

Section 12 of the Indian Act purports to exclude from membership in a band (and hence from the benefits accruing to such individual) "any illegitimate child . . . unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution of moneys of such band for a period exceeding two years . . .", and even in such cases, the Superintendent General has power to exclude such illegitimate child from a band. Upon broad social and humanitarian grounds, there can exist no basis whatever for a provision such as is contained in this section.

Section 13 of the Indian Act prohibits Indians from claiming the benefits of the band if they have been absent for a period of five years continuously in a foreign country and without the consent in writing of the Superintendent General. This constitutes an unwarranted interference with the general laws of domicile according to the English common law, and is an inordinately stringent regulation governing the right to claim the benefits of the band. It would appear more appropriate that the general laws of domicile be made to apply here, and that so long as an Indian possessed the *animus* or intention to return to his band, his rights therein ought to be preserved intact pending his return or an unequivocal decision to absent himself permanently.

51. *Expenditures of trust funds without consent.*

Section 93 of the Indian Act relates to the expenditure of moneys held in trust by the Crown for Indian bands, and subsection (1) thereof provides that the Government of Canada may, with the consent of the band, authorize or direct certain expenditures. Subsection (2) of this section provides, however, that expenditures of such moneys may be made by the Superintendent General even in cases in which a band refuses to consent to such expenditure, provided the Superintendent is of opinion that it is in the interest and welfare of the band so to do. The effect of these two sections is that, even in cases in which the band requests that an expenditure be made, the Superintendent is free to ignore the request, and refuse to make the expenditure in question. On the other hand, however, even if the band definitely refuses to consent to an expenditure, the Superintendent is free to ignore the band's desires, and may proceed to spend the money in question. A most unjust situation therefore results from the application of the terms of this section, and this Organization strongly recommends the repeal thereof, and the enactment of provisions to the effect that the desires of a band expressed upon a free vote in favour thereof by a majority of the members of the band, shall be carried out by the Superintendent. Without such provision, Indians must remain the servile instruments of a bureaucracy which is required to take no cognizance whatsoever of the wishes, the hopes, the desires or the demands of the group of persons whose funds and very lives it controls, with responsibility to no one.

52. *Band should be empowered to recommend expenditures out of Indian Trust Funds.*

The Association recommends that recognized bands be endowed with power to recommend expenditures out of Indian funds held by the Government of Canada in trust, and that all such recommendations be regarded as the unequivocal and conclusive wish of the Indians concerned, and be acted upon by the Department of Indian Affairs accordingly, in order that responsibility may be placed upon Chiefs and headsmen, and with responsibility may come greater stability and confidence in the relationship between Indians and the Government.

53. *Accounting of all returns on capital investment should be rendered to Band.*

Periodic statements of the condition of trust funds should be made to the chief of each recognized band, in order that the Indians thereof may become conversant with the state of their finances, and may take such action as may