

Indian Act

into another home or adopted but, as my friend pointed out, many have been taken into the United States and elsewhere.

We encourage the Minister to look very carefully at the wording of the amendment wherein it states:

"and who the council determined to be the parent or person to whom the payment is to be made"—

That refers directly in most situations to the superintendent of child welfare in most of the provinces or territories. The amendment goes on to state:

"—to be held in trust and paid for the maintenance, advancement or other benefit of the child to a parent or person who is responsible for the care and custody of the child and who the council determines to be the parent or person to whom the payment is to be made."

What that does is very clear, and I think the Minister should understand it. It is an attempt to provide back to the council some greater potential for protection and for the benefit and future of the child. I think the Government would be remiss in terms of the promise of the legislative committee to deal with this in report stage. We are doing now what the committee proposed could and should be done. I think it is very important that this proposal be in the legislation because just as Mr. Goodwin, who appeared before the committee pointed out, there is extensive study being done within the Department on how to provide for mechanisms to return a large amount of funds.

• (1240)

I remind the Minister that in terms of minors' trusts there is over \$135 million, and in terms of estates and minors' trusts combined there is over \$900 million presently under the control of the Minister of Indian Affairs and the Minister of Finance. Surely, if we are moving toward what I think Mr. Goodwin in good faith said the Government was doing, which is returning complete jurisdiction and control of those type of trust accounts to first nations, then it is extremely important.

Let us be frank with respect to how long it has taken this Bill to get here. It required investigations two years in a row by the Auditor General. It required all kinds of other investigation. In fact, we know from officials of the Department that there has been widespread lawbreaking going on in the Department in relation to minors' trusts and to estates for many years.

I think this small step at least in terms of children in relation to the bands and the parents having more direct guardianship control and trust control of those funds is what Mr. Mandamin is suggesting. He has canvassed the working group. I confirmed that with him again yesterday. This is a very important amendment for more than just the moment 20,000 children who are directly affected at the present moment.

I urge the Minister to be flexible and to agree, as I do for my Party and I know the Hon. Member for Cochrane—Superior does for his Party, to have this rather small but important protective amendment included in Bill C-123.

Hon. Bernard Valcourt (Minister of State (Small Businesses and Tourism) and Minister of State (Indian Affairs and Northern Development)): Mr. Speaker, I listened with attention to the comments made by the Hon. Member for Cochrane—Superior (Mr. Penner) and the Hon. Member for Skeena (Mr. Fulton). I want them to know that we have looked carefully at the proposed amendment.

As I was listening to the Hon. Member for Cochrane—Superior talk about child welfare and explain in a few words how difficult it was, how big an issue it was and how much more work was required to be done, he said, and I quote: "We can't buy that off in this Bill"; that is to say, resolving the whole question of aboriginal rights and constitutional protection of those rights and recognition as to what they are.

The Hon. Member for Skeena says that this amendment would be a gesture of good will, a first element of self-government. I have a great deal of sympathy for that argument because I believe that aboriginal Canadians should have the right of self-government. However, if we accept this amendment today, without these other issues being resolved, it will mean that we allow a band council at its discretion to refuse to make the payment of moneys belonging to a minor. That is what we would do. Until these other important questions are settled, I do not think it would be prudent to give that power to the band council to achieve this other objective with which I have sympathy. Then we would allow a band council the power to refuse the payment of money to a minor or to the person who is in fact responsible for that minor. That is what could happen.

For that reason and that reason alone—and it is a good enough reason because I believe that an independent child is entitled to expect that money to be paid to the person who is responsible for his care and custody—I do not think that this Indian child should be prevented from getting payment because the band council would prefer it or does not like the fact that the person actually having care and custody is not a person of their liking.

For that very good reason we cannot accept the amendment. We have given it serious consideration.

The Acting Speaker (Mr. Turner (Ottawa—Carleton)): Is the House ready for the question?

Some Hon. Members: Question.

The Acting Speaker (Mr. Turner (Ottawa—Carleton)): Is it the pleasure of the House to adopt the motion?

Some Hon. Members: No.

Mr. Fulton: On division.

Motion (Mr. Penner) negatived.

Mr. Valcourt (for the Minister of Indian Affairs and Northern Development and Minister of Western Economic Diversification) moved that Bill C-123, an Act to amend the