

● (1230)

That is the background for the amendment. The amendments I am proposing to the House will simply say that in transferring to bands the authority over minor trust funds, the band wants to be in the position of saying with authority who can have access to those funds. Of course, the statute with which we are dealing says that authority can be with the parent or with the guardian. The statute is of particular interest in the Province of Alberta where there are large amounts of money in the trust funds because of the oil and gas revenue. Mr. Mandamin, legal counsel for the Indian Association of Alberta, argues that where a child is taken into custody by provincial authorities, that custodian should not have the authority to cease the trust funds. The amendment I am proposing will simply make it clear in law that it cannot be done.

I want to repeat again that we have to understand in approving this amendment that the provincial authority, *vis-à-vis* Indian people, is at best ambiguous and uncertain. It is an area in which we still have a great deal of work to do. It is part of what those First Ministers' conferences were about, to try to define and clarify aboriginal rights, to describe with some degree of accuracy what is the status of Indian people within Canada. This still remains an uncertain area, an area in which academics and learned legal counsel become involved, but we cannot leave it to those people. It is in the political arena, the realm of politics, that we can solve this problem. We can solve it at the negotiating table.

We cannot bite off all that today when dealing with Bill C-123. I ask the forgiveness of the Minister in reaching rather far with a matter that will have to be faced some day. Meanwhile, here is a small gesture, a small movement in the right direction.

I understand the Government's opposition to the amendment because it has already looked at it. I have a memo from the special assistant to the Minister in charge of legislation. The argument is one that I simply cannot accept. The argument, very briefly stated, is that it is imperative that Indian children be treated in a manner consistent with the law affecting all other children in Canada. That is precisely the point. The Indian leaders are saying that their status is a special status, confirmed now in the Constitution. They have a relationship to Canada. Therefore, this equality of treatment which would involve a provincial jurisdiction on First Nations is not acceptable.

Therefore, I ask the Minister to take a look at the amendment. Unless he finds it exceedingly offensive in some other way I have failed to take due note of, I ask, speaking on behalf of the Indian Association of Alberta and its legal counsel, him to give serious consideration to incorporating this modest amendment into Bill C-123. It would still not make the Bill entirely and completely satisfactory to the Assembly of First Nations or to the Indian Association of Alberta because there are a few other flaws, that I will mention at third reading.

Indian Act

However, by and large we accept the Bill. It moves in the right direction. We are not in any way raising obstacles to the Bill. Here is one gesture, one movement, which will go a long way in recognizing what ought to be done in Canada; that is to say, First Nations have a particular kind of relationship with Canada and that has been gone into at great length in other forums. Certainly, it is demonstrated in no other way better than by the fact that these people have treaties with the Crown in the name of the Government of Canada. That is not a claim that can be made by any other group of Canadians of which I am aware.

Mr. Jim Fulton (Skeena): Mr. Speaker, I would like to speak briefly to the motion presently before the House. I think the Minister has to give it very serious consideration. Frankly, I can think of no reason why in good faith the Minister would not agree to have this amendment brought forward.

To give a bit of coverage as to what has happened to date, I think it is necessary to expand on the remarks of my friend, the Hon. Member for Cochrane—Superior (Mr. Penner). As the Minister will know, on July 28, the legislative committee hurried that morning to go through Bill C-123 while we were waiting for Mr. Mandamin's amendments to arrive. They were coming from Alberta to the AFN offices, and then they were going to be brought by some kind of messenger service to the committee. Through a series of unfortunate delays, they did not actually get to the committee. If the Minister or any member of this House would like to review the public record of the legislative committee, they will find that while we were examining Bill C-123, members who were there from all three Parties gave a commitment to look at Mr. Mandamin's amendments as soon as we could obtain them. We were going to get together and do that. I know the Hon. Member for Cochrane—Superior and I and our offices have attempted to get government Members who were on the legislative committee at that time together right up until today, and that has not been possible.

We promised on the record in the absence of Mr. Mandamin, who appeared as witness with the Vice-Chief of the Assembly of First Nations on this very important Bill, that we would look at those proposed amendments. The Speaker has already ruled out the first amendment since it touches on another piece of legislation, but I think there is a responsibility of the Minister to accept this proposed amendment. If he looks carefully at the words to be added, he will see that is a very small part of self-government. It is a very small part of determining the future of many children.

My friend touched upon the severe problem that has plagued aboriginal people in Canada for more than a century, and there have been the more recent developments of provincial apprehension laws. We know that not just hundreds and thousands but tens of thousands of the children of first citizen have been apprehended. I know from personal knowledge, having been a probation officer, that in many cases they have been apprehended on the flimsiest of grounds and not just put