Civilization and Assimilation: The First Indian Act

Overview of the first Indian Act, passed in 1876

The Government of Canada, now an independent nation, introduced the first Indian Act in 1876, with the purpose of putting all federal laws about Aboriginals into one single piece of legislation.

Philosophy of the Indian Act, 1876

The first Indian Act set out to assimilate Aboriginals. They were encouraged to leave behind their Indian status and traditional cultures and become full members of Canadian society. In the Indian Act Aboriginals were viewed as the children and the government were the parents who were suppose to protect and civilize them.

“Our Indian legislation generally rests on the principle, that the aborigines are to be kept in a condition of tutelage and treated as wards or children of the State. …the true interests of the aborigines and of the State alike require that every effort should be made to aid the Red man in lifting himself out of his condition of tutelage and dependence, and that is clearly our wisdom and our duty, through education and every other means, to prepare him for a higher civilization by encouraging him to assume the privileges and responsibilities of full citizenship.” (Report of the Royal Commission on Aboriginal Peoples, 1996).

The Act also continued the practice of imposing a definition of **Indian status** on Aboriginal groups. This ensured that it was the Canadian government, and not Aboriginal groups themselves, that had the power to decide who was, and who was not, Aboriginal. However, the Act did place a stronger emphasis on male lineage in its definition of Indian status. Under the Act, the term “Indian” now referred to 1) any male of Indian blood who belonged to a particular band; 2) any child of such person; and 3) any woman who is or who was married to

such a person. Moreover, the Act denied Indian status to the Métis of Manitoba, which were persons of mixed Aboriginal and European decent.

The Act also maintained and broadened the system of **enfranchisement**, by which Aboriginals could lose their Indian status and gain full citizenship. Aboriginals could voluntarily apply for enfranchisement if they met certain criteria. Aboriginal women were automatically enfranchised when they married non-Aboriginal men. The Act also that any Aboriginal who received a university degree or who became a doctor, lawyer or clergyman would loose their Indian status regardless of whether they desired to or not.

Regarding **self-government**, the Act continued the system of elected chiefs and band councils, who served for three years, and had limited bylaw powers. As before, the Act granted the Superintendent General the power to impose democratic systems on Aboriginal groups, regardless of whether they were desired.

The Act allowed the Superintendent General to order a reserve to be surveyed and divided into lots, and then require band members to obtain tickets for individual plots of land. This encouraged **individualism** amongst Aboriginals, by breaking up communal use of reserve lands, and encouraging practices of individual ownership of property.

Finally, the Act also included many protective features. No one other than an “Indian of the Band” could live on or use reserve lands without licence from the Superintendent General. No federal or provincial taxation on real estate or personal property was permitted on a reserve; no liens under provincial law could be placed on Aboriginal property; and no Aboriginal property could be seized for debt.

Assimilation Reinforced: The Indian Act from 1876 to 1951

Early amendments and revisions of the Indian Act

Since its introduction in 1876, the Indian Act has undergone several amendments and reforms. The following provides a summary of key changes to the Indian Act during the period 1876 to 1951.

Amendments to the Indian Act 1876–1950

Between 1876 and 1950, the purpose of the amendments to the Indian Act was to strengthen the philosophy of civilization and assimilation underlying the first Act. Many of the changes to the Act gave the government greater powers to move Aboriginals and expropriate their lands for the purpose of non-Aboriginal use.

Key amendments to the Indian Act during this period include:

- 1885: Prohibition of several traditional Aboriginal ceremonies, such as potlaches.
- 1894: Removal of band control over non-Aboriginals living on reserves. This power was transferred to the Superintendent General of Indian Affairs.
- 1905: Power to remove Aboriginal peoples from reserves near towns with more than 8,000 people.
- 1911: Power to expropriate portions of reserves for roads, railways and other public works, as well as to move an entire reserve away from a municipality if it was deemed expedient.
- 1914: Requirement that western Aboriginals seek official permission before appearing in Aboriginal “costume” in any public dance, show, exhibition, stampede or pageant.
- 1918: Power to lease out uncultivated reserve lands to non-Aboriginals if the new leaseholder would use it for farming or pasture.
- 1927: Prohibition of anyone (Aboriginal or otherwise) from soliciting funds for Aboriginal legal claims without special licence from the Superintendent General. This amendment granted the government control over the ability of Aboriginals to pursue land claims.

- 1930: Prohibition of pool hall owners from allowing entrance of an Aboriginal who “by inordinate frequenting of a pool room either on or off an Indian reserve misspends or wastes his time or means to the detriment of himself, his family or household.”

1951 Revision of the Indian Act

In the late 1940s, the federal government established a **Joint Committee of the Senate and House of Commons** to examine Aboriginal policy.

In response to the Joint Committee’s report, the federal government instituted some changes to the Indian Act in 1951 (although, overall, the new Act continued with many of the practices under the previous legislation).

The 1951 Act gave responsibility for Aboriginals to the minister of Indian Affairs, who now had broad powers over the implementation of the Act as well as the daily lives of Aboriginals on reserves. The Act also maintained the government’s power to take Aboriginal lands.

Concerning the definition of **Indian status**, the 1951 Act introduced some limited reforms. The Act maintained the federal government’s power to define Indian status and band membership, instead of transferring this power to Aboriginals themselves.

The 1951 Act continued with the **band council system**, with some small alterations. Band council authority was still limited (Basically it told them how they had to choose their band leaders and disallowed traditional practices. However, under the new Act, bands that reached “an advanced stage of development” could acquire additional powers, such as authority to tax local reserve property. The new Act also allowed the full participation of Aboriginal women in band democracy.

The practice of **enfranchisement** was kept in the 1951 Indian

Act. Voluntary enfranchisement was still permitted, as well as the compulsory enfranchisement of Aboriginal women who married non-Aboriginal men was continued and Aboriginals who received a university degree or who became a doctor, lawyer or clergyman. The1951 Act introduced the double-mother rule, which meant persons whose mother and grandmother had obtained Indian status only through marriage to a man with status lost their Indian status. However, under the new Act, the minister could only enfranchise an individual or band upon the advice of a special committee established for that purpose.

The new Act removed many of the prohibitions on tradition Aboriginal practices and ceremonies, such as potlaches and wearing traditional “costume” at public dances, exhibitions and stampedes. But it continued many of the paternalistic elements of earlier versions. For example, the Act made it an offence for Aboriginals to be in the possession of intoxicants or to be intoxicated.

One of the more important reforms concerned the application of **provincial law** to Aboriginals. Changes made in 1951, stated that whenever a provincial law dealt with a subject not covered under the Indian Act, such as child welfare matters, Parliament would allow that provincial law to apply to Aboriginals on reserves. This opened the door to provincial participation in Aboriginal law making.

Aboriginal Policy in Transition: The Indian Act from 1952 to 2002

Contemporary amendments and revisions of the Indian Act

Since the revisions of 1951, the Indian Act has continued to undergo changes, both in terms of its philosophy and its specific provisions. The following provides an overview of the Indian Act during the period 1952 to 2002.

Conflicting Views on Aboriginal Policy

From the 1950s onward, Aboriginal policy in Canada entered into a complex period. There was still the idea of assimilation, which encouraged Aboriginals to leave behind their Indian status and integrate into the broader Canadian society. But there were new approaches to Aboriginal policy, because Aboriginal groups wanted control over their own communities. There was a new view of Aboriginal groups as distinct nations, which were entitled to political, social and economic self-determination.

In 1960, Aboriginals received the right to vote federally without having to give up their Indian status. In 1961, the compulsory enfranchisement provisions were removed from the Indian Act, meaning that Aboriginals could no longer be forced to give up their Indian status.

In 1969, however, the federal government introduced the **1969 White Paper** on Aboriginal affairs. This strategy paper proposed the abolition of the Indian Act altogether, the rejection of land claims, and the assimilation of Aboriginals into Canadian society (with the status of an ethnic minority, as opposed to being a distinct national-cultural group). Strong Aboriginal and non-Aboriginal criticism of the 1969 White Paper eventually led the federal government to back away from this position.

The 1985 Revision of the Indian Act

One of the more significant changes to the Indian Act came in 1985, when the federal government introduced **Bill C-31** in response to the introduction of the **Canadian Charter of Rights and Freedoms** in 1982. Section 15 of the Charter prohibited discrimination based on certain characteristics, such as race, ethnicity, religion, sex, age, or mental or physical disability. This right to equality had important implications for the Indian Act, in regard to the practice of compulsory enfranchisement for Aboriginal women who married non-Aboriginal men (while Aboriginal men marrying non-Aboriginal

women could retain their Indian status).

The Indian Act, 1985 removed this discrimination by stating that women could no longer gain or lose Indian status as a result of marriage. The new Act permitted the restoration of Indian status to several groups that had been forcefully enfranchised in the past.

In addition to removing elements of discrimination from the Act, Aboriginal bands were also granted the right to determine their own membership. Under the Act, bands were allowed to administer and update their band lists, which was a record of all persons who were recognized as formally belonging to the band. Moreover, bands were allowed to establish their own rules of membership in administering their band lists.

Recent Amendments to the Indian Act

The 1990s and early 2000s saw renewed efforts on the part of the federal government to significantly revise the Indian Act. In the early 1990s, the federal government tried to get rid of the Indian Act and replace it with something new. This Act faced strong opposition from Aboriginal groups, and was never passed by Parliament.

In 2002, the federal government again tried to rewrite the Indian Act with the introduction of **The First Nations Governance Act**. Again, the new Act faced opposition from Aboriginal groups and was never passed by Parliament.

While these ideas were never passed, the federal government did make smaller changes to the Indian Act during this period. In 1999, it enacted **The First Nations Land Management Act** (FNLMA). Now bands can apply to the federal government to assume control over land management on their reserves. The purpose of the legislation is to improve band capacities and opportunities for economic development.

In 2000, the Indian Act changed to allow band members living off-reserve to vote in band elections and referenda.