

Clause 24.

24. An Indian who is lawfully in possession of lands in a reserve may transfer to the band or to another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister.

Mr. APPLEWHAITE: Clause 24 is something of a re-write of clause 23 of the old Act in which there was a definite statement that these lands were not subject to legal seizure. Why the change?

Hon. Mr. HARRIS: We have it later on in another section. This is an assertion of the right in answer to Mr. Charlton's question, that an Indian, having been granted legal possession of land, may in fact dispose of it.

The CHAIRMAN: Section 24?

Hon. Mr. HARRIS: The reason for this provision is that the minister may restrict the right of sale. But once again since the minister is responsible for land registration he must see to it that the transfer is carried out in proper form.

The CHAIRMAN: Section 24?

Carried.

Section 25, Transfer where Indian ceases to reside on reserve.

25. (1) An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

(2) Where an Indian does not dispose of his right of possession in accordance with subsection one, the right to possession of the land reverts to the band, subject to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Subsection (1)?

Mr. WELBOURN: Can an Indian transfer to a white man or to a non-Indian the right to occupy his land?

Hon. Mr. HARRIS: He may lease it under certain conditions which are dealt with by a later section; but he cannot sell it.

We have a representation on section 25 from the Native Brotherhood of British Columbia. They suggest that this section be deleted and the following substituted in order that individual membership in a band may be protected:

(1) An Indian who ceases to reside on a reserve may at his option transfer to the band or to any member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

(2) Where an Indian during his lifetime does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land shall revert to his heirs, if they are members of the band, or if there are no such heirs, then the right of possession shall revert to the band, subject to the payment to the heirs of the deceased Indian from the funds of the band, of such compensation for permanent improvements as the minister may determine.

The CHAIRMAN: Subsection (1).

Mr. APPLEWHAITE: I wonder if the minister would express his opinion on that subsection, particularly on that provision which provides for payment to the heirs who presumably have been enfranchised, and so forth.