in negotiation with all ten provinces, and negotiations will be long."

The Chairman then asked the meeting to elect delegates to go to Ottawa from this meeting in January or February. He expressed the opinion that four delegates should be sent to represent the Fraser Agency.

Mrs. Guerin - so moved and seconded by Mr. Clarence Joe.

Mr. Adolph claimed that because of geographical and cultural reasons the Lytton Agency should have one delegate.

Mrs. Mussel suggested that the motion should read that each of the four representatives should come from a different area.

Mr. C. Joe felt that there should be five delegates from this large area.

Mr. R. Malloway agreed, as did Messrs. George, McHalsie and Douglas.

Mr. Boys - "There is an invitation for a delegate from each meeting plus a delegate from each major organization, to meet in Ottawa sometime after

the New Year. You expressed your wish to send more than one delegate from this large meeting. I don't think an answer to this can be given this afternoon. I think you should proceed on the assumption that I can go. Elect as many as you wish and if more can go it will be those with the most votes."

Hon. R. Andras - "One of the problems, ladies and gentlemen in this is that in each other meeting, and this is the thirteenth, we have rightly or wrongly, suggested that there would be one representative. In many other places in Canada there's a similar situation where there have been brought together in one consultation, people from fairly, widely scattered areas and different points of view. And I might have one hell of a selling job to make a change because it would have to go right back to the whole country, to each of the other Consultations. However, don't stop there, if you want to nominate more, we'll see what we can do but I don't want to guarantee the outcome. Well, we'll try it for size anyway, but I'm just giving you this caution that I don't know how good a salesman I am going to be. You wish us to retire now Mr. Chairman."

Mr. Clarence Joe - "You're not closing the door for any more delegates?"

Hon. R. Andras - "I'm not closing the door, I'm just saying that I might be in trouble."

The meeting moved in camera to elect five delegates and resumed at 3:45 p.m.

Mr. Baker expressed his thanks to the meeting for having elected him Chairman. He said he was proud of the meeting. There had been good discussions and a lot had been achieved. "The important thing is that we have communicated with each other". He stated that the delegates had conducted themselves well inside and outside the hall.

Mr. Peters asked where do municipalities get the authority to zone Indian Reserves.

Mr. Boys - "I think Mr. Chairman, this is a very similar situation to the situation of Semi-Imo on which there was a recent judgement in the Supreme Court of British Columbia which is under consideration at the present moment by the Department or by the Department of Justice. In effect, the judgement stated that the municipality within which the reserve lies does have the right to zone surrendered reserve land. If your reserve land was surrendered the municipality will have the right to zone. We can only undertake to let you know what is the result of the review when it's known. This isn't entirely satisfactory to you, I know. But, it's the best answer Mr. Chairman, that can be offered at the moment, I'm afraid."

Mr. Fairholm explained that there is a zoning authority given to Band Councils in the present Indian Act, Section 80 (g) with respect to lands which have not been surrendered.

Mr. Boys made his final comments - "Mr. Chairman, I'll be very brief. I had the honour of opening the meeting, and I feel that the level of discussion

has been very good. There has been a great deal of contribution. There obviously had been a lot of homework done by the delegates before they came here, and this has been reflected in the discussions, all of which have been recorded. We undertook at the outset to have duplicates made of the tapes and this will be done. The duplicate tapes will be handed to the Chairman or anybody else that the meeting designates. I think that if there is one thing has come through loud and clear in this meeting, as in other meetings that I have attended, it has been mentioned every day of every meeting, every hour of every day of every meeting, that what the Indians wish to see is a delegation of responsibility of authority from the senior level, the ministerial level to Indian Bands and Band Councils so that it would be possible to make decisions for yourselves which affect your future. And I'm sure, that this has been recorded over and over again in every similar meeting. It has been a pleasure for the Indian Affairs team to participate with you. It's been a real learning process and I can only say that it points very strongly to the fact that there should be more and more similar meetings at all levels, on reserves, in this sort of group, and at the national level representing Indian people with Government everywhere. Thank you very much for your participation."

Hon. R. Andras - "Mr. Chairman, Ladies and Gentlemen: I would just like to add my expression of gratitude for the courtesy that you showed me here today, for the information you've given me, and for what I hope again is the beginning of real communication between what is your Government, and your people, on all those matters that are so important to you."

"The fact that a Government is formed, in fact that certain people are elected to conduct the affairs of Government, does not give those of us who have been elected a corner on all the wisdom, all the judgements, and all the fairness, and all the decency simply because we are placed in those responsible positions. I believe the days of the past when Government, when politicians elected to office in Government or when people appointed to positions in Government ever again, will or should make up plans for any group of people without consulting, without knowing what those people really want. I believe for whatever the reasons there may have been that some of this has gone on in the past with many groups of Indians and probably more particularly with native people, but I believe that now is changing. Much of what has to be done will require your best thinking, your hard work, your ideas. Your Chairman here, mentioned that you will go back now to your people, and I think the following process, with the process that will follow this meeting and others like it across the country, are very important. I hope that if you go out of this meeting with nothing more, then you will want to tell each of the people that you represent here, as their spokesman, what happened, the good things and the bad things, the unresolved things, the answers, some that satisfied and some not so, and discuss them with your people so that everybody feels part of this whole process. And then sometime next year, when we meet again, I hope it'll be a similar form of meeting. We will begin to bear down as it were on the very specific things that you feel should be done."

"This first series of meetings in many cases has been an opportunity for Indian people to talk about many many things that have bothered them for years, and years, and years and this is very good. Not only do the Department officials hear things from you that they may not have known before, the people

in political office like myself, and Mr. Chrétien and others also hear them and even more important than that I believe, is that after each and during each of these consultation meetings, of which there've been thirteen, the Canadian public are getting the message through the press, through television, through radio. There is a whole body of opinion in Canada, of recognition, that there is a group of people in Canada, the Indian people, who have not had what our conscience would call full participation in Canadian life. And you know governments can't do it all. I think there's got to be a sharing responsibility, for proper change. You and the people you represent have the responsibility, to tell us what is right for you, and the Canadian public, non-Indian people in Canada, have a great responsibility too. And if anyone of the three contributing groups to the situation fail to take the responsibility - we in the government, or you Indian people don't advise us and keep us on the right path, and above that the Canadian public doesn't recognize their responsibility - then we will fall short of the kind of change that all want to see. I don't think we will fall short. There are no easy solutions, there are no quick answers to the major problems, but that should not deter us from searching together for the right path, and then we will all go down it together, you, the government and the Canadian people. In that way, I think we can look forward to a much rosier future than in the past."

"I enjoy these meetings very much. It's just great to get out of Ottawa, out of the ivory towers down there, and talk to people that are really concerned, and really know what, in a practical sense, is needed. And this kind of effort must go on and on, and on, and on. And I hope that the Indian Organizations that are developing will become strong through the representatives of your people, because we know we might make policy changes next year that you would like but, the years after that, too. And this goes on, and on, and on. And there are all ages, in this room and outside the room: there were some wonderful little children. In some time, in not too many, I hope they'll be sitting around a table having understood and learned the problems which will then be smaller than they are now. But, this will never end. We have to work together, go to the older people, the younger people and the children, and the unborn children to come. I think this government is sincere in its approach to this. It hasn't all the answers. Those answers we are only going to find by talking, as we've talked here today. And I hope this will continue. Thanks very much for your courtesy. I have enjoyed myself, learned again things I had to learn. I will communicate your point of view faithfully to my colleagues in the government and I hope before too long, we can begin to see not just words, even if they may be nice ones, but, some real action along the path that you want and certainly I want to go in the path that you want to go. Thank you".

The Chairman read the results of the elections for the five delegates to Ottawa.

1. Mr. Joe Mathias
2. Mr. Victor Adolph
3. Mr. Bernard Charles

4. Mr. Clarence Joe

5. Mr. Gordon Hall tied with
Mr. Albert Douglas

It was agreed to cast another secret ballot to break the tie, the ballots were distributed.

Mr. Baker thanked Mr. Poupore and presented him with the tomahawk.

Mr. Poupore expressed his thanks.

Mr. Baker thanked Mr. Fairholm.

Mr. Fairholm - "Mr. Chairman, as I mentioned I think before, this was the thirteenth meeting that I have attended, and I guess of all the people, there are just two who attended all thirteen, Walter Dieter and myself. I'll be very frank with you, I'm sort of glad in a way that this round of meetings will soon be over. I've been on the road since the middle of July with the odd day at home.

"We've been at all of these meetings. Every one has been very instructive. And, I'm going to be quick to say that the briefs here have been very well prepared. I'm sure that they will be very helpful to those in the Government as well as to other Indian people."

"You will get the reports of the other meetings and you will be getting the report of this meeting. Other people in Canada, other Band spokesmen will be getting reports of this meeting. So that, when we get to the fifteenth meeting you will be able to make your own comparisons of what people have said across the country, where you agree, and where you disagree. And, I'm sure that your thinking will provide a great deal of information which hopefully, people in Parliament when they come to make the final decisions on the Act, will find useful"

The Chairman announced that the vote had decided in favour of Mr. Gordon Hall as fifth delegate to Ottawa.

Mr. Ritchie expressed the appreciation to the Chairman and the Co-Chairman for their leadership of the meeting.

The meeting closed with the singing of God Save The Queen.

PREAMBLE

The present Indian Act, along with all its previous forms, is and has been premised on the abominable and wholly erroneous assumption that the Indian People are in some way inherently incompetent. This has demeaned their dignity in the eyes of their fellow Canadians; and, inevitably, to a considerable extent in their own. It is an unqualified piece of racist legislation that would be a disgrace to any Country, and particularly to one that is a signator to the Declaration of Human Rights contained in the Charter of the United Nations. No revision of it that does not abandon this unwarranted assumption can ever be acceptable to the Indian People, or one might hope, to their fellow Canadians.

On behalf of the Indian People of the Lillooet Bands, this brief is presented, requesting expedient democratic changes to the Indian Act.

In submitting this brief the following facts have been considered:

- 1) The Indian Act as is, conflicts extensively the Bill of Rights and the Universal Declaration of Human Rights.
- 2) A fully democratic Indian Act is very essential to protect by law the Lands, Culture and Hereditary Rights of the Indian People.
- 3) As the structures alter, that motivate Municipal, Provincial and Federal levels, so must the Indian Act be readjusted by the Indian People and Government to be of effective benefit to the Indian People.

Therefore through these recommendations and along with other presentations we anticipate a revised Realistic New Indian Act that will encourage extensive progress among our Indian People.

RECOMMENDATIONS

Article 1

The present Indian Act vests far too great an authority with the Minister of Indian Affairs and Northern Development. From this vestige of power the Indian People have suffered at times very needlessly. Definitely more powers must be bestowed to Indian Band Councils.

Article 2

Such Band Council powers should include;

- (1) Being essentially a legal entity.
- (2) Control of Reserve Lands and timbers.
- (3) Control of all leases.
- (4) Control of Band Membership.
- (5) Control of Capital and Revenue Fund expenditures.

Article 3

Local Band Government should be left to the discretion of the individual Band who may also determine the mechanics of election.

Article 4

As Land Registry should be in effect, Sale of any Reserve Lands shall be discouraged. Where expropriations are invoked, a piece of land of equal size and value shall be added to the Reserve and compensation paid for the intrusion of the Reserve involved. The term "surrender" should be used only when Reserve Land is sold, never in reference to a lease.

Article 5

National Parks and Wildlife should be definitely divorced from the Department of Indian Affairs and Northern Development. To achieve a successful development in all areas concerning the Indian People, this Department must have an undivided view and field of operation. National Parks and Wildlife policy are in conflict with the Hereditary Rights of the Indian People.

Article 6

Band Councils and Corporations of Indians on Indian Reserves as legal entities be exempt from Taxation.

Article 7 Education

- 1) Powers that are now vested in the Minister of Indian Affairs and Northern Development should be retracted. Article 26, sub-section 3 of the Declaration of Human Rights states, "Parents have a prior right to choose the kind of education that shall be given to their children.
- 2) Section 119 of the Indian Act states that, "an Indian child who refuses or fails to attend school regularly shall be deemed to be a juvenile delinquent within the meaning of the Juvenile Delinquents Act". This section of the Indian Act should be struck out in its entirety. Article 11 of Declaration of Human Rights states, "Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defense."
- 3) Indian Student Residences shall be retained to serve their purpose. Full Provincial Assumption of education shall include continued operation of Indian Student Residences.

Article 8 Employment

Domestic hardships due to lack of employment through difficulties in acquiring Union Certification must be challenged immediately. Immigrants, who are not even Canadian Citizens are given priority to Union Membership, over the Indian who is the true Canadian. A Liaison Officer or ombudsman, in the employ of Government should be appointed to assist the Indian People in acquiring Union Certifications and placement to suitable employment.

Article 9

Mineral and Petroleum Rights should be returned to Reserve Lands to supplement Capital and Revenue Funds for the purpose of Band development.

Article 10 Services

Those of which are provided by Provincial or Municipal agencies, should be extended to include all Indian People. Where no such services are available to Indian People, such services should be provided by the Federal level. As the per capita expenditure on the Indian People is less than half of the expenditure on non-Indian these services should be fully encouraged.

Article 11 The Jay Treaty

This Treaty recognized by the United States of America be also recognized by the Government of Canada.

Article 12

Medical Obligations be continued by Government in the name of Hereditary Rights. This service primarily referred to as the "Medicine Box".

Article 13

Salaried Positions to Indians in the Administration of Indian Affairs and Northern Development be extensively encouraged. The present employ of 700 or so in a field of 3,000 employed by the Department is very disheartening.

Article 14

Section 93 to 100 of the Indian Act relating to alcohol should be struck out entirely as it is disgracefully out of date.

Article 15

Chief and councillors be salaried from Federal Administration fund and be postage free in official business.

In conclusion we fully stress that a British Columbia Indian Act is a necessary document to protect the lands and hereditary rights, i.e. hunting, fishing, trapping etc. without interference and harassment by petty officials. We also stress that the Indians of Canada are a very capable people.

Presented by the Chiefs and Councils of the Lillooet Bands.

SUBMISSION

BRIEF OF THE FOLLOWING FRASER VALLEY BANDS SUBMITTED AT THE INDIAN ACT CONSULTATION MEETING, CHILLIWACK, NOVEMBER 18-22, 1968.

This brief is the recommendations made by the following Fraser Valley Bands:

- | | | |
|--------------------|-------------------|----------------|
| (1) Seabird Island | (6) Swahahlook | (11) Hope |
| (2) Chehalis | (7) Tzeachten | (12) Sumas |
| (3) Cheam | (8) Yakweakwioose | (13) Matsqui |
| (4) Popkum | (9) Union Bar | (14) Skulkayn |
| (5) Swah | (10) Peters | (15) Soowahlie |

INDIAN ACT CHANGES

1. THERE IS DEFINITELY A NEED FOR AN INDIAN ACT IN BRITISH COLUMBIA.

This act should be redrafted in its entirety, as the first Indian Act in the late 1800's, together with the other Indian Acts up to 1952, basically were based on police supervision, with powers of Indian Agents, Superintendents et cetera given to the extent that there were sections against the potlatch, wearing ceremonial costume, and fines for organizing in regard to Indian land and hereditary rights. Indian Affairs personnel had police and magisterial powers and acted as disciplinarians.

It is contended that apart from certain changes in the Indian Act in 1952, which still basically maintained the general outlines of the first Indian Act, there is little difference in the Indian Acts from the first Indian Act passed in the late 1800's.

It is further contended that the basis for the first Indian Act in the late 1800's largely was that there were large numbers of Indians, some showing hostile tendencies, amongst a few non Indians, and that containment served as a framework for Indian Acts.

2. A SEPARATE INDIAN ACT FOR BRITISH COLUMBIA.

The Indians of British Columbia, excepting for small areas, have never had their title extinguished by treaty regarding most of British Columbia.

Treaty Indians have their hunting and fishing rights written into their treaties in most cases, and it is necessary that British Columbia Indians have their hereditary and usufructory rights as to hunting and fishing et cetera spelled out clearly in a separate British Columbia Indian Act.

3. TERMS OF UNION PLACED IN A SEPARATE B.C. INDIAN ACT.

There is a complete lack of liason between Indian Affairs and the Indian people of British Columbia, and the Indian Act for B.C. should spell out completely, all pertinent positions of Indians, with definitions as to words that are subject to interpretation. Section 13 of the Terms of Union wherein British Columbia entered Confederation should be placed in a British Columbia Indian Act, and the words pertaining to it defined minutely, such as "charge of," "Trusteeship," "management," "use and benefit" et cetera.

- "13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practise of the British Columbia Government to appropriate for that purpose shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indian on application of the Dominion Government; and in case of disagreement between the two Governments respecting the

quantities of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies."

Canadian Indians have the right to travel across the U.S. border and work in the United States. This is written into the United States Immigration Act, as the United States honours the Jay treaty. Canada does not honour the Jay treaty. If all matters pertaining to the Indian position are designated in a British Columbia Act, then there is no controversy.

4. CLARIFICATION OF POLICY OF INDIAN AFFAIRS DESIGNATED IN A B.C. INDIAN ACT.

Both Indian Affairs personnel and the Indians themselves should be completely aware of the long term policy in respect to Indians in British Columbia, so that the present suspicion that exists amongst the Indian peoples is extinguished.

It is suggested that the following written into a separate B.C. Indian Act could serve as guidelines.

MAJOR FUNCTIONS OF INDIAN AFFAIRS.

A. OBJECTS (a) To act as trustee with respect to Indian lands and monies held in trust by the Government of Canada, and to assist the owner in making the most effective use of their lands and other resources.

(b) To collaborate with the Indian people in the development of programs leading toward full fledged Indian responsibility for the management of their own property and affairs, as well as the gradual transfer of public service responsibilities from the Indian Affairs Branch to other Federal agencies, or, with the approval of the Indians, to Provincial agencies which provide these services to non Indian citizens.

(c) To furnish guidance and assistance for those Indians who wish to leave reservation areas and enter normal channels of Canadian economic and social life.

B. OBJECTIVES

(a) Creation of conditions under which the Indians will advance their social, economic, and political adjustment in the complex world in which they find themselves.

(b) The encouragement of Indian bands and Indians to assure an increasing measure of self sufficiency, and the termination, at appropriate times, of Federal assistance under the Indian Affairs Branch to other Federal agencies regarding special services to the Indians.

5. COMPLETE CHANGE IN THE ROLE OF INDIAN AFFAIRS PERSONNEL SPELLED OUT IN A BRITISH COLUMBIA INDIAN ACT.

The words Commissioners, Superintendents, Community Development Officers et cetera, as designated by the 1952 Indian Act and the Acts preceding it, on which it was primarily copies, are suggestive of the police state and are not in the interest of Indian Affairs to continue.

For instance the British Columbia Fish and Game Branch have changed the title "game warden" to "Conservation Officer." These titles in the Indian Act should be changed to words such as "Indian Advisors" et cetera, in keeping with the alleged policy of Indian Affairs that self determination is the new look for Indians.

The present Indian agents should more and more be supplanted by specialists, and these specialists should be responsible to their own presiding heads of specialist branches, and not to Indian superintendents. This should be spelled out in a B.C. Indian Act.

6. TRAINING QUALIFICATIONS FOR INDIAN AFFAIRS PERSONNEL SPELLED OUT IN A B.C. INDIAN ACT.

The regional director should have at least a masters degree in the various specialities, together with adequate follow up training, both practical and scholastic, in the requirements for his position.

The present Indian Agents, who we suggest should have their titles changed to Indian advisors, should be required to have special training in Indian cultural background and other specialties fitting them for their positions. This does not necessarily mean university training, as special courses in other schools may be all that is necessary.

The emphasis should be towards training of Indian Affairs personnel in coaching Indians.

7. EMPLOYMENT OF INDIANS BY THE INDIAN AFFAIRS BRANCH BE DESIGNATED IN A B.C. INDIAN ACT.

These examples could be incorporated or clauses similar to them.

- (a) In the Indian Affairs Branch, registered Indians shall be employed in all the employment in connection with the agencies and the Indian Affairs Branch, where practicable, and it shall be the duty of the Minister of Indian Affairs to enforce this provision.
- (b) In all cases of the persons employed for the benefit of the Indians, a preference shall be given to registered Indians, if such can be found, who are properly qualified for the execution of the duties.
- (c) Preference shall at all times, as far as practicable, be given to registered Indians in the employment of clerical, mechanical and other help on reservations and about agencies.

8. SPECIALIZED POSITIONS FOR INDIANS SPELLED OUT IN A B.C. INDIAN ACT.

- (a) Community Development Workers - It has been admitted that Indians do much more effective work as Community Development Officers than non-Indians.
- (b) Alcoholic Anonymous Workers - Indians working voluntarily for AA have made great strides on the North Shore of Vancouver, around the Southern part of Vancouver Island and in the Fraser Valley. However, due to lack of finances, further penetration into other parts of British Columbia has been impossible.

Although the effectiveness of Alcoholic Anonymous workers may be destroyed if they were not on a voluntary basis, still funds for Indian AA workers could be allotted to Alcoholic Anonymous for Indian expenses and honorariums.

Further to this Indians under the Alcoholic Foundation, another group serving the same purpose, could be hired for other parts of British Columbia.

- (c) Indian Placement Officers - The present system of Placement Officers in the Indian Affairs Branch is highly inadequate. For instance, an RCMP officer was successful in achieving employment for Sechelt Indians at the pulp mill at Port Mellon, and as a result, these Indians are most sought after for stevedoring jobs et cetera at this mill.

The idea that Indians are only suitable for seasonal work in B.C., such as logging, fishing, truck gardening and fruit picking is still paramount, yet Indian accountants, mechanics, barbers, pilots and B.C. Hydro workers have been more than successful in acculturation as to employment.

There is a subtle discrimination as to employment that still exists. Indians are employed as bed makers and kitchen personnel in hotels and cafés in the Interior of B.C., where they are not seen, but not as waitresses or desk clerks, in most cases, where they can be seen by the general public.

Indians, even with training, are hesitant in applying for other than seasonal employment and once turned down, seem to be too self-conscious to pursue employment in other fields in B.C.

The fact that Indians have trouble with union certification in various areas points up the need for a terrific amount of work in the placement field. Just recently 12 Indians, who were more than adequate as Brush cutters on B.C. Hydro at Pemberton, B.C. were released due to lack of union certification and an Indian or Indians, properly trained in union and placement requirements in each Indian agency is suggested.

Indians know the specific work capabilities of each other in regard to job placement, and it is suggested that Indian placement officers, properly trained, could be much more effective in recognizing and promoting specific Indians for other than seasonal employment in British Columbia. In order to break down discrimination, it is suggested, that at first at least, a great deal of care has to be taken to recommend specific Indians for employment purposes.

INDIANS ATTACHED TO AGENCIES AS BAND MANAGEMENT CONSULTANTS -

There are a number of Indians going through Business Management courses, and a number of Indians who are accountants and secretaries, or who are being trained for such work. These Indians should be attached as specialists with their own specialist Branch in Indian Affairs to whom they are responsible, to Indian Agencies, to train

Indian Councillors and band managers for self development on their Reserves.

9. SPECIAL TRAINING SCHOOL FOR INDIANS DESIGNATED IN A B.C. INDIAN ACT.

When an Indian receives high school or equivalent training it is suggested that he could then receive training in a special school located in a centralized area for training for Indian Affairs personnel or for other vocational or scholastic training.

This school would be geared to the particular requirements of the Indian. At present an Indian requires more training than another person in order to even be hired, as discrimination is still paramount in B.C. Indian pilots receive 10 Hours extra float time to place them in an equal position for job placement with non Indians.

It is suggested that the most successful experiments in Indian economic acculturation such as the Carlisle Indian school (which trained the athlete Jim Thorpe), the Oregon specialized school for Indians and the training both at Metlakatla, British Columbia and Metlakatla, Alaska, have been completely disregarded. Metlakatla, Alaska is a self sufficient Indian community on an Island, with its own fish cannery. It enjoys the unique position of contributing to practically every known charity in the world.

It has been stated that qualification from such a school would not be recognized, as provincial accreditation would not be available, and employment of graduates would suffer accordingly.

However, the correctional schools of our prisons in B.C. are recognized as having the highest qualifications regarding instructors as to vocational training and there is no trouble placing their graduates.

It is suggested that this school be established in B.C. and that the terms of reference for setting up a special school be incorporated in a B.C. Indian Act. The former Indian hospital at Coqualeetza, in the Fraser Valley would be satisfactory and would also be located in a central area.

It has been stated that the reason the Chilcotin Forestry training school was not successful, was that it was located in a localized area, where local jealousies and conflict existed, and that the location alone acted to its detriment.

10. BRANCHES OF THE INDIAN AFFAIRS DEPARTMENT BE DIVORCED FROM THE INDIAN AFFAIRS DEPARTMENT AND PLACED IN OTHER DEPARTMENTS UNDER OTHER MINISTERS. AND THAT THESE BE DESIGNATED IN A SEPARATE INDIAN ACT FOR B.C.

The protection of Indians against Provincial encroachment, and the setting up of a representative Board of elected Indians from all B.C., to ratify or reject all transfer of Federal to Provincial jurisdiction in all matters dealing with Indian Affairs, with proper wages and expenses paid to these Indians so that they will have time to study and consult the Indians who elect them is recommended, with terms of reference spelled out in a B.C. Indian Act. It is conceivable that this could be one of the functions of the present B.C. Advisory Board of Indians.

One of the largest factors to be considered in a new Indian Act is the Provincial position regarding shift in jurisdiction over Indian Affairs.

The present trend in Indian Affairs is to transfer more and more authority to the Province of B.C., without consultation with the Indian people themselves.

It must be remembered that regardless of anything else, Indian Affairs was given to the Dominion Government by Section 13 of the Terms of Union wherein British Columbia entered Confederation.

"13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the union."

Extreme difficulty has been encountered regarding the shift from Federal Provincial conference is urgently needed to clarify division of responsibilities for Indian health care.

It says that current transfers of responsibility from Federal to Provincial levels "is being undertaken without much preparation or negotiation." It further claims that standards of care can be expected to get worse unless "immediate steps are taken to clarify in detail all matters relating to medical and health care for Indians."

In the matter of education, grants from the Federal government to Provincial groups in regard to education have been designated to areas where there are no Indians at all, particularly as to recreation facilities.

Provincial and municipal collection of taxes from non Indian lessees and extension of city boundaries onto Indian Reserve land are not defined in either the Indian Act or the B.C. Municipal Act and an appalling rule of thumb has developed in these matters that would never be tolerated elsewhere.

Order in Council P.C. 1961-371 as to Indian Mining Regulations states specifically that these regulations apply to lands in a reserve and surrendered lands except any reserve and surrendered lands lying in the Province of British Columbia. It is definitely asked that all mineral rights on reserves be given back to the Indians of B.C.

There is crying need for specification in respect to Indian Oil and Gas development on B.C. Indian Reserves that should be of a special nature for the Province of B.C.

There is no question in that Oil and Gas Reserves on Indian Reservations in B.C. will be particularly important in the near future.

The Indian Reserves Mineral Resources Act, Chapter 187 Revised statutes of B.C. covers lands surrendered by treaty or by band sanction, but no surrender of title to most of B.C. has been made by the Indians of B.C. although exploratory talks have been scheduled.

For these reasons, and particularly so long as the Indians have not surrendered their title to most of British Columbia, it is essential that a separate Indian Act be drawn up for the Province of British Columbia.

12. COMPLETE POWERS OF THE COUNCIL OF BANDS AND POWERS OF THE BAND ITSELF SPELLED OUT AND BOTH THESE GROUPS BE MADE LEGAL ENTITIES IN A NEW B.C. INDIAN ACT.

It has been stated that "final approval by the Minister" in the present Indian Act should be dropped. We agree to this.

If band councils and bands were made legal entities then the highly unsatisfactory procedure of surrender would be unnecessary as bands or band councils could enter leasing agreements et cetera legally with non Indians.

However, when the final power of the Minister clauses are deleted, it is essential that specific sections of a new B.C. Indian Act state just exactly what powers the band council has, and what matters must be referred to the whole band.

Unfortunately, there is danger on some reserves in B.C. of a system of government similar to the old "Family Compact" type of control that strangled Lower Canada for many decades, as some reserves have large families who could outvote others in respect to band Chiefs and councillors.

Municipalities have restrictions on their councils in that 5% of their electors can through petition call Municipal councillors to task on referendum motions.

It is not suggested that 5% be used on Indian Reserves as there is a much smaller population, but some check and balance for the Band members should be available in respect to their councils decisions when the words "final approval of the Minister" are deleted.

13. TRIBAL COUNCILS OR DISTRICT COUNCILS ESTABLISHED AND AMALGAMATION POWERS DEFINED COMPLETELY IN A NEW B.C. INDIAN ACT.

Because of the reversionary interest to the Province of British Columbia of Reserves which are completely deserted, it is essential that amalgamation powers be defined more particularly so that these reserves can be amalgamated with settled reservations. In B.C. Indian reserves that are deserted revert to Provincial control.

At present time there just isn't the talent available to properly conduct a chief and councillor administration on all B.C. Indian Reserves and it is suggested that Tribal Councils or District Councils, where Indian Chiefs and Councillors would sit on various matters pertaining to their area be defined in a new B.C. Indian Act, with proper terms of reference and terms as to financial arrangements et cetera be designated in a new B.C. Act.

14. INDIAN CO-OPERATIVES AND CREDIT UNIONS AND THEIR POWERS AND RESTRICTIONS DESIGNATED IN A NEW B.C. INDIAN ACT.

Credit unions in British Columbia have been extremely popular in the non Indian Society and together with co-operatives are highly successful. Their powers and restrictions are spelled out in the Provincial statutes.

It is recommended that a complete reference as to how to establish such groups on Indian Reserves in B.C. together with their powers and restrictions be placed in a new B.C. Indian Act.

15. PROVISION MADE IN A NEW ACT FOR B.C. FOR COMPLETE REVISION NO LONGER THAN EVERY 10 YEARS.

Indian Act revision in Canada has generally been about every 20 years, and this is considered to be much too long for such changing times.

16. INDIAN ESTATES.

Indian Estates are at present administered with too much power given to Indian superintendents and unskilled Indian Affairs personnel. A separate Branch of the Department, or a separate of Branch of another Department other than Indian Affairs should be established with offices in central areas throughout B.C. with a lawyer or lawyers at the head as absolutely essential, and this should be spelled out in a new Indian Act for B.C. However, because of the specialized difficulties regarding Indians it is not suggested that Provincial laws apply.

17. COMPLETE CHANGE IN SECTION 87 OF THE INDIAN ACT TOGETHER WITH CHANGES IN THE TAXATION SECTIONS DELINEATED IN A NEW B.C. INDIAN ACT.

Section 87 "Subject to the term of any treaty et cetera" should be completely revised so treaties and aboriginal rights of Indians come before any statute or order-in-council, Federal, Provincial or municipal. The Proclamation of George III, the so called Indian Bill of Rights, should be recognized under a revision of this section.

Under the taxation sections or other sections, it should be declared that all Indian land, surrendered or otherwise, together with persons lawfully residing or operating businesses on Indian land, Indian or non Indian, be specifically exempt from taxation, other than by the Indians themselves, and that Indians who form corporations or co-operatives or credit unions on Indian reserves, be exempt from taxation.

If Indians wish to farm out taxation rights to municipalities or other bodies for services then that should be their privilege.

At present the Provincial government of B.C. collects taxes from non Indian lessees and without the benefit of any services and this forces Bands to consider allowing municipalities to extend their boundaries, with up to now, no return by the municipalities of taxes or services to the Indians other than services paid for. Municipal extension of boundaries should have terms of reference in a new Indian Act.

18. SECTION 72 DELETED.

This section wherein the Governor in Council may make regulations should be completely deleted.

19. MEDICAL EXPENSES.

Indians consider the payment of all medical expenses to be an aboriginal right and this right should be spelled out in a new B.C. Indian Act.

20. POLICE OR MAGISTERIAL POWERS REMOVED FROM A NEW B.C. INDIAN ACT.

Sections 101 to 106 of the Indian Act regarding police powers should be completely removed under a new act together with magisterial powers particularly as to Indian Affairs personnel.

21. ECONOMIC DEVELOPMENT FUND UNDER SPECIALISTS OR ANOTHER DEPARTMENT OTHER THAN INDIAN AFFAIRS IN A NEW B.C. ACT.

The suggestion that an economic development fund be introduced for Indian Bands, is considered to be an excellent recommendation, but its terms and setting up should be completely designated in a new B.C. Indian Act, stating that it be controlled by specialists and not the present Indian superintendents.

It may be advisable to divorce such a fund from the Indian Affairs Branch and place it in an Indian Affairs Department under some other appropriate ministerial department.

22. NEW CONCEPT FOR INDIAN AFFAIRS IN A NEW B.C. ACT.

An entirely new concept for Indian Affairs with the emphasis on qualified specialists to coach Indians in economic and other endeavour, together with stressing the role of Indian agents as advisors and coaches should be incorporated in a new B.C. Indian Act.

Brief of the Squamish Indian Band regarding
the Indian Act presented at Chilliwack, B.C.,
November 18 - 22, 1968

P R E A M B L E

The Squamish Indian peoples, comprising sixteen Bands amalgamated as the Squamish Indian Band, approach discussions with the Federal Government toward the constitution of a new Indian Act with optimism and a spirit of co-operation in the belief that with goodwill and understanding on the part of the Canadian Indian people and the Canadian non-Indian people, the sad history of the Indian people since the coming of the White Man can be reversed and that a new era can be opened wherein the Canadian Indian people will take their full role as a part of the Canadian culture and society.

The delegate of the Squamish Indian Band representing the sixteen Bands comprising that Band is pleased to present the views of the Band with regard to the Indian Act and the future of the Indian peoples in Canada. The Indian people are made up of many separate Nations with great differences in historical and cultural background and cannot be considered as a homogeneous group. The organization into various Bands reflects these differences to a considerable extent. As a result, in legislating for the development of Indians, the Government should constantly keep in mind the differences resulting from this divergence and should maintain the flexibility necessary to meet the requirements of different groups.

The legal status of B.C. Indians, with a few exceptions, is distinguished from most other Canadian Indians in that no settlement has been made of aboriginal rights and treaties have not been entered into. It is essential that a settlement be reached between the various Indian Nations and Bands of British Columbia and the non-Indian people represented by the Federal and Provincial Governments. In our view such settlement must be through negotiation and agreement. To enforce settlement by means of a Claims Commission would be equivalent to forcing compulsory arbitration on the parties whereas there is no justification in the present case for doing so. The various B.C. Indian peoples have not voluntarily given up their lands nor have they been conquered. If a Claims Commission is to be established to consider the claims of the various B.C. Indian peoples, it is essential that the terms should provide that the Indian peoples will not be forced to accept its proposals if they are not satisfactory. Any other decision would be to enforce settlement by the power of numbers and would be a negation of the democratic process. After settlement has been made, then the B.C. Indians should be entitled to refer subsequent matters which may arise to the Claims Commission in the same way as other Canadian Indians.

A settlement of the claims of the B.C. Indian peoples should not be delayed further but should be proceeded with immediately by negotiation concurrently with the creation of a new Indian Act.

1. For historical reasons the political, economic and social condition of the Indians is greatly undeveloped in relation to the White population.

Consequently, for the foreseeable future and at least until such time as the Indians' development is generally equal to that of the Whites, special treatment must be accorded to the Indians, which means the Indian Act must be continued. The changes which now need to be brought about on a broad scale in the economic, political and social fields must be made under the terms of an Indian Act administered by the Federal Government. Because the rate of Indian development in these fields is growing so rapidly, the Act should provide maximum flexibility so as to meet the needs of various Bands at their different stages of development. As Indians we are rapidly being propelled into a new world of economic, political and social change. We cannot avoid it even if we wished to do so. We must learn to live in it and be a part of it. At the same time we wish to preserve that part of our historical and cultural background which is of value and we wish to have a voice in the emerging society being created in Canada. Therefore, the Act should never again be "closed" for a period of years as has been the case in the past. A permanent Indian Legislative Commission composed of Indians and Whites should be in existence to advise the Federal Government of necessary changes to Indian legislation as the need for it becomes evident. The Band recommends that the present name of the Act be continued.

We also recognize the chaotic situation that would arise with resulting unrest and dissatisfaction if Indian Bands across the Nation were brought at this time under the framework of ten provincial governments as provincial-municipal organizations. Indian peoples, through their Bands and Reserves, have not the size, the resources nor the education to adjust now into the complicated maze of municipal local government existing across this Country. Furthermore, the provincial governments have not the insight, the will nor the resources to recognize and accept the difficult position we find ourselves in as Indians through historical processes. With rare exceptions we are considered by the Provinces and the municipal governments to be expensive nuisances. While we must remain firmly based within the framework of federal legislation for the foreseeable future, at the same time both we and the Indian Affairs Department must begin the long, difficult process of dialogue with the provincial and municipal governments in order to prepare for the day when eventually we must take our role as full provincial citizens as well as federal.

2. If the Indian people are to progress and develop into mature citizens, we and our institutions must be given more decision-making power together with the responsibilities that flow from the exercise of power. As a result, a delegation of authorities should be made to Band Councils and Band economic corporations at a rate and to the extent that they are able to absorb such increased power and responsibility. Similarly, delegation of authority as quickly as possible should be made from the Minister to the Regional Director on a broad scale and with the provision that an appeal should lie from the Regional Director to the Minister by the Band Council. Each Regional Director should have a Special Assistant who is a member of a Band in his area. Regional Directors should be very highly qualified persons with a broad background and knowledge in Indian history and culture. The Regional Director should have the status of a Deputy Minister reporting directly to the Minister. The decentralization of powers and authority should include all facets of Indian development including land, finances, administration, social, political and economic development.

The provisions of Section 4(2) of the Indian Act giving the governor-in-council power to declare that the Act or any portion thereof except sections 37 to 41 shall not apply to any Band of Indians or any Reserve or any surrendered

land or any part thereof, should be retained for purposes of flexibility but this power should be exercised only at the request of the Band Council.

4. It is our recommendation that the status of the children of unmarried Indian mothers should be determined as at present with this exception - that all such children should be excluded from Indian status unless within a fixed period of time the mother applies for Indian status for the child and such is recommended by the Council by resolution.

5. No change recommended to the present Act.

6. Our Band recommends that in the interest of social adjustment of the adopting family, non-Indian children adopted by Indian families should have Indian status.

7. The term "enfranchisement" should be eliminated from the Act. Individual Indians should be enabled to withdraw voluntarily from Indian status when they achieve age twenty-one. Further, it is recommended that Section 12 (1) (a) (iv) be dropped from the Act.

8. In the case of married couples it is recommended that withdrawal from Indian status should not be permitted until the younger reaches the age of twenty-one.

9. Our Band recommends that the children of parents who withdraw from Indian status should retain their status until they achieve age twenty-one at which time they would be entitled to make a decision for withdrawal or otherwise. Children born after the withdrawal of the parents should have non-Indian status.

10. In the view of our Band an entire Band should not be entitled to give up its Indian status unless all of the Band Members wish to do so. Provision should be made for individuals to withdraw if they so wish.

11.(1) The proposal to establish a register of Indian lands recording the rights and interests of the Band and the rights and interests of individuals should be established along lines similar to the Torrens System now used in some land registry offices. The Department should be prepared to issue certificates showing the interest of individuals, Band corporations and the Band as a whole in individual pieces of property and the Department should be prepared to establish a fund similar to the Insurance Fund now established by the B.C. Government for the provincial registry. The purpose of this is to make it possible for the interest of Bands, Band corporations and individuals to use the registered interest they have for the purpose of raising institutional mortgages for development. The use of this registry is closely related to the proposal of this Band made under No. 12 that the Reserve land should be leased by the Crown to the Band on a long-term basis and the Band, through its Band Council would, in turn, sublease portions to Band business corporations and perhaps in some cases to individuals and to non-Indian lessees on shorter-term leases designed to meet the requirements of each case. Before the Band Council could sublease a portion of land, it would be required to hold a certificate of lease from the Crown covering that portion and showing the legal description of the parcel, and after subleasing that parcel, the Band Council would submit the document to the Central Registry at the Indian Affairs Department in Ottawa for registration.

The Squamish Band, however, wishes to be recorded strongly as opposing the suggestion that at some time in the future the registry of Indian lands might be transferred to provincial land registry offices. In our view the registry should be permanently established in the Indian Affairs Branch at Ottawa. We are aware of the attitude of certain provincial registrars to the effect that registration of subdivisions in their registry office has the effect of alienating road allowances from the Reserve permanently. There are also further reasons for wishing to maintain the registry in Ottawa.

11.(2) As to whether or not individual members could acquire specific rights to property, it is recommended that this should be a matter of Band policy in each case. Some Bands may feel that it is in their wider interest that the land be developed co-operatively as a Band and flexibility should be permitted for each Band to determine its own policy in that regard.

11.(3) In any case the Act should specifically provide that neither the Band Council nor individual members should have the right to sell land to non-Band members.

11.(4) Provisions should be made for the Band to exercise such powers as are now normally held by governments and public bodies to acquire land and interests in land when necessary for the benefit of the Band on payment of a fair price for it with a provision for arbitration in the event of disagreement.

12. In the view of the Squamish Band no Reserve land should be sold or alienated from Reserve land but all development and use of Band land should be by lease. This would apply also to Reserve land required by various levels of government which in the past have frequently taken large and valuable pieces of Reserve land for public purposes of various types. Governments and Crown corporations including municipalities, railways, public utility companies and others requiring the use of Reserve lands should be required to lease such lands and the leases should provide for revision from time to time so that the returns may be based on the economic value of the lands used. At the same time the Department should determine the value of each Band's Reserve lands taken up to the present for such purposes and each Band should be compensated accordingly. The Reserve lands, in other words, should constitute a source of revenue for the Indian people for future generations as well as for the present and the lands should not be alienated permanently in any way.

If a public authority which normally possesses powers of expropriation over land requires the use and wishes to expropriate a portion of Reserve land, the Act should specify that the authority can only expropriate such land by way of lease from the Band and that the compensation to be paid by way of lease payments shall be based on an economic rate of return for the land leased, such rate to be adjusted not less than every five years and that in case of failure to agree on the rate, the rate shall be determined by arbitration.

It is proposed further that where Bands have reached the degree of development for handling their own business affairs, the lands constituting the Reserves of the Band should be leased by the Crown to the Band Council on a long-term basis of, say, 99 years so that the Band, in turn, could handle the use of such lands by sublease in a manner to the best interest of the Band. This policy would be developed progressively beginning with the more highly developed Bands.

13. For the present it is proposed that the existing procedure be continued and that Band Councils be encouraged and permitted to provide administrative help to Band Members in presenting estates to the Minister for administration. The great majority of Indian estates at the present time are small in value and would be expensive to probate under existing provincial laws. Until such time as this situation no longer exists, no further changes should be made.

14. It is proposed that no change should be made with respect to personal property at the present time. The great majority of individual Indians are not prepared by education or experience to be thrown into the highly competitive world of credit and sophisticated finance procedures. Many would fall victim to complicated laws and would be faced with expensive legal procedures and obligations which they are not economically able to assume. There should be an interim preparation period during which time Band Councils should operate a credit corporation for the benefit of Band Members with loans to be made on the security of personal property of individual Band Members. The capital for these credit corporations should be advanced by the Federal Government at low interest rates based on security to be provided by the Band Council. Such security could be by way of assignment of lease income from Band properties. This program should be developed progressively as Bands show themselves capable of handling the administration required.

15. Following from No. 14 above, it is proposed that individual Indians should be able to pledge their personal property and their right of possession to land to the Band Council as security for loans.

16. Bands acting through their Band Councils should be enabled to borrow from any source using income from leased property as security for the loan but this provision should not apply to individual Band Members at the present time. For the present it is proposed that the controlling source of funds would be through the Band Council so far as individual Band Members are concerned.

17. Provision should be made in the new Indian Act so that income which is exempt from taxation could be used for calculating contributions and benefits under the Canada Pension Plan.

It is recommended that Band Councils should have the power to negotiate or operate their own pension plans through the membership of all Members of the Band in the Band itself or in the development corporation.

18. Basically provincial laws should apply but special provisions should be made for separate schools where local conditions make this necessary. For the foreseeable future payments by the Federal Government to the Provinces on behalf of the education of Indian children should be continued.

19. It is proposed that "surrender" of Reserve lands be abolished. The word has created many complications for Indian Bands and has been used by local and provincial governments as a means of taxing Indian lands even where few services are provided by the local authorities. It is proposed that leases in future be entered into where the Band Members agree to a lease but that no surrender of the land be made.

It should be made clear by legislation that the word "surrender" has

not in the past meant that the land was no longer a part of the Reserve but that the word has been used solely as a means of signifying that the Band Members were prepared to give up the use of the land temporarily in order that the Crown could deal with it to the benefit of the Band Members.

It is recommended that the Act provide specifically for the surrender of all Reserve land which currently has the status of surrendered land.

20. It is proposed that the Band Council should have the authority to undertake surveys and subdivisions - that these should be carried out in conjunction with the Registry of Indian Lands operated by the Department of Indian Affairs, and that provision should be included for the Minister to undertake such surveys and subdivisions in emergency situations where the Band Council fails to act.

21. The Squamish Band expresses no opinion with respect to this matter.

22. The Section dealing with Prairie Province Indians obtaining permission to sell animals or produce off the Reserve should be repealed.

23. It is recommended that no authority should exist for agency superintendents to be appointed as Justices of the Peace.

24. The Sections dealing with liquor should be repealed.

25. Band Councils should be authorized to enter into leases not exceeding ten years' duration. Beyond ten years, approval of a majority of Band Members should be required. Band approval should be obtainable by a vote of the majority of those present at a meeting to which the proposed lease is presented.

26. It is proposed that where Bands have reached a stage of development where they are able to administer their own affairs, all leasing of Indian lands should be handled by the Band where provided in No. 25 above. Where Bands have not reached this stage of development and have not requested the power to lease their own lands, the Minister would act in place of Band Council.

27.(a) Where Bands have reached a suitable stage of administrative capability and have so requested from the Minister, Bands, through their Band Councils, should have complete control of their capital accounts with the limitation that capital accounts be used only for Band development and Band projects.

(b) At a similar stage of development, revenue accounts should be solely under the control of the Band through its Band Council for any purpose whatsoever.

(c) The Band Councils would have control over Band funds under the circumstances outlined above and responsibility for complete financial statements, audits, etc., and must present these statements and audits at an annual general Band meeting.

28. Bands, if they wish, should be entitled to maintain local government by Band custom and in any case no change should be made to the existing local government system without a Band vote. The decision should be a majority of qualified Members present and voting at a Band Meeting.

29. The voting age should be nineteen or such other age as the Band Council,

with the approval of the Band, shall specify. Off-Reserve Band Members should be entitled to vote and to hold office in Band Councils and Band organizations provided that during the current calendar year and prior to the election, they have registered in writing with the Band office as a Voting Band Member.

30. Candidates for Band Councils should have attained the age of nineteen years or such other age as the Band Council, with the approval of the Band, shall determine.

31. As mentioned in No. 23, no change should be made to local government system without a vote of the Band but the Act should be flexible enough to allow Bands to propose any reasonable system of establishing their local government.

32. The Act should have flexibility to allow Bands to determine conditions which suit their own circumstances and it should be recognized that some Bands wish to continue according to custom.

33. The existing powers of the present Act for Band Councils to carry out local government functions should be maintained and should be increased to allow Bands to carry out many functions now carried out by municipalities and other local government bodies. At the same time it must be recognized that for the foreseeable future, the funds for such development of municipal services will not be available from the Indian lands which are in general poorly developed and will also not be available from provincial sources. Consequently the Federal Government should step in and provide massive funds for the development of Reserves for years to come, until such time as the standards of the Indian people and their Reserve lands have reached a stage of development roughly equivalent to the neighbouring non-Indian lands. By that time it is to be hoped that the economic, social and political development of the Indian peoples will have reached a stage that will permit them to gradually assume not only the responsibility for planning and carrying out their development but also to pay for it through taxation of their lands and property.

Extreme flexibility should be provided in the Act for development of local government according to the stage of development of the various Bands. Highly developed Bands should be able to incorporate as municipalities with all the powers that municipalities have to-day under provincial Acts but such incorporation should be under federal jurisdiction in the Indian Act. A system of grants, both outright and conditional, should be introduced roughly equivalent to the grants available to local governments and municipalities throughout the Country to-day. In addition, Bands through their Councils should have specific power to negotiate and enter agreements with local government bodies and Crown corporations, public utilities, etc., for the purchase of services as necessary. The Act should specifically set out the powers of local Bands through their Councils to have exclusive power to tax and zone on Reserves whether or not the land is leased out to Indian or non-Indian lessees. Only in the above way will the Indian people be able to learn through actually participating in local government how to become an integral part of Canadian society. At the same time they will have some necessary protection while they are learning.

34. It is recommended that Bands should have the power to establish business corporations with wide powers similar to those of private companies and in some cases semi-public and public companies which now operate under provincial Companies Acts and other provincial and federal statutes. However, the Band business corporations should for the present operate solely under the jurisdiction of the Federal Indian Act.

It is proposed that wherever possible Bands, through their Band Councils and business corporations, should be encouraged to develop their own lands and should only lease out lands where it is patently advantageous for them to do so. Band business corporations, with the approval of Band Councils, should be enabled to raise money from the Federal Government on the security of Reserve lands allocated to these corporations by the Band and also on the security of income from leased lands. The Act should provide the flexibility for Bands to develop economically at their own rate with each Band to choose the best fashion for its own development. An atmosphere should be created by the Federal Department of Indian Affairs which will stimulate and assist in initiating the development of Band lands and resources by the Indians themselves. In brief, the Indians should be able to propose and initiate rather than merely respond to outside proposals. The Department should be flexible enough to consider unorthodox proposals which may be the best solution in the particular instance. The Department should be prepared to underwrite and guarantee loans made by Bands from institutional sources with the Federal Crown to be secured by the income from leased lands and ultimately by the land itself.

It is obvious that if our Indian people are to learn to take their proper role in Canadian society, they must gain experience by doing. While they are learning, there must be some protection. Bands should be encouraged to develop administrators who will carry out local government and business corporation business. Such administrative organizations are essential to the long-run development of the Indian people in the eventual handling of all their affairs. For the present, the Department must be prepared to infuse large amounts of funds for the training and employing of Indian staff who will work directly for Band Councils. Eventually these Indian administrators will replace Indian Affairs employees, but this time is many years away.

General

In our view the most important priorities for the advancement of the Indian people are improved education, both for the young and for adults, and the assumption of responsibility and control over our own affairs. The Government's role, as we see it, is to create a climate in which we can achieve these priorities as well as our other goals. The legislative and administrative machinery must obviously be extremely flexible because of the different stage of development of the various Bands and peoples. Advanced Bands must have the power to negotiate and enter into joint developments with any individuals and organizations in the community. Business corporations and Band Councils will have to work together closely with government bodies, private companies and individuals. The key to our political development is the retention and expansion of our powers to develop Reserve lands in a logical and effective manner. This means that the present tax situation wherein municipalities and provincial governments claim taxation rights on Reserve lands must be clarified. In our view the Federal Government is entitled to legislate in the field of Indians and Indian lands under the Constitution and is, therefore, paramount in that field. A Section giving Indian Councils the necessary taxation powers and prohibiting any other taxation on Reserve lands must be drawn in strong and clear terms. Over the past one hundred years encroachments by the Province and many other agencies and individuals on our lands and our rights have continued at a steady pace and in our view the Federal Government has failed badly to meet the obligations of its position as trustee. The details of these encroachments and the failure of the trustee will be presented in the course of negotiations. What is important now is that the new Act must bring an end to the encroachments

in clear and certain terms. Such things as Indian land rights, water rights, mineral rights, offshore rights and fishing and hunting rights must be preserved to the Indians and where necessary, ill-advised agreements of the past with the Provincial Government should be renegotiated by the Federal Government to restore to us rights taken in the past.

Indian health is improving but is still much below the Canadian average. This condition is not a natural one but developed for well-known historical reasons. In our view the Federal Government has a specific obligation to provide extensive assistance to improve the general health of the Indian people and to provide individual medical assistance wherever required until such time as the health of the Indians is at least on a par with the non-Indian population.

Finally, it should be reiterated that the Federal Government and the Department should not consider the Indian people as a homogeneous group but should recognize that in their day-to-day relations with Indians, they are dealing with individuals and groups with different characteristics and problems. The Departmental staff, therefore, should in principle approach these individuals and groups, not with the thought of offering a common solution to a problem but rather to listen to the proposals of the individuals and Bands concerned and then to assist those individuals and Bands in finding a way to meet their requirements within the framework of the legislation.

The costs of assisting the Indian people to reach eventual full citizenship and to participate fully in Canadian society will be very heavy for many years but is a charge on the public treasury that we believe will be accepted by the Canadian people if the facts of history and the reasons for the cost are made fully known to them. At all costs, both parties to this imaginative voyage of exploration - the Indian Canadian people and the non-Indian Canadian people - must avoid the serious errors and breakdowns in communication that have resulted in many other Countries around the world.

Brief of the Musqueam Indian Band submitted at Chilliwack, B.C., Nov. 18-22, 1968.

Nov. 16th, 1968.

The Hon. Jean Chretien,
Minister of Indian Affairs and Northern Development,
Indian Affairs Branch,
Centennial Towers,
400 Laurier Street West,
Ottawa, Ont.

Sir: Brief of the Musqueam Indian Band Regarding the Indian Act.

1. Musqueam Indian Band would prefer that the Indian Act remain as it now is.
2. Musqueam Indian Band feel that Ottawa should delegate more authority to the Regional Office.
3. Persons or Bands that wish to be excluded from the provisions of the Act, we feel that any changes relative to a democratic form should reflect the consent of the members involved that requires 90% majority of registered voters list.
4. Musqueam Indian Band feel that the status of all illegitimate children remain as it is in the Present Indian Act.
5. (a) Yes, an Indian woman who marries non-Indian should assume his status - he should shoulder his responsibility, which is the same as in the present Indian Act.
(b) We also feel that a widow of non-Indian status be permitted to return to Reserve, just to reside on Reserve, if she so desires, as a Red Ticket Member with no privileges from the Band, if she so desires. Any children she may have will be of non-Indian status but may reside with her in a home that she provides for herself until they marry or the age of 21 years.
6. Regarding non-Indian children adopted by Indian families:
(a) In the case of an orphaned child of a mixed marriage where the parent was a band member previously. The child would then become a member of the band until the age of 21 then the child would make his or her decision to remain a band member or take white status.
(b) If an Indian man has an illegitimate child with a white woman and the father takes custody of the child. Then the child would take Indian status until the age of 21 then again would decide his status.
7. (a) The word "Enfranchisement" be dropped from the Indian Act and the word "withdraw" be used instead.
(b) An Indian wishing to withdraw from Indian status the same as in the present Indian Act, and that this be carried through the chief and Council at all times. Delete section 12.
8. Under 21, whether married or not, should remain band members until the age of 21.

9. (a) When the parents withdraw the remainder of the family should not.
(b) The children may accept their Indian status at age 16, but may not reject until age 21.
(c) Yes, the children should retain Indian status if their parents withdraw.

10. (a) If a band wishes to give up its status it should require 90% majority before they do so.
(b) The minority should be allowed to remain under the Act, and all lands and assets be divided proportionately.

11. The Musqueam Indian Band feels that no B.C. Band is ready to answer this until the land question is settled.

12. All Reserve land sold or alienated from reserve land for all development should not be sold but leased. This would apply to Reserve Land required by various levels of government which in the past have frequently taken large and valuable pieces of Reserve land for public purposes of various types. The leases should provide for revision from time to time so that the returns may be based on the economic value of the lands used. The rate would be set by proper independent land appraisal at Band's approval, not Department's approval.

If a public authority which normally possess powers of expropriation over land requires the use and wishes to expropriate a portion of Reserve land, the act should specify that the authority can only expropriate such land by way of lease payments shall be based on an economic rate of return for the land leased, such rate to be adjusted not less than every five years and that in case of failure to agree on the rate, the rate shall be determined by arbitration.

It is proposed further that where Bands have reached the degree of development for handling their own business affairs, the lands constituting the Reserves of the Band should be leased by the Crown to the Band Council on a long term basis of, say, 99 years so that the Band, in turn, could handle the use of such lands by sub-lease in a manner to the best interest of the Band. This policy would be developed progressively beginning with the more highly developed Bands.

13. For the present it is proposed that the existing procedure be continued and that Band Councils be encouraged and permitted to provide administrative help to Band Members in presenting estates to the Minister for Administration but must be executed to settlement within one year. The great majority of Indian estates at the present time are small in value and would be expensive to probate under existing provincial laws. Until such time as this situation no longer exists, no further changes should be made.

14. It is proposed that no change should be made with respect to personal property at the present time. The great majority of individual Indians are not prepared by education or experience to be thrown into the highly competitive world of credit and sophisticated finance procedures. Many would fall victim to complicated laws and would be faced with expensive legal procedures and

obligations which they are not economically able to assume. There should be an interim preparation period during which time Band Councils should operate a credit corporation for the benefit of Band Members with loans to be made on the security of personal property of individual Band Members. The capital for these credit corporations should be advanced by the Federal Government at low interest rates based on security to be provided by the Band Council. Such security could be by way of assignment of lease income from Band properties. This program should be developed progressively as Bands show themselves capable of handling the administration required.

15. Individuals should be able to pledge any land other than immediate lot and residential dwelling as security for loans.

16. Musqueam Indian Band feel that individuals and Band should be allowed to obtain loan on lease of rental income.

17. (a) For the purposes of the Canada Pension Plan, an Indian's income earned on a reserve would be computed as though it were taxable even though it would not in fact be taxed.

(b) In the case of casual workers that 4%, or what the minimum Labour Relations Board set, be paid for holiday pay.

18. The Musqueam Indian Band should be still able to pick the school of their choice, and that 119 a & b be stricken from the Act (deleted).

19. It is proposed that "surrender" of Reserve lands be abolished. The work has created many complications for Indian Bands and has been used by local and provincial governments as a means of taxing Indian lands even where few services are provided by the local authorities. It is proposed that leases in future be entered into where (copied from S.B.) the Band Members agree to a lease but that no surrender of the land be made.

It should be made clear by legislation that the word "surrender" has not in the past meant that the land was no longer a part of the Reserve but that the word has been used solely as a means of signifying that the Band Members were prepared to give up the use of the land temporarily in order that the Crown could deal with it to the benefit of the Band Members.

It is recommended that the Act provide specifically for the unsurrender of all Reserve land which currently has the status of surrendered land.

20. It is proposed that the Band Council should have the authority to undertake surveys and subdivisions and that these should be carried out in conjunction with the Registry of Indian Lands operated and paid for by the Department of Indian Affairs.

21. Yes, the provisions giving the Minister authority to operate farms on reserve land should be repealed.

22. Yes, the section of the Act that says Indians in Prairie provinces must get permission from the Agency Superintendent before they can sell animals or produce off the reserve should be repealed.

23. The Musqueam Indian Band feels that sections 105 & 106 should be eliminated from the present Indian Act. Anyone who is tried should be tried by an impartial judge.

24. Yes, the sections on liquor should be repealed because of discriminatory law.

25. The Musqueam Indian Band feels that short term leases should be left up to Chief and Council without going to Band and Minister, anything over 5 years escalator clause put in with Band Membership approval.

26. (a) That Minister cannot approve any leases without Band Council signing their approval with the Band's consent. This approval comes before Minister signs it.

(b) No, all Band owned lands are held in trust for the use and benefit of all Indians and all Indians should have the expressed right to vote on such important matters, the Minister should not be able to approve any leases without first having the Band's approval on listed changes by vote and the signature of the Council only then will he be able to sign and approve the leases.

27. (a) Where Bands have reached a suitable stage of administrative capability and have so requested from the Minister, Bands, through their Band Councils, should have complete control of their capital accounts for Band Development and Band Projects with addition of investing outside guaranteed investment.

(b) At a similar stage of development, revenue accounts should be solely under the control of the Band through its Band Council for any purpose whatsoever.

(c) The Band Councils would have control over Band funds under the circumstances outlined above and responsibility for complete financial statements audits, et., and must present these statements and audits at an annual general Band meeting. The directors of development corporations should be subject to re-election each year.

28. Yes, any changes in local Government should go to a majority of voters at a meeting called for such purpose.

29. (a) Voting age should be the same as Provincial regulation.

(b) Band members living off reserve should have a vote but not be able to hold office.

30. Candidate for Band Council should be 21 years of age to hold office.

31. A single list of nominees be eligible to be voted by the general voting list of any reserve from which after an election a Chief Councillor be elected from Councillors so elected. (from among themselves) but that the person that gets most votes is not always best suited to be Chief.

32. Individual Bands should be able to appoint as many Councillors as they feel they require also if a Band wishes they should be allowed to introduce an alternating system where the whole Council will not be changed at the same time. This would mean that the Council would stay in office two years at which

time an election would be held to replace half of the Council, the other half to remain in office for an additional two years.

(b) That individual Band should be allowed more Councillors as necessary rather than one councillor per hundred.

33. Individual Band should have wide powers to select the kind and degree of local government which suits and which is flexible enough to permit them to adapt as they go along and in addition there should be broad powers to permit the Band to enter agreements with various organizations and government to meet the requirements of Band government.

34. Bands to form corporations to administer their own affairs. These companies incorporate under Indian Affairs would include broadly same powers that are now held by companies under Provincial and Dominion Companies Act. The specific powers to be included should be set out by and agreed upon through Band and Government. Indian companies have same status and position as an individual Indian while in business on reserve.

35. All sections dealing with like powers be brought together under one heading.

36. That all surrendered lands be unsundered; while Bands have given up use of land they have not given up political jurisdiction over it. Where Band leases in future are sold or leased it should be quite clear whether or not Band gives up jurisdiction.

Also where land has been surrendered or sold or leased, there is no necessary giving up of political jurisdiction.

In order to do this should be passed by legislation.

FRASER VALLEY INDIANS - SUGGESTED
CHANGES TO THE INDIAN ACT - ANSWERS
TO QUESTIONS " CHOOSING A PATH."

1. We recommend a Separate Indian Act for the Province of British Columbia called "A British Columbia Indian Act."

2. Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?

We suggest delegation of authority direct to the Band Councils and secondly to the Regional Office of the Province of B.C. but not to Indian superintendents.

3. At present, persons or Bands can be excluded from the provisions of the Act without their consent. Should their consent be required?

The band should have the right rather than the Governor in Council. A 2/3's band majority vote of the Band in question as to whether sections of the Indian Act apply, should be acquired as to Bands and persons.

4. Should the children of unmarried Indian mothers take their mother's status regardless of who the father might be?

Yes.

5. Should an Indian woman marrying a non-Indian take the status of the husband?

The Indian woman should take the husband's status, but if she is widowed or separated then she should be allowed to reside on the reserve, together with her children until they reach the age of 21.

Should each retain their own status as it was before they married?

No.

Should a non-Indian woman who marries an Indian, gain Indian status?

Yes.

6. Should non-Indian children adopted by Indian families have Indian status?

On this question it was decided that non-Indian children adopted by Indians should take the status of the Indian.

But there were two views of thought as to whether Indians adopted by

white people should take the status of the white adopting parents.

Some felt that Indian children adopted by whites should lose Indian status.

Others felt that the Indian child adopted by non-Indians should not lose its status until the child would become 21, and then the child could elect as to whether it wished to be Indian or non-Indian.

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?

In regard to the word enfranchisement, this should be dropped and a word such as "withdraw" used in its place. As to the second portion of the question, persons who wish to withdraw, it should be left up to the individual person, providing he or she has reached the age of 21, if they are single.

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?

If a married couple wish to withdraw under 21, then they should be able to do so, but only as a couple.

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?

The children should be allowed to make up their own minds at age 21 if the parents withdraw from band membership.

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?

The sections pertaining to this question should be completely withdrawn from a new Indian Act. If a 2/3's majority or any Indians wish to leave band status, then they should do so individually, but not allow the whole band to withdraw from the Indian Act, or have it not apply. There should be no way at all for Bands to withdraw from the Act as a whole as to coming under Provincial municipal Acts.

11. Page 14 gives a list of suggested changes in property ownership regulations for reserve property. Are they suitable suggestions for your Band?

The Minister's approval and consent should be taken out completely. In principle the list of suggested changes are agreed to, but because of the ambiguous wording, we reserve the right to object until we actually see the sections as redrafted for a new B.C. Indian Act.

12. Should the present rules about selling reserve land be kept, or changed?

No one wants to sell Reserve lands to non-Indians and the sections of the present Indian Act where individuals cannot sell Indian lands to non-Indians should be kept.

As to bands selling band lands, then bands and band councils should be made legal entities, but a 90% majority of Band members, whether residing on Reserve or not, should be required, before Band land is sold, and this should be decided at a general meeting of the band, where it is stated in the Act that all members must be notified personally in writing of such a meeting being held. Ratification by the Governor-in-Council should be dropped in a new B.C. Indian Act. Some stated the surrender sections should be kept for sale only, to non-Indians.

As to leasing a 51% majority of Band members, ordinarily resident or not, should be required.

13. Should Indians have the right and responsibility for dealing with their estates under provincial law?

If Indians are not ordinarily resident on Reserve, and this should be spelled out as to what ordinarily resident means, then they should have the right to have Provincial law apply to their estates if they so wish. But not Indians resident on Reserve as there are special factors involved. The rest is answered in our brief.

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?

Yes to this 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?

Yes. Indians should be able to both as to government and Band Councils.

16. Should Indians be able to borrow from any source using their income from leased out property as security for the loan?

Yes.

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?

Yes.

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?

As to section 119 of the present Indian Act this should be completely left out.

As to the balance of the questions as to education it is requested that an expert on education should explain what Provincial laws are all about.

It should be up to the individual parents to decide as to what school their children go to, provincial or separate or otherwise. But no Catholic child should be forced to go to a Protestant school or vice versa. There should be written consent by the parents before a Catholic child goes to a Protestant school and vice versa.

19. Should all adult members of a Band whether or not they live on a reserve be allowed to vote on surrender proposals?

Indian bands and councils should be made legal entities and the surrender clauses completely removed from the new B.C. Indian Act. All members of the Band that are of a voting age whether ordinarily resident or not, should be allowed to vote on sale, leasing or other alienation and the Governor in Councils approval left out. Some felt that the surrender procedure should be left in as to sale of Indian land to non-Indians, but definitely not left in as to leasing or other alienation.

20. Do you agree that the Band Council, rather than the Minister should have the authority to order surveys and subdivisions undertaken?

Yes.

21. Do you agree that the provisions giving the Minister authority to operate farms on reserve land should be repealed?

Yes.

22. Not applicable to us.

23. Do you agree that the section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed?

Yes.

24. Do you agree that the sections on liquor should be repealed?

Yes.

- 25-26. Band councils should be able to enter into short term or long term leases but there must be consent of a 51% majority of the members of the band at a general meeting held for such purpose, with proper written notification of the meeting sent to all Band members, ordinarily resident or not and all those Band members can vote.

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?

Band councils should be allowed to spend revenue funds up to 100% as they see fit. But capital funds to be spent should have the consent of 51% of the members of the band, excepting for certain instances that would be spelled out in a B.C. Indian Act, where band councils would have the right to spend capital funds without consultation with the band at a general meeting. Band members, ordinarily resident or not, should be allowed to vote where there are band votes on expenditure of capital funds. Where this is the case, a general meeting must be held with proper notification. Consent of the Minister left out in these sections.

As to Band capital funds and revenue funds used for making loans to individuals, this should be left up to the individual band in the Act, when a 51% majority Band membership vote is required where a general power to do this, not on each individual case, is asked for.

28. The present practice is to take a Band vote before changing the local government system from Band custom or before making any other changes do you agree that this should be required by law?

Yes.

29. Should the voting age be that for provincial elections?

Yes.

30. Should candidates for Band Council have to meet the age requirements of provincial laws for municipal office?

Yes.

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?

It should be optional for each band with a 51% majority of Band members voting to decide.

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?

It should be optional for each band, as some bands are larger than others, with a 51% majority of Band members voting.

33. Should individual Bands be able to select the kind of local government which suits it so that each community can manage its own affairs to the degree that each Band wishes?

Yes.

34. Should Bands who wish to do so be allowed to form Band business corporations to administer the business affairs of the reserve community?

Yes, but it should be specifically spelled out in a B.C. Indian Act that Indians forming corporations or co-ops or Credit Unions on Reserves should have these entities free from taxation, other than by the Indians themselves.

As To Trespass On Reserves the Band Councilors should have the right to state who is trespassing in a new Act.