

**ASSIMILATION, INTEGRATION OR TERMINATION?  
THE DEVELOPMENT OF CANADIAN INDIAN POLICY, 1943-1963**

by

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## **DEDICATION**

**To the memory of  
Dr. Sally M. Weaver  
Professor of Sociology and Anthropology  
University of Waterloo**

## **ABSTRACT**

**This thesis analyses the evolution and development of Canadian Indian policy at the national level during the years 1943 to 1963. Métis policy, as well as Inuit policy, are not included in this study as these are separate policy fields, involving a different assemblage of policy actors.**

**In terms of methodology, the thesis is organized around a heuristic device borrowed from political science - the "policy community" concept. It is argued that politicians, bureaucrats, church authorities, Native leaders, and interest group representatives formed an expanded Indian policy community after the Second World War. The composition, structure, and internal dynamics of this post-war Indian policy community were critical in determining the tone and content of government policy initiatives during the 1950s and into the early 1960s.**

**The twenty years from 1943 to 1963 were a significant formative period for modern Indian policy. During these years Indian people and non-Indians went through a mutual "learning experience" that significantly altered the course of Indian-government relations. The period began with Indian administration in crisis: Indian socio-economic conditions were abysmal; government policy-makers were bankrupt of ideas and bereft of inspiration. Paternalism dominated government thinking and practices and the official policy of Indian assimilation aimed at destroying all vestiges of "Indianness". The special joint committee of Parliament of 1946-48 recruited new policy actors to the post-war Indian policy community, breathed new life into Indian administration, and helped to recast Indian assimilation in more enlightened terms of Indian "integration" into Canadian society.**

**While government officials consulted with Native leaders on aspects of the integration agenda, the peculiar structure of the post-war Indian policy community - its systemic stasis - maintained Indian people, their supporters, and interest groups on the periphery of political power and policy-making as "policy takers". This study concludes that, while an expanded Indian policy community altered the context of post-war Indian policy deliberations, Indian Affairs officials controlled the policy process and brokered significant reforms acceptable to government's agenda: Indian assimilation was recast in terms of Indian integration, paternalistic practices were gradually abandoned, an Indian political agenda was grudgingly acknowledged, and the notion of Indians as "citizens plus" was broached.**



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My interest in Canadian Indian policy was stimulated by discussions and encounters

I had over the years with Dr. Sally Weaver, professor of anthropology and sociology at the University of Waterloo. Dr. Weaver drew my attention to the fact that there was a 'black hole' in our historical knowledge of Indian policy development in the early post-war decades. She suggested that I try and fill it. When Dr. Weaver passed away in May 1993 Canada lost one of its foremost scholars. Before her passing Sally provided comments on the early chapters, corrected errors of fact, and pointed me in new methodological directions. This thesis is dedicated to her memory.

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## **ABBREVIATIONS**

<b>AD</b>	<b>Archives Deschâtelets</b>
<b>AO</b>	<b>Archives of Ontario</b>
<b>BCIAWS</b>	<b>British Columbia Indian Arts and Welfare Society</b>
<b>CBA</b>	<b>Canadian Bar Association</b>
<b>CBC</b>	<b>Canadian Broadcasting Corporation</b>
<b>CUC</b>	<b>Co-operative Union of Canada</b>
<b>DIAND</b>	<b>Department of Indian Affairs and Northern Development</b>
<b>DOJ</b>	<b>Department of Justice</b>
<b>DSGLA</b>	<b>Deputy Superintendent General of Indian Affairs</b>
<b>FSI</b>	<b>Federation of Saskatchewan Indians</b>
<b>IAB</b>	<b>Indian Affairs Branch</b>
<b>IAA</b>	<b>Indian Association of Alberta</b>
<b>IEA</b>	<b>Indian-Eskimo Association</b>
<b>IODE</b>	<b>Imperial Order Daughters of the Empire</b>
<b>JC</b>	<b>Joint Committee</b>
<b>MIB</b>	<b>Manitoba Indian Brotherhood</b>
<b>NAC</b>	<b>National Archives of Canada</b>
<b>NCIC</b>	<b>National Commission on the Indian Canadian</b>
<b>NHW</b>	<b>National Health and Welfare (Department)</b>
<b>NIC</b>	<b>National Indian Council</b>

<b>NBBC</b>	<b>Native Brotherhood of British Columbia</b>
<b>NAIB</b>	<b>North American Indian Brotherhood</b>
<b>QVTPA</b>	<b>Queen Victoria Treaty Protective Association</b>
<b>RCMP</b>	<b>Royal Canadian Mounted Police</b>
<b>SGIA</b>	<b>Superintendent General of Indian Affairs</b>
<b>SJC</b>	<b>Special Joint Committee</b>
<b>UBC</b>	<b>University of British Columbia</b>
<b>USI</b>	<b>Union of Saskatchewan Indians</b>

## INTRODUCTION

Canadian Indian policy has evolved over four centuries and has involved the machinations of three distinct regimes - French, British, and Canadian. Concerns that contributed to shaping policy<sup>1</sup> included: providing for the needs of the fur trade; maintaining the European balance of power in colonial North America; and finally, transforming Indian hunters and warriors into self-reliant agriculturalists. While historians have acknowledged the contribution of Native people to Canadian national development,<sup>2</sup> the course and conduct of government Indian policy has remained a neglected field of study.<sup>3</sup>

In the last three decades, the interest of historians in matters concerning Canadian Indian policy has awakened. This can be attributed to a number of factors. Since the 1960s professional historians have broadened the horizons of historical inquiry from traditional political and constitutional inquiries to include new topics: women's studies, the experience

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1. A working definition of "policy" is a course or principle of action adopted or proposed by a government, party, or business. A particular policy can arise out of daily practice and, in time, become a convention; for example, the giving of annual presents to Indians. Policy can also be strategic, framed by formal edicts. For example, the Royal Proclamation of 1763 prohibited the purchase of Indian hunting grounds by private individuals, and the Indian civilization program was officially launched in 1830 via an official dispatch from the British colonial secretary.
  2. H.A. Innis, The Fur Trade in Canada (Toronto: University of Toronto Press, 1956); and O.P. Dickason (ed.), The Native Imprint. The Contribution of First Peoples to Canada's Character (Athabasca University, 1995).
  3. Robert J. Surtees, Canadian Indian Policy. A Critical Bibliography. Newberry Library Bibliographical Series (Bloomington: Indiana University Press, 1982). For many years Duncan Campbell Scott's three articles on "Indian Affairs, 1763-1912", in Canada and Its Provinces (Toronto: Edinburgh University Press) remained the standard reference.

of immigrants and sojourners, regional protest, town and urban history issues, business histories and fluctuations in the business cycle. This broadening of historical inquiry, with its emphasis on not just the exercise of "top-down" authority, has been reflected in the way Canadians have in recent decades reconsidered their policy and attitudes towards Canada's Native peoples.

Government actions have also unintentionally heightened public interest in Native history and policy-related issues. The issuance in June 1969 of the Statement of the Government of Canada on Indian Policy (the White Paper on Indian policy) that proposed abolition of the Indian Act, termination of the Indian Affairs Department, and elimination of Indian status, created an uproar among Native people and their supporters and sent researchers scurrying to archives to document earlier policies and administrative practices.<sup>4</sup> In July 1970 the White Paper proposals were withdrawn. Soon afterward, the federal government embarked on a new policy course that involved, in part, the investigation of Indian treaty rights and historical research into comprehensive and specific land claims.<sup>5</sup> The revised government agenda provided fertile ground in the 1970s and 1980s for general histories, monographs, biographies and graduate theses delving into specific periods and

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4. S.M. Weaver, Making Canadian Indian Policy. The Hidden Agenda, 1968-1970 (Toronto: University of Toronto Press, 1981).

5. In 1970 the Privy Council Office began funding a national treaty rights research program. Following the Calder decision (1973), Indian Affairs announced its Specific and Comprehensive land claims policies. In 1974 the Office of Native Claims was created within DIAND and claims research funding was transferred to the department from the Privy Council Office. From 1976 to 1997, approximately \$100,000,000 has been contributed to comprehensive and specific land claims research.



aspects of Indian administration in new and hitherto unexplored ways.<sup>6</sup>

In the 1990s, Canadian aboriginal policy became a feeding ground for consultants, academics, and lawyers engaged in research projects on behalf of the Royal Commission on Aboriginal Peoples. The release of the royal commission's five volume study in 1996, a series of six landmark Supreme Court decisions,<sup>7</sup> and the issuance in 1998 of yet another official federal government pronouncement on Indian policy - "Gathering Strength. Canada's Aboriginal Action Plan" - ensure continued public and scholarly interest in Native policy issues for years to come.

Despite the historical research activity of recent years, historians have neglected to investigate a significant formative period in Indian policy development - roughly the two decades following the end of the Second World War.<sup>8</sup> Most historians of twentieth century Indian administration terminate their investigations with the retirement of the redoubtable Deputy Superintendent General Duncan Campbell Scott (1932) and the coming of the Great Depression, and then re-enter the field to study the importance and impact of the 1966-67 Hawthorn-Tremblay report (A Survey of the Contemporary Indians of Canada. Economic,

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6. See comprehensive bibliographies in J.R. Miller, Skyscrapers hide the heavens: a history of Indian-White relations in Canada (Toronto: University of Toronto Press, 1991) and in Olive P. Dickason, Canada's First Nations: a History of Founding Peoples from Earliest Times (Toronto: McClelland and Stewart, 1992).
  7. For example see the following decisions: Côté (1996), Adams (1996), Van Der Peet (1996), N.T.C. Smokehouse (1996), Gladstone (1996), and Delgamuukw (1997).
  8. The absence of historical data is noticeable in J.R. Miller's, Skyscrapers hide the heavens: a history of Indian-White relations in Canada, and in volume one, "Looking Forward, Looking Back" of the Report of the Royal Commission on Aboriginal Peoples (1996).

Political, Educational Needs and Policies), the evolution of the 1969 White Paper on Indian policy and its aftermath. Historians have mistakenly assumed that nothing of importance transpired in the immediate post-war decades. Why? Perhaps historians have considered the period to be too recent for legitimate historical inquiry. A more practical explanation is that, until passage of the Access to Information Act and a revised 20-year access rule, ministerial and departmental records were simply not accessible to historical researchers.

The immediate post-war period is of immense historical importance for a number of reasons, as this thesis will demonstrate. These two decades constitute a historical bridge when an entrenched philosophy and government program directed at Indian assimilation was questioned. Indian leaders had their first post-war encounters with non-Native policy actors and while Indian efforts to effect fundamental change met with mixed results, the trends and portents of what are now dominant Indian policy issues - clarification of treaty rights, settlement of land claims, issues of self-determination - became discernible as components of a historically persistent Native political agenda. The key to understanding the policy dynamics of these crucial years lies in identifying who were the major policy actors, and what were the ideas, structures, and processes that promoted either continuity or change in the Indian policy model.

At this juncture the analytical framework for this thesis should be explained. From the founding of the British Indian Department in 1755, Indian policy was framed by a small group of policy-makers. In the fur trade and military phases, Indian leaders and colonial officials often worked together to devise incentives that would enhance fur trade productivity as well as military strategies to ensure colonial defence. The decline in importance of Indians

as middlemen in the fur trade and as military auxiliaries in eastern British North America in the early nineteenth century relegated Indian people to the fringe of political and economic power and thus decision-making. Transforming Indian hunters and warriors into self-reliant agriculturalists became the project of an enthusiastic cadre of imperial and colonial government officials, missionaries, and educators who formulated and managed the British Indian civilization program.<sup>9</sup> These Indian policy actors formed an identifiable “policy community” whose structure, membership, and program remained remarkably cohesive from the 1830s to the late 1960s.

What is meant by the term policy community and how is the policy community structured? A “policy community” includes:

all actors or potential actors with a direct or indirect interest in a policy area or function who share a common ‘policy focus’ and who with varying degrees of influence shape policy outcomes over the long run.<sup>10</sup>

A policy community has, as two political scientists have recently suggested, two distinct sectors: the “sub-government” and “attentive publics” sectors (see following Figure One). The sub-government sector, normally composed of government officials, agencies and interest associations, makes and implements policy in a given field. The attentive publics sector,

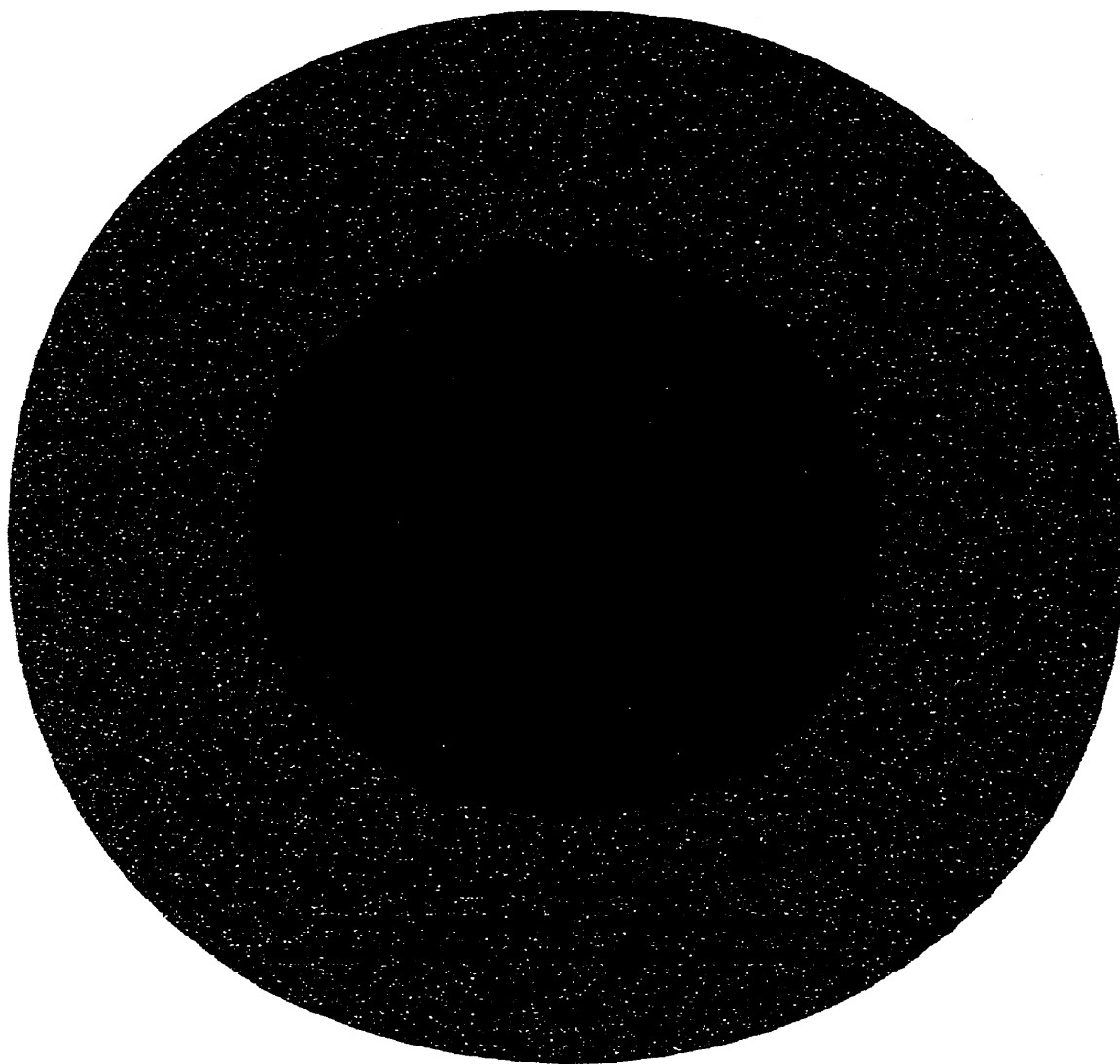
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9. See J.S. Milloy “The Era of Civilization. British Policy for the Indians of Canada, 1830-1860”, D. Phil. thesis, (Oxford University, 1978); and R.J. Surtees, “Indian reserve policy in Upper Canada, 1830-1845”, M.A. thesis, (Carleton University, 1966).

10. W.D. Coleman and G. Skogstad, Policy Communities and Public Policy in Canada. A Structural Approach (Toronto: Copp Clark, Pitman, 1990), 14-31. See also E.A. Lindquist, “Public managers and policy communities: learning to meet new challenges,” Canadian Public Administration, 35(2), Summer 1992: 127-159.

## *The Policy Community Concept*

THE POLICY COMMUNITY INCLUDES ALL ACTORS OR POTENTIAL ACTORS WITH A DIRECT OR INDIRECT INTEREST IN A POLICY AREA WHO, WITH VARYING DEGREES OF INFLUENCE, SHAPE POLICY OUTCOMES



POLICY TAKERS

whose composition varies depending on the policy field, contains relevant media, and interested and expert individuals; it is less tightly knit and more loosely defined. This sector follows and from time-to-time attempts to influence policy, but does not participate in policy-making on a regular basis. Figures One to Seven in subsequent chapters provide a schematic overview of the Indian policy community concept, as well as snapshots of policy community membership and sectoral dynamics at intervals from 1755 to 1963.

Canadian Indian policy formulation has been the preserve of select actors. Equally important, for most of the period from 1830 to 1969, their formulation of Indian policy has been predicated on three, often contradictory, principles: protection, amelioration, and civilization - the last term often interchangeable with "advancement", "assimilation", or "integration".<sup>11</sup> The goal of Indian policy in the Victorian era of Indian civilization - and arguably until the late 1940s - was to compel Indian people to abandon their traditional activities, communal values, and ancient rights - the very essence of their "Indianness" - in exchange for the rights and responsibilities of British, later Canadian, citizenship. Early proponents of Indian assimilation and their supporters were confident that the acculturation process would proceed quickly and render Indian people indistinguishable - in cultural and

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11. John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," Western Canadian Journal of Anthropology. 6(2), 1976: 13-30.

material terms, and legal status - from members of the dominant society.<sup>12</sup>

There is no doubt that, in the 1830s, government officials, missionaries, and educators had what they conceived to be the best interests of Indian people at heart (and that of the British treasury!) when they embarked on their civilization program. However, the civilization scheme - based on land cession treaties, creation of reserves, religious conversion, and agricultural instruction - was judged by critics, even in the 1840s, to be paternalistic because it maintained Indian people in a state of dependency. However, bureaucratic inertia, political disinterest, and the perceived lack of a viable alternative policy prohibited fundamental reform.

Prior to Confederation, the Indian civilization program was reviewed, evaluated, and reaffirmed by six government commissions of inquiry. Indeed the commissioners' reports served to confirm the validity of existing administrative arrangements and the six studies became the foundation for the development of the Indian Department's corporate memory that informed and guided policy deliberations in future decades.<sup>13</sup> After Confederation, successive Canadian administrations constructed a complex superstructure of legislation and administrative practices based on the philosophy and program of the early Indian civilization initiatives. It was not until the early 1940s - when the Indian population was notably on the rise and reserve conditions rapidly declining - that doubts began to be expressed concerning

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12. See also, J.D. Leighton, "The Development of Federal Indian Policy in Canada, 1840-1890", Ph.D. thesis, (University of Western Ontario, 1975); and E.B. Titley, A Narrow Vision. Duncan Campbell Scott and the Administration of Indian Affairs in Canada (Vancouver: University of British Columbia Press, 1986).

13. John F. Leslie, "Commissions of Inquiry into Indian affairs in the Canadas, 1828-1858," M.A. research essay, (Carleton University, 1984).

the viability of the government's Indian policy agenda.

With the advent of the Second World War, military and war-time production issues pre-occupied Canada's leaders, but as the war years drew to a close, federal officials became concerned with demobilization and the shift from a war to peace economy. Reconstruction and re-establishment became dominant social themes and a series of parliamentary committees and government studies suggested new policy directions. The welfare state was born. In those heady days, there was public confidence that government policies and new social programs could reshape society and solve the problems of the disadvantaged and dispossessed. It was within this political and social context of Canadian post-war planning that the egregious living conditions of Native peoples attracted government attention and scrutiny.

This awakened public interest in alleviating Native conditions was advanced by the remarkable Indian contribution to military efforts during the war and by pressure from politicians, Indian Branch officials, veterans groups, church representatives, and Native rights associations - specifically the Indian Association of Alberta and the B.C.-based North American Indian Brotherhood. In 1946, a special joint committee of the Senate and House of Commons was struck to renovate the Indian Act and rejuvenate an atrophied Indian administration. The hearings of the special joint committee lasted until 1948 and became the focal point for the activities and discussions of a significantly altered Indian policy community that included new policy actors including Native leaders.

The creation of a wider Indian policy community yielded unexpected consequences. For the first time since the formal inception of the Indian civilization program in 1830, the

leaders of Indian bands and Native rights associations were invited to present their views to government. A long-neglected Indian political agenda surfaced: one espousing self-determination, the clarification and protection of Aboriginal and treaty rights, and the settlement of land claims. These Indian demands were, in many instances, at variance with the views of government officials who seemed more concerned with controlling events and ensuring personal survival. Nevertheless, the Indian agenda was recorded in the committee's minutes of proceedings and distributed to a national audience. In no small way this recording of Native views contributed in subsequent years to the growth of pan-Indian national sentiment.

Academics, social welfare experts, and other interested parties participated in the committee's deliberations previously confined to government personnel. The activation of these new policy actors was crucial for it opened the policy-making process to the public, making it more horizontal than vertical in structure. The change encouraged exchanges in philosophy and discussion of practical measures for renovating the Indian Act and to improve Indian conditions.

From the perspective of Euro-Canadians, the final report of the special joint committee in 1948 seemed to breath new life into Indian administration and heightened expectations that a solution to the historic "Indian question" had been found.<sup>14</sup> A revised Indian Act was approved by Parliament and became law in the fall of 1951. Significantly, a new concept, that of Indian "integration", replaced the discredited term "assimilation" in the

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14. Special Joint Committee of the Senate and the House of Commons on the Indian Act, Minutes of Proceedings and Evidence, No. 5, Fourth Report, 22 June 1948, 186-190.



discourse of non-Native policy-makers.

The introduction of the term "integration" to describe the goal of post-war Indian policy raises a number of interpretive issues and related questions. What did Indian integration mean to non-Indians and Indians? Was Indian integration different than the goal of Indian assimilation that had dominated official thinking for decades? If Indian integration marked a significant shift in official policy, what implications would this change have on the structure and membership of the post-war Indian policy community? And why did the idea of integration emerge at this particular juncture?

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There are a number of issues concerning the scope and structure of this thesis that require explanation: the selection of the time frame, the specific focus on Indian policy, the organization of the chapters, nomenclature, and the choice of sources. There is little extant historical information concerning Indian policy development in the twenty years after World War II; to be more precise the years 1943 and 1963 have been selected as starting and end points for historical research.<sup>15</sup> Why? In 1943, fifty-five Indian delegates representing fourteen Indian bands organized a conference at Ottawa to discuss issues concerning compulsory military service and taxation.<sup>16</sup> A year later in the same city two hundred representatives from fifty bands formed the North American Indian Brotherhood. Thus the

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15. Professor E.A. Lindquist of the University of Toronto suggests that a span of twenty years is the minimal time to trace changes in the policy community membership and assess dynamic movement between the sub-government and attentive publics sectors.

16. See R.R.H. Lueger, "A History of Indian Associations in Canada, 1870-1970," M.A. thesis, (Carleton University), 1977, 195-196.

year 1943 marks the emergence of modern Canadian Native nationalism and post-war Native political activity.

For a variety of reasons 1963 is an appropriate date on which to conclude this study. Up until 1963 federal departments controlled and set their own policy and legislative agendas with minimal direction from central agencies or consultation with other departments. Indian policy development thus remained the domain of the Indian Affairs Branch and the Department of Justice with occasional intrusions by parliamentary committees and outside interests. After 1963, these policy-making arrangements changed. In 1964, Prime Minister Pearson restructured the cabinet committee system and established a Social Policy Secretariat that coordinated the government's war on poverty, incorporating important aspects of Indian policy.<sup>17</sup> In 1964 a federal-provincial conference was held to discuss Indian administration and determine how federal programs could be transferred to the provinces. In 1965 National and Regional Indian Advisory Boards were created to advise government on program development. In terms of personalities, by 1963 four major policy actors of the previous decades had departed: John Diefenbaker and Ellen Fairclough were relegated to the Opposition benches; Col. H.M. Jones, branch director since 1953, retired; and Deputy Minister George Davidson assumed new government duties. An era of post-war activism in Indian policy-making came to an end.

This thesis focuses on Indian policy development on a national or macro scale; it will not deal with regional variations nor field administration. These are separate topics that merit

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17. G. Robertson, "The changing role of the Privy Council Office," Canadian Public Administration 14(4), Winter 1971: 487-508.

their own historical research and analyses. This focus also excludes more than ancillary attention to related topics: the formulation of Métis and Inuit policies which are separate policy fields, and the Indian policies pursued by provincial governments.

Historically, the Métis were considered a legislative responsibility of the provinces not the federal government.<sup>18</sup> Given this stance, Indian Affairs administration did not maintain policy files on Métis matters. In 1982, the Métis were designated constitutionally as one of Canada's Aboriginal peoples. Since that date, through the Office of Aboriginal Constitutional Affairs, the Department of Regional Economic Expansion and now the Federal Interlocutor for Métis, the federal government has sought to address Métis self-government and land base issues.

This thesis will not explore Inuit policy development for other reasons. For the most part Inuit policy was developed by departmental committees such as the Eskimo Affairs Committee and the Advisory Committee on Northern Development.<sup>19</sup> Both committees were determined to avoid what they perceived to be the mistakes of Indian administration. It was not until 1971 that the Inuit Tapirisat of Canada was formed to give political expression to the views of Canada's northern peoples. Their subsequent involvement in the political process did not occur until the 1970s when they became engaged in land claim negotiations and discussions concerning northern political development and territorial division. The study of Inuit policy has also been examined previously by Diamond Jenness, Eskimo

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18. S.M. Weaver, "Federal Policy-Making for Métis and Non-status Indians in the Context of Native Policy," Canadian Ethnic Studies, 17(2), 1985: 80-102.

19. P. Clancy, "The Making of Eskimo Policy in Canada, 1952-62: The Life and Times of the Eskimo Affairs Committee," Arctic 40(3), September 1987: 191-197.

Administration (1962) and by Richard Diubaldo, The Government of Canada and the Inuit, 1900-1967 (Research Branch, DIAND, 1985).

Finally, the thesis will deal only incidentally with the Indian initiatives of provincial governments since a provincial commitment (often half-hearted) to participate in shared-cost Indian programs with the federal government was not realized until after the 1964 Federal-Provincial Conference. Early provincial attitudes and activities are outlined in this study only to the extent needed to set the context for Indian policy development. No attempt has been made to analyse or evaluate provincial Indian policies.

This thesis is organized as follows. Chapter One sketches the evolution, development, and basic features of Canadian Indian policy from the mid-eighteenth century to World War II. The goal of Indian policy was to assimilate Indian people into Canadian society. By the early 1940s, Indian demographics and atrocious reserve conditions convinced federal policy-makers that their efforts had failed and they were facing a national social crisis.

Chapter Two describes the political events of 1943-45 when longstanding Indian policy and administrative practices were brought into question by government officials, the leaders of Native rights associations, veterans' organizations, and concerned citizen's groups. Native issues became a subject for formal investigation when they were included in the government's agenda for reconstructing post-war Canadian society.

Chapter Three examines the establishment and follows the hearings of the special joint committee on the Indian act from 1946 to 1948. In this parliamentary forum, members of a newly activated post-war Indian policy community proffered ideas for Indian policy renewal and administrative renovation. The special joint committee made numerous

recommendations to enlighten Indian administration, and a special sub-committee drafted a new Indian Act. In the review process, the historic policy objective of Indian assimilation was recast in terms of Indian integration.

Chapter Four explores the evolution and development of Indian Act legislation from 1948 to 1951. The special joint committee's draft legislation, particularly sections on Indian education, encountered stiff opposition from the Roman Catholic Church. Government deferred legislative action until 1950 when Bill 267, a revised version of the special joint committee's draft, was introduced in Parliament. Indian leaders and their supporters forced withdrawal of the Bill. In early 1951, Bill 79, a revamped version of Bill 267, was reintroduced. Indian leaders were summoned to Ottawa to provide their stamp of approval. After further parliamentary hearings Bill 79 was passed and in September 1951 a new Indian Act was proclaimed.

Chapter Five surveys the various efforts between 1951 and 1957 to advance Indian integration and to develop a more harmonious government relationship with Indian people. There was initial optimism. Consultations were held with Indian leaders in Ottawa and in the regions to explain the new Indian Act and fine-tune aspects of legislation and administration. The process resulted in amendments to the Indian Act. Outside experts, specialists from voluntary and professional organizations, and academics were also contacted to provide advice on how the government's Indian integration program could be improved. Storm clouds soon appeared: band membership disputes and expropriation of Mohawk reserve lands for construction of the St. Lawrence Seaway attracted political and public criticism of Indian administration. The seven-year period ended with demands from the Indian policy community

for a public investigation of Indian administration.

Chapter Six examines the formation and follows the hearings of the joint committee on Indian administration from 1959 to 1961. Like the first inquiry in the 1940s, the joint committee became a forum for Indian and non-Indian members of the post-war Indian policy community to debate policy matters and present briefs outlining their respective agendas for Indian integration and policy innovation. The hearings revealed a declining policy role for the churches, the growing influence of voluntary and professional groups, and the emergence of the provinces as prospective policy actors. Indian leaders and Native rights associations remained, as before, on the periphery of power assuming a limited role in policy discussions.

The joint committee submitted a final report to Parliament in July 1961. The committee's recommendations included: establishment of an Indian claims commission, devolution of ministerial powers to band councils, restructuring band council administrations as municipal governments, overhaul of the reserve land tenure system, and removal of all compulsory enfranchisement provisions from the Indian Act. The joint committee gave credence to the notion that Indian people should be viewed as "citizens plus" - a term coined in 1966 by the Hawthorn-Tremblay Commission and adopted by the Indian Association of Alberta in 1970 in response to the 1969 White Paper.

Chapter Seven has two parts: an epilogue, and thesis conclusions. The epilogue analyses the Diefenbaker government's response to the recommendations of the joint committee. Bill C-130 was drafted and introduced into Parliament to establish an Indian claims commission. Cabinet approved the outline of revised Indian Act legislation that incorporated most of the joint committee's policy recommendations. The process of Indian

integration was set on a more focused and aggressive course. The Diefenbaker government fell in 1963, and the only policy initiative that survived was the proposal to establish an Indian claims commission. Under the new Liberal administration of Lester B. Pearson, Indian policy was placed on the political back-burner. Procrastination on Native issues re-emerged as Indian affairs became the object of yet another government study beginning in 1964 by the Hawthorn-Tremblay commission. The second half of Chapter Seven provides conclusions to the thesis and assesses the role and impact of the post-war Indian policy community in recasting Canadian Indian policy.

A word about nomenclature. I have used the term Indian band, not First Nation, because it was current in the period under study. Following the practice of the Dictionary of Canadian Biography, I have cited the contemporary name of a particular Indian band or Indian reserve, placing in brackets the modern designation: viz. Caughnawaga (Kahnawake). In an effort to avoid repetition, I have used a number of terms - Indians, Natives, Aboriginal peoples, indigenous peoples - interchangeably. If Métis or Inuit peoples appear in the text they are specifically referred as such.

Finally, a note on sources, both written and oral, that were used in preparation of this thesis. In the period under study, the records created by politicians, government departments, private institutions, and prominent individuals, constitute a rich source of historical data. These records, of course, contain a bias towards the non-Native viewpoint, although through letters, petitions, and official minutes of Parliamentary committee hearings, Indian views are readily discerned. In some instances Native leaders left personal accounts of events and these have been consulted whenever it was feasible. In subsequent decades, particularly after the

White Paper debacle of 1969/70, government-funded Native political associations flourished and a new generation of Indian politicians have left substantial archives. These sources will have to be canvassed by historians interested in researching policy issues that arose in the 1970s, 1980s, and 1990s.

The choice of people to interview was a relatively simple matter. Most of the Indian leaders who emerged in the immediate post-war period have passed away. This is not true for Indian Affairs politicians and bureaucrats. There must have been something in the water they drank for most are now in their eighties and nineties, for example: Walter Harris (the Hon. Walter Harris passed away in January 1999 at the age of 94), Ellen Fairclough, and Dr. George Davidson. Interviewing politicians and officials helped to shed light on some unanswered questions concerning policy development and interpersonal relations. Indeed, the interview with Ellen Fairclough provided more information concerning her views of Indian policy and Indian personalities than is contained in her memoir, Saturday's Child (1995). Dr. Morris Shumiatcher of Regina provided useful insights into the preparation in 1947 of the Alberta and Saskatchewan Indian associations' position papers, as well as the political importance of the John Laurie - Ruth Gorman - Douglas Harkness policy network. Before her untimely death in 1993, Dr. Sally Weaver provided insights, advice and comfort, as I began to work my way through the murky business of post-war Canadian Indian policy development.



## **CHAPTER ONE**

### **Canadian Indian Policy to World War Two: Ideas, Structures and Process**

In the fur trade and military periods, from roughly the mid-seventeenth century to the 1820s, Indian policy was crafted by imperial and colonial officials who often incorporated Indian views into their decisions. When Indian people lost their economic and strategic value as traders and warriors they became, in the eyes of non-Natives, an expensive social nuisance.<sup>1</sup> After establishing experimental Indian settlements in the 1820s, government officials and religious bodies embarked formally in 1830 on a program to civilize Indians. The program of Indian civilization that was developed in pre-Confederation times was adopted by the Dominion government in 1867 and applied with variation to Native societies across Canada in the ensuing decades.

Even in its formative years the assimilation program was labelled by government investigators as paternalistic as Indians were excluded from policy-making. However, politicians, government officials, and church authorities were generally satisfied with the administrative and policy status-quo despite persistent signs of Indian resistance and cultural

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1. Historically the "Indian problem" has been successively defined by non-Aboriginals as: protecting colonial settlements from Indian raids; protecting Indians from unscrupulous traders; keeping peace among the Indians; promoting European civilization by negotiating land cession treaties, teaching agricultural skills, dispensing education, Christianity, food and relief supplies; and finally, by dealing with the many persons and interests making claim to some part of the Indian business. The ultimate quest remained, however, the acquisition of Indian lands and access to natural resources. For Indian people, their "White problem" was to devise strategies to ensure cultural survival, economic security, and social acceptance.

resilience. On the eve of the Second World War a government program to assimilate Indians had been in operation for more than one hundred years.<sup>2</sup> A paternalistic Indian administration was showing signs of decay and, as Native conditions deteriorated and activism increased, officials became apprehensive. The system was obviously in need of radical reform.

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In early colonial society, the economies, cultures and traditional ways of Native people were recognized by government officials and by commercial interests as fundamental to colonial security and development. Indian people acted as guides for explorers, served as producers and middlemen in the fur trade, and participated actively in military campaigns as scouts and screening forces for regular French and British forces. That is, Indian people were valued for their "Indianness" and of necessity various bicultural practices such as trading ceremonies and intermarriage became mechanisms for social mediation between two potentially hostile peoples.

The Native societies, however, were vulnerable to the depredations of European colonists, especially in the Thirteen Colonies. A degree of government protection had to be provided. In 1755, Britain established its Indian Department by royal commission under the direction of William Johnson.<sup>3</sup> The department's early mission was to ensure the continued

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2. John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," The Western Canadian Journal of Anthropology, 6(2), 1976: 13-20. Also V. Satzewich and T. Wotherspoon, First Nations. Race, Class, and Gender Relations (Toronto: Nelson Canada, 1993), particularly Chapter Two, "The State and the contradictions of Indian administration."
  3. See, "Sir William Johnson," by Julian Gwyn, The Dictionary of Canadian Biography, Vol. 4 (1979): 394-397; also Ian K. Steele, Warpaths. Invasions of North America (New York: Oxford University Press, 1994).

allegiance of his majesty's Indian allies, to monitor their comings and goings, and to try to impose order on the divergent Indian policies of the various colonial governments. Despite its military origins, the Indian Department<sup>4</sup> took on some of the attributes of a colonial welfare office as a result of its liberal distribution of annual presents, food, clothing and related supplies to Indian warriors and their dependants.<sup>5</sup>

The imperial and colonial officials also initiated several related measures designed to secure Indian hunting grounds against non-Native encroachment and to protect Indians from the activities of unscrupulous traders. These considerations lay behind the various instructions issued from Whitehall to colonial governors from the 1740s to 1762. The Royal Proclamation of 7 October 1763 consolidated previous British policies and administrative practices. It set aside a vast territory between the Appalachian mountains and the Mississippi River for exclusive Indian use, forbade the purchase of Indian lands by private citizens, and required licences for non-Native traders wishing to enter Indian territory. Thus, the principle was established that the Crown had a special relationship with Indian people and a duty both

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4. Robert S. Allen, The British Indian Department and the Frontier in North America, 1755-1830 (Ottawa: No. 14, Occasional Papers in Archaeology and History, Research Division, National Historic Parks and Sites Branch, Indian and Northern Affairs, 1975). Departmental field officials in the old Northwest such as Alexander McKee, Matthew Elliott, and the Girty brothers married Indian women and became Indian war chiefs.
  5. For example see, "Johnson's Account of Indian Expenses, Mar. 1755 to Oct. 1756," in J.J. Sullivan et al, eds., The Papers of Sir William Johnson, Vol. 2. (Albany: University of the State of New York, 1921-62), 566-645.

to protect their lands and advance their interests.<sup>6</sup>

This historic commitment of 7 October 1763 was given detailed elaboration by imperial instructions to Governor James Murray on 1 December 1763 and again, in 1764, when imperial authorities issued a forty-three point "Plan for the future management of Indian Affairs" that was to guide the conduct of relations with the 54 tribes then recognized as living under British protection in North America. This commitment was renewed in the instructions to Governor Guy Carleton in 1775 which also contained suggestions for an administrative apparatus to manage Indian affairs.

British Indian policy, based on patriarchy, protection and pacification, fulfilled British expectations. Large numbers of Indian people remained allied to the British cause during the French and Indian War (1756-1763)<sup>7</sup> and during the American Revolution (1775-1783). When the Loyalists embarked for British North America their numbers included at least 2000 Mohawks who were subsequently settled on lands in Upper Canada purchased by treaty from

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6. J. Stagg, "Anglo-Indian Relations in North American to 1763 and An Analysis of The Royal Proclamation of 7 October 1763." (Ottawa: Research Branch, Indian and Northern Affairs, 1981); also, Michael N. McConnell, "The Search for Security: Indian-English Relations in the Trans-Appalachian Region, 1758-1763," Ph.D. Thesis, (The College of William and Mary, 1983). In February 1900 the Canadian Governor General, Lord Minto, advised British Colonial Secretary Joseph Chamberlain in a "Memorandum on the legal status of the British North American Indians" that the force of the 1763 Royal Proclamation had been abrogated by the Québec Act, 1774. See NAC, RG10, Vol. 11190.
  7. D. Peter MacLeod, The Canadian Iroquois and the Seven Years' War (Toronto: Dundurn Press; Canadian War Museum Historical Publication No. 29, 1996).

the Mississauga Indians.<sup>8</sup>

After the peace of 1783 the British Indian Department was relocated in Montreal where a small establishment of Indian agents was charged with ensuring that the Seven Nations of Canada remained loyal to the Crown. This military-Indian partnership remained firm and proved to be of strategic importance during the War of 1812, especially in Upper Canada.<sup>9</sup>

Following that war, British relations with the United States improved for a time. The military importance of Indian people as auxiliary forces to British regulars and Canadian militia declined proportionately and quickly. Accordingly, two important developments subsequently occurred in imperial Indian policy. The British government, which financed and directed Indian policy, embarked formally on a program to reduce operating costs and transferred the Indian department in 1816 from civil to military control.<sup>10</sup> The latter, which lasted till 1830, was intended to keep the formulation of Indian policy out of the hands of local legislatures which, as the experience of the Thirteen Colonies had shown, might be inclined to ignore Indian interests and arbitrarily expropriate Indian-occupied lands.

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8. Robert J. Surtees, "Indian Land Cessions in Ontario, 1763-1862: The Evolution of a System," Ph.D. thesis, (Carleton University, 1982), 19-20; also Ian Johnson, "The Early Mississauga Indian Treaties, 1780-1819," Ph.D. thesis, (University of Toronto, 1986).
  9. Robert S. Allen, "His Majesty's Indian Allies: British Indian Policy in the Defence of Canada, 1774-1815," Ph.D. thesis, (The University of Wales, Aberystwyth 1991); and Colin G. Calloway, Crown and Calumet. British-Indian Relations, 1783-1815 (Norman and London: University of Oklahoma Press, 1987).
  10. NAC, C.O. 43/24, Lord Bathurst, colonial secretary, to Sir Gordon Drummond, commander-in-chief of the forces, 14 March 1816.

The sudden and arbitrary change in British policy was reflected in two speeches delivered in 1817 and 1818 by William McKay, the Indian superintendent at Drummond Island near Sault Ste. Marie. In July 1817, he cautioned the resident Canadian and visiting American Indians to “[B]e on good terms with our Neighbours the Big Knives...be happy...cultivate land and hunt for the support of your families. Be attentive to your trades and learn them well for they are your chief support...”<sup>11</sup> A year later, Ottawa, Chippewa, Sauk and Winnebago chiefs complained to McKay that the British had made peace with the Americans and had left Michilimackinac “without consulting us”, and now the Americans “treat us worse than dogs”. In reply, McKay urged that “all his Red Children should bury the hatchet, plant corn and be content.”<sup>12</sup> Afterwards the Sauk Chief, Black Hawk, commented on McKay’s words: “I rubbed my eyes and cleared my ears, before I could believe what I saw or heard.”<sup>13</sup> This shocked response would wane as the 1820s unfolded, revealing the cold realities of a declining role for Indians in colonial society and the necessity of their accommodating themselves to changed colonial circumstances and a changing British Indian policy. These developments are reflected in following Figure Two, “The Indian policy community: 1755-1820”.

By the early 1820s the British faced a dilemma. Colonial settlement and commercial expansion in Upper Canada threatened continued protection of Indian lands and property.

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11. NAC, MG19, F29, William McKay Papers; especially Councils of 3 August 1817, and 7 July 1818. Also G.E. Dowd, A Spirited Resistance. The North American Indian struggle for unity, 1745-1815 (Baltimore: The Johns Hopkins University Press, 1992).

12. Ibid.

13. Ibid., Speech of Chief Black Hawk, Drummond Island, 7 July 1818.

Figure One-A

**EXPLANATORY NOTES FOR INDIAN POLICY COMMUNITY FIGURES**

In the sub-government sector of the Indian policy community key policy actors are identified in capital letters.



Viz. **INDIAN AFFAIRS BRANCH** - In bold print denotes a dominant policy actor in the time period

**COURTS** - In regular print denotes a policy actor of less importance in the time period

In the attentive publics sector of the Indian policy community key participants are identified in lower case letters.

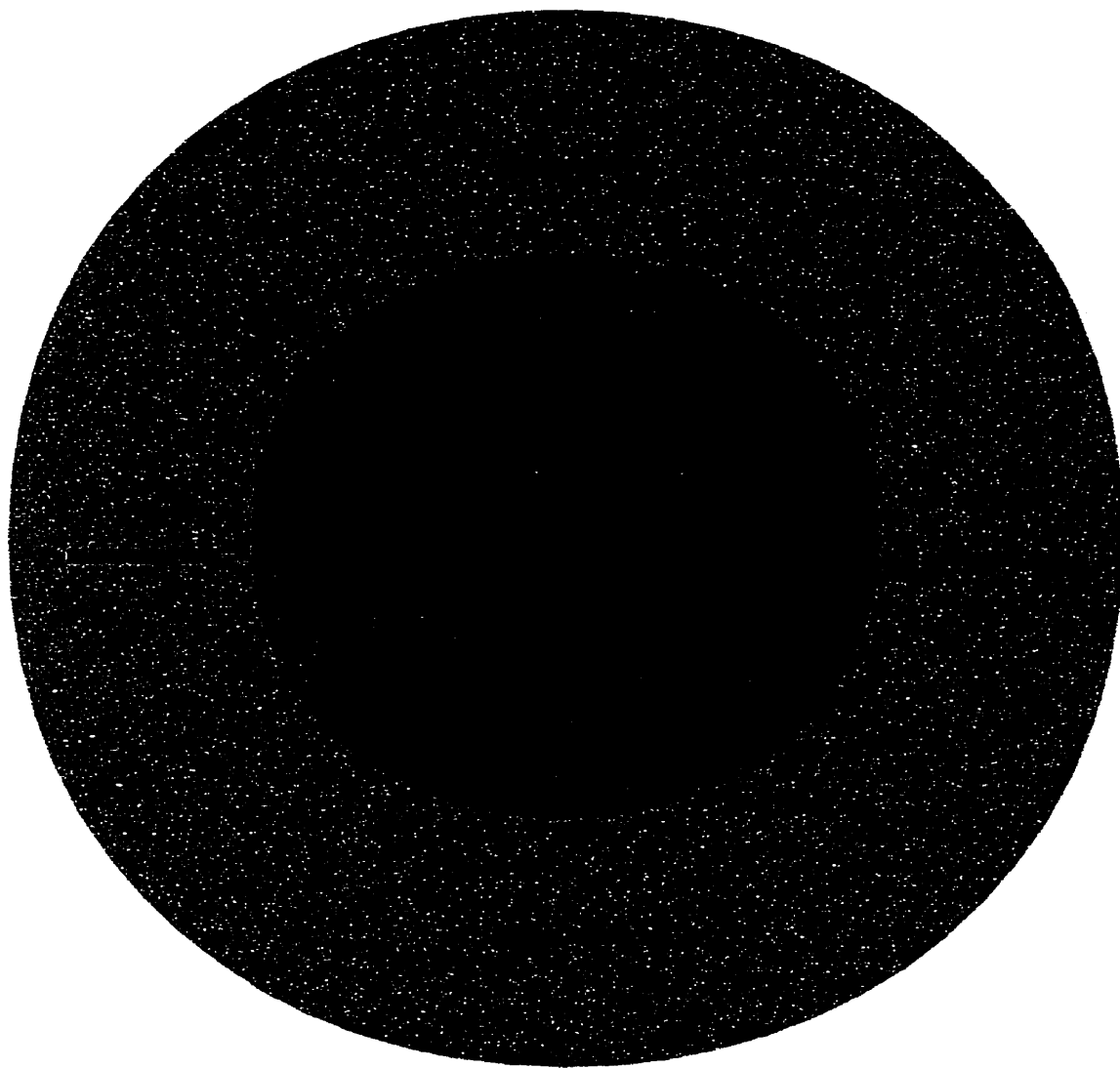
Viz. **Native rights associations** - in bold print denotes a very active participant in the time period

Media - in regular print denotes a less active participant in the time period

Arrows  indicate movement of players into, or out of sectors of the policy community, or out of the Indian policy community altogether.  


*The Indian Policy Community: 1755-1820*

WARRIORS TO WARDS



NATIVE BANDS



Indian people did not possess concepts of the private ownership of property and their “wandering” habits inhibited colonial development. Traditional methods of Indian protection were inadequate and so a new approach was required. Since Indians qua Indians were no longer required for colonial security and economic development, their “Indianness” had to be forcibly abandoned. By converting Indian people into model Europeans with notions of private ownership of property and personal advancement, government agents and missionaries were sanguine that Indian people could eventually protect their own interests as regular citizens and assume a productive role in the burgeoning capitalist economy.

In 1821, Sir Peregrine Maitland, lieutenant-governor of Upper Canada, launched an experimental program among the Six Nations and Mississaugas at York to promote Indian education, economic advancement, and self-reliance. The scheme was based on precedents in the Thirteen Colonies and on the Jesuit program operating in Lower Canada on reserves at Lorette (Nation Huronne Wendat), Bécancour (Wôlinak) and Sault St. Louis (Kahnawake). The plan received encouragement from American Methodists whose religious program included the conviction that Indians should become agriculturalists. This acculturation process would facilitate Indian conversion to Christianity, ensure economic self-sufficiency, and promote the adoption of liberal-democratic social values.

Maitland’s efforts met with limited success. However, as a result of discussions with the Reverend Peter Jones (Kahkewaquonaby, or “Sacred Waving Feathers”), a Methodist minister of Welsh-Mississauga heritage, a model Indian village was established in 1826 at the mouth of the Credit River west of present-day Toronto. Unfortunately, the Credit River Indians were harassed by their non-Native, Christian neighbours and they complained to

sympathetic government officials.<sup>14</sup> Nevertheless, despite early difficulties village life flourished under the leadership of the Rev. Peter Jones. The new settlement became a model for future Indian settlements and was regularly visited by Canadian missionaries and educators concerned with Indian advancement.<sup>15</sup>

In July 1827, Lord Dalhousie, governor general of Canada, received instructions from the Colonial Office to prepare a report on Indian Department operations taking into account that the Indian service should soon be abolished.<sup>16</sup> Both Dalhousie and Maitland were shocked at the tone and content of the colonial secretary's directive. Dalhousie's detailed response, prepared by Major H.C. Darling, military secretary, and forwarded to London in October 1828, ran counter to prevailing views at Whitehall.<sup>17</sup> The authors argued that the Indian Department was still necessary to protect Indian lands and property in the face of advancing European settlement and commercial expansion. Dalhousie felt that Indian people would eventually be able to manage their own affairs, but only after their living conditions had been improved and they had abandoned their Indian ways and acquired the knowledge and skills which would enable them to assume the rights and duties associated with British

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14. Upper Canada. Revised Statutes, (1792-1840), c.3, 1829, "An Act better to protect the Mississauga tribes living on the Indian Reserve of the River Credit, in their exclusive right of fishing and hunting therein." See also Donald Smith Sacred Feathers. The Reverend Peter Jones (Kahkewaquonaby) and the Mississauga Indians (Toronto: University of Toronto Press, 1987).

15. F.M. Quealey, "The Administration of Sir Peregrine Maitland, Lieutenant-Governor of Upper Canada, 1818-1828," Ph.D. thesis, (York University, 1968), 321-322.

16. NAC, C.O. 43/26, Goderich to Dalhousie, 14 July 1827.

17. NAC, C.O. 42/216, Dalhousie to Murray, 22 October 1828.

citizenship.<sup>18</sup>

The key to promoting the improvement of Indian living conditions, and their eventual assimilation, was to duplicate the successful Credit River settlement at other sites in Upper Canada under the joint supervision of Indian Department officials and various Methodist and Church of England missionary groups. Failure to act, cautioned Dalhousie, would have dire consequences: either Indian people would remain dependent on government, or they would soon starve in the streets of the towns and villages and crowd the jails; worse still, they might become disillusioned and join forces with the Americans. Adoption of an eleemosynary program for Indian improvement and civilization would, in Dalhousie's view, save money, forge a new partnership with Indian people, and foster in them "a love of the Country, of the soil on which they are settled and a respect for the Government which protects them."<sup>19</sup>

After some discussion, Sir George Murray, colonial secretary, accepted Dalhousie's Indian civilization program on the basis that it would reduce imperial costs.<sup>20</sup> To test the new approach and philosophy, two model Indian villages were established immediately at Coldwater (near present-day Orillia) and at Sarnia.<sup>21</sup> The Coldwater community, comprising Ojibwa bands under Chiefs Yellowhead, Snake, and John Aisence, received close attention

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18. NAC, RG10 Indian Affairs Records, Vol. 5, Report of Major H.C. Darling, 24 July 1828.

19. Ibid.

20. NAC, C.O. 43/27, Murray to Kempt, 25 January 1830.

21. NAC, RG10, Vol. 46, J. Givins to T.G. Anderson, 5 March 1830.

from government officials.<sup>22</sup> Communal farms under the supervision of skilled non-Native farmers were set up. Indians were expected to acquire agricultural and mechanical skills by observation and working the fields. Indians not employed in farming were assigned to build local roads, log houses, schools and barns. A school teacher was hired to instruct the children in reading and writing. Both parents and children were to receive the attention of a Church of England minister.

Government planners, missionaries and educators assumed that band members would readily accept the new arrangements and quickly abandon traditional ways and beliefs. They were overly optimistic, although in the period from 1830 to 1835, visual and statistical evidence - improved housing, school attendance, religious conversion and farming - pointed towards a successful venture.<sup>23</sup> Indeed a new Indian settlement was planned by the Indian Department for Manitoulin Island.<sup>24</sup>

In 1835, the British government, still determined to reduce imperial costs and spurred on by complaints concerning Indian conditions from the London-based Aborigines Protection Society and Canadian Wesleyan Methodists, demanded progress reports on the new Indian

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22. Robert J. Surtees, "Indian Reserve Policy in Upper Canada, 1830-1845," M.A. thesis, (Carleton University, 1966), 97. See also P. Schmalz, The Ojibwa of Southern Ontario (Toronto: University of Toronto Press, 1991).

23. NAC, RG10, Vol. 48, T.G. Anderson to J. Givins, 1 May 1830; and RG10, Vol. 59, T.G. Anderson to J. Givins, 24 September 1835.

24. NAC, RG10, Vol. 501, J. Givins to T.G. Anderson, 21 March 1836; NAC, "Q Series", Vol. 389-1-2, T. Anderson to J. Colborne, 24 February 1835; "Q Series", Vol. 389-1-2, J. Colborne to Glenelg, 22 January 1836.

settlements.<sup>25</sup> In Lower Canada, a committee of the Executive Council conducted the investigation. In Upper Canada, Sir Francis Bond Head, lieutenant governor, chose his own course.

After a tour of the Indian villages in Upper Canada in the summer of 1836, Bond Head concluded that Indian warriors would never become successful farmers. In fact, they were a "doomed race" incapable of ever attaining equality with their non-Native neighbours. The most humane approach was to relocate them to the comparative isolation of Manitoulin Island where they would gradually die out. This Indian removal scheme, in Bond Head's view, would simultaneously solve the "Indian problem" and at the same time open new lands for settlement.<sup>26</sup>

Bond Head's removal plans met with opposition from the tribes of Upper Canada and outraged their Methodist missionary supporters who had not been consulted. In the midst of the ensuing political uproar, the Executive Council of Lower Canada presented its findings which rejected both Bond Head's philosophy and program. During the Ancien Régime seigneurial lands had been granted to the Sulpicians and Jesuits upon which Indians were settled, instructed in the French language, and converted to Christianity. These early "reserves" were located in proximity to French settlements at Montréal, Trois-Rivières, and Québec City for it was thought that constant social intercourse would accelerate the

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25. Great Britain. Parliamentary Papers. House of Commons, Vol. XXXIV, 347.

26. Ibid., 352-358. Sir F. Bond Head to Lord Glenelg, 20 November 1836. See also J. Milloy, "The Era of Civilization. British Policy for the Indians of Canada, 1830-1860," D. Phil. Thesis, (Oxford University, 1978).

"Francisation" process.<sup>27</sup>

In 1837, the Executive Council reaffirmed the French policy and practice that Indian villages should be located in proximity to non-Indian settlements. After consulting with Indian bands and local Roman Catholic clergy, the executive councillors also recommended that the Indian Department, the distribution of annual presents (an early form of welfare as well as government recognition of Indian status), and the civilization program should be continued with minor changes to the administrative machinery.<sup>28</sup>

The existing system certainly had its faults though. The Executive Council's report observed that the "policy of Government has been to keep them (the Indians) apart from the rest of Society, has trained in them an Aversion to Labour, and has in a measure incapacitated them from becoming useful Members of the community."<sup>29</sup> In the council's view, the key to Indian advancement and eventual citizenship was education, and it was the duty of government to prepare the younger generation "for another and more useful mode of life."<sup>30</sup>

The executive council report of 1837 impressed the colonial secretary, Lord Glenelg, since it reinforced his pragmatic thinking on Indian administration and offered an opportunity to quell the growing public outcry for government action. In August 1838, Glenelg asked

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27. G.F.G. Stanley, "The Policy of 'Francisation' as Applied to the Indians during the Ancien Régime," Revue d'Histoire de l'Amérique Française, 3(3) 1949: 331-148.

28. Great Britain. Parliamentary Papers, House of Commons, Vol. XXXIV, 255-262.

29. Ibid., 256.

30. Ibid., 256-257.

again for the long-delayed report on the state of Indian conditions in Upper Canada.<sup>31</sup> The task was assigned to Justice James Buchanan Macaulay, a judge of the Court of King's Bench and a member of the Tory elite.<sup>32</sup>

Macaulay's 1839 report reflected the prevailing wisdom concerning the future of Indian people and the civilization program. Macaulay concurred with the executive council, rejected Bond Head's approach, and urged both the continuation of the Indian Department and the civilization program. For the foreseeable future, Indian agents would be required to supervise and safeguard Indian lands, property and traditional rights.<sup>33</sup> In retrospect, Macaulay's findings reflected the prevailing views of Canadian conservatism: give Indian people civil rights and private ownership of property, and like recent Irish immigrants, they

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31. Ibid., Lord Glenelg to Earl of Durham, 28 August 1838, 233; also Glenelg to Sir George Arthur, 22 August 1828, 314.

32. Robert L. Fraser (ed.), Provincial Justice. Upper Canadian Legal Portraits from the Dictionary of Canadian Biography (Toronto: University of Toronto Press, 1992), 115-121.

33. NAC, RG10, Vol. 718, Mr. Justice Macaulay's Report to Sir George Arthur, 1839.

would become respectable, independent citizens.<sup>34</sup>

The reports of the Lower Canada executive council and Justice Macaulay reflected a policy consensus that had emerged on both the strategies and goals of Indian administration. The minor suggestions they proffered for modifying administrative practices or tinkering with internal policies had little impact as the two government reports were soon overshadowed by political events of greater importance: the Rebellions of 1837-1838, Lord Durham's report, and the Union of Upper and Lower Canada in 1841. The calmer political atmosphere which followed thereafter permitted imperial discontent with the course and cost of Indian policy to surface and, once again, the plight of Canada's Indians came under scrutiny.

This time the government investigation was carried out by three commissioners

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34. The legal question whether Indians were "allies or British subjects" under the jurisdiction of imperial and colonial laws was never settled conclusively to British satisfaction during the fur trade and military periods. After the War of 1812, the policy imperative was to reconcile Indians to a sedentary lifestyle and assimilate them into society. The case of Shawanakiskie, an Ottawa, who killed an Indian woman at Amherstburg in 1821, eventually settled the issue whether Indians were subject to laws of Upper Canada. See "Shawanakiskie", in Robert Fraser (ed.), Provincial Justice. Upper Canadian Legal Portraits from the Dictionary of Canadian Biography (Toronto: University of Toronto Press, 1992), 344-345. See also the comments of Riddell, J. in Ontario Supreme Court, Sero v. Gault (1921), 64 D.L.R. 327 at 331; Chapter 2, "Natives, Society, and the Law", in Brendon O'Brien Speedy Justice. The Tragic Last Voyage of His Majesty's vessel Speedy (Toronto: University of Toronto Press, 1990), 29-53; and finally Kenneth Tyler, "Another Opinion: A critique of the paper prepared for the Royal Commission on Aboriginal Peoples entitled: "Partners in Confederation", Toronto, Canadian Bar Association, August 1994, 37-42. The issue of Indians as "allies" or "subjects" was settled for government by Henry Boulton, attorney general, who opined in 1832 that Indians in the organized portions of Upper Canada possessed all the rights and duties of British subjects. This view was confirmed by Justice Macaulay in 1839. See, NAC, RG10, Vol. 50, 56169-56172, H.J. Boulton, attorney general, to Col. J. Givens, superintendent, Indian department, Upper Canada, 17 April 1832; and Macaulay's report to Sir George Arthur 1839, "On the Civil Rights, etc. of the Indians." See also footnote 63, Chapter Three.



appointed by Sir Charles Bagot, governor general. Their report, presented in 1844, painted a depressing picture of bungled departmental operations, deplorable Indian conditions, and unresolved policy questions concerning the protection of reserve lands, control of liquor, distribution of presents, and departmental financing.

The 1830 civilization program was condemned as too paternalistic for it had "a tendency to keep Indian people in a state of isolation and tutelage and materially to retard their progress".<sup>35</sup> There were, the commissioners insisted, no inherent biological barriers to Indian advancement, a process which could be accelerated by improvements in Indian education, legislative protection of Indian lands and resources, and a complete reorganization of the Indian Department.<sup>36</sup> However, the investigators were reluctant to recommend an expanded Indian service, or additional financing, because in their view, Indian people were encountering the "uncontrollable force of those natural laws of society to which every Government must bend."<sup>37</sup> Given sufficient time, Indian people and Indian-occupied lands would disappear as Indian people assimilated into the dominant society.

To reduce costs and the number of Indians under government supervision, the commissioners recommended two measures which, in the ensuing years, would become

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35. Province of Canada. Journals of the Legislative Assembly, Sessional Papers, App. EEE, Part I, "Report on the Affairs of the Indians in Canada," Montreal 1844-45.

36. See also, John F. Leslie, "The Bagot Commission: Developing a Corporate Memory for the Indian Department," Historical Papers/ Communications Historiques, (Canadian Historical Association: Ottawa 1982): 31-51.

37. The Bagot commissioners reflected the mid-nineteenth century laissez-faire view that legislative solutions to social and economic problems, involving the natural laws governing society, were impractical.

contentious aspects of Canadian Indian policy. First, the policy announced in 1818 was reiterated: Indian women who married Europeans would no longer receive presents, thus effectively losing their government-recognized Indian status.<sup>38</sup> Second, any Indian who had received a basic education and was able to support himself would receive fee-simple title to his land, after which he would forfeit future claims to annuity payments or band property. This was the origin of the policy which became known as “enfranchisement”, the relinquishment of Indian status in exchange for the rights and responsibilities of British subjects.<sup>39</sup>

In retrospect, the Bagot commissioners also failed to resolve a central problem that had confounded Indian administration for many decades: its lack of administrative cohesion and focus. Too many government departments, whether colonial or imperial, as well as various groups and vested interests were involved in administrative matters, thus policy coordination and unity of action was difficult. Moreover, the Bagot commissioners were opposed to any centralization of responsibilities since this assumed “... the continuance and

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38. On 2 November 1818 the military secretary to the governor-general communicated the decision of the Duke of Richmond that Indian women who cohabited with white men, and the wives of children of interpreters (being Indian) were not entitled to receive annual presents. NAC, RG10, Vol. 13, “Order of the Military Secretary.”

39. Province of Canada. Journals of the Legislative Assembly, Sessional Papers, 1847. App. T. “Presents. Description and Statistics.” See also, Catherine A. Sims, “Algonkian-British Relations in the Upper Great Lakes Region: Gathering to Give and to Receive Presents, 1815-1843,” Ph.D. thesis, (University of Western Ontario, May 1992). It was not until 1961 that the federal government considered revoking these controversial provisions which were recognized by Native peoples and many civil libertarians to be a practical and psychological barrier to Indian integration.

extension of an expensive department which His Majesty's Government is desirous of abolishing, and which is not adapted to carry out the objects of government."<sup>40</sup>

British authorities reacted favourably to the Bagot commission and recommended that the Canadian government implement its many proposals. The most enduring legacy of the 1844 Bagot commission was a renewed church-state commitment to Indian education based on a new system of model farms and industrial schools. Indeed, in 1846, several tribes in Canada West agreed to apply one-quarter of their treaty annuities for a twenty-five year period toward the construction and support of industrial training schools at Alnwick, Muncey, and Owen Sound.<sup>41</sup> Thus by 1847 the Indian civilization program had been evaluated, modified and reaffirmed by its civil and ecclesiastical architects, and set on a more optimistic and productive course.

By mid-century, however, Indian lands and their resources were increasingly threatened by European settlers, railway construction, and commercial development. Reluctantly, government officials and missionaries concluded that Indian people had not advanced sufficiently in acquiring skills and European concepts of property ownership to protect their interests on their own initiative. A degree of protective legislation, similar in principle to the 1763 Royal Proclamation, was required. What started out in 1850 as simple protective measures became the seed from which flourished, over a period of 26 years, comprehensive government legislation to ensure both Indian protection, and directed social

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40. Ibid., App. T, "Lands-Management." See also, J.E. Hodgetts, Pioneer Public Service. An Administrative History of the United Canadas, 1841-1867 (Toronto: The University of Toronto Press, 1955).

41. NAC, RG10, Vol. 158.

change. Again there is irony, for the well-intentioned legislation which was designed as a vehicle to promote Indian assimilation became, like the reserves, a structural barrier that contributed to Indian social, economic, legal and political marginalization.

On 10 August 1850, the Province of Canada enacted a law that protected Indian lands and property in Canada West from trespass (Sections 10-12), secured Indian property from seizure for non-payment of debts (Section 8), and stayed future taxation (Section 4) on the grounds that reserve land was Crown land held in trust for the Indians.<sup>42</sup> Other statutes prohibited the sale of liquor to Indians and Indian agents were vested with the authority of Justices of the Peace to enforce local laws and regulations.

In Canada East, where a church-sponsored civilization program had been in place for several centuries, the government's approach was different. Indian lands were protected by a commissioner for crown lands and his agents.<sup>43</sup> Most notable, for the first time, a legislative definition was given to the aboriginal group known as "Indians".

Historically, Indian communities had determined their own membership, and this first government definition of "Indian" reflected the existing degree of self-definition:

First. All persons of Indian blood, reputed to belong to the particular body or tribe of Indians interested in such land and their descendants.

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42. Province of Canada. Statutes, 13-14 Victoria, c. 74, "An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury." See also John S. Milloy, "The Early Indian Acts: Developmental Strategy and Constitutional Change," 56-63, in Ian Getty and A.S. Lussier (eds.), As Long as the Sun Shines and Water Flows. A Reader in Canadian Native Studies (Vancouver: University of British Columbia Press, 1983).

43. Province of Canada. Statutes, 13-14 Victoria, c.42, "An Act for the better protection of the Lands and Property of the Indians in Lower Canada."

Secondly. All persons intermarried with any such Indians and residing amongst them, and the descendants of all such persons.

Thirdly. All persons residing among such Indians, whose parents on either side were or are Indians of such Body or Tribe, or entitled to be considered as such: And

Fourthly. All persons adopted in infancy by such Indians, and residing in the village or upon the lands of such Tribe or Body of Indians and their descendants.<sup>44</sup>

The 1850 legislation was followed in 1857 by a companion piece, "An Act to encourage the gradual Civilization of the Indian Tribes in the Province, and to amend the laws respecting Indians."<sup>45</sup> This second piece of legislation was a significant theoretical, legal, and psychological development. Indian people, particularly the Six Nations in Upper Canada, vigorously protested its passage describing it as an assault on existing tribal structures and a breach of the historic promise of Crown protection contained in the 1763 Royal Proclamation. The statute confirmed that the goal of Indian civilization was to "remove all legal distinctions between Indian people and other Canadians, and integrate them fully into Canadian society".<sup>46</sup>

The 1857 legislation thus reflected growing government impatience with the pace of

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44. Ibid.

45. Province of Canada. Statutes, 20 Victoria, 3<sup>rd</sup> Session, 5<sup>th</sup> Parliament, (Toronto, 1857), 84. Passage of this legislation was supported by John A. Macdonald, G.-E. Cartier, A.A. Dorion, W.B. Robinson and George Brown, all of whom approved the assimilation approach. See also, NAC, The Globe, 15 May 1857. Macdonald later served as superintendent general of Indian affairs from 1878-1883.

46. NAC, RG10, Vol. 245, Civil Secretary's Office Correspondence (No. 11401-11600), D. Thorburn, Six Nations superintendent to R. Pennefather, 13 October 1858.

assimilation and laid down criteria and procedures for compulsory Indian enfranchisement. This was the first example of a succession of unilateral government initiatives that sought a permanent solution to the Indian question. Similar initiatives in 1920, 1933, and 1969 served only to make Indian people wary of government intentions and reinforce their resistance to imposed social change.

In brief, the 1857 legislation set up a three-man commission - the local Indian agent, missionary, and a person appointed by the governor - which was empowered to enfranchise literate Indian males, who were over 21 years of age, of sound character, and free from debt.<sup>47</sup> If the commissioners were convinced that the Indian could manage his own affairs, then the candidate could exchange his "Indian" status for that of "British subject".

At the time that special Indian legislation was being enacted in the Canadas, political developments in Britain had a profound impact on the course of Indian policy. Sir Robert Peel's Tory government, committed to imperial austerity, embarked on a series of cost-cutting actions. A prime target was the expensive Canadian Indian Department. Despite various colonial proposals to supplement imperial financing, it became apparent that Britain wished to divest itself of responsibility for Indian civilization. The crisis of imperial financing fostered yet another government inquiry into Indian affairs, the final one before Confederation, which set the stage for the Province of Canada to assume total responsibility for Indian policy and administration in 1860.

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47. Province of Canada. Statutes, 20 Victoria, c.26, "An Act to encourage the gradual Civilization of the Indian Tribes in the Province, and to amend the laws respecting Indians." (1857), Sections 3-4. Few non-Indians at mid-century could have met these stringent social standards.

The 1858 report of Richard Pennefather, civil secretary to the governor-general, concluded that after three decades of hard work and government reports "we must confess that any hope of raising Indians as a body to the social and political level of their white neighbours, is yet but a glimmering and distant spark". Lack of progress was due to the natural "apathy" and "unsettled habits" of Indian people. Government was also at fault. None of the earlier five inquiries had ever been followed-up, and "in spite of the industry and ability displayed in collecting information and drawing up reports", officials were "still groping in the dark."<sup>48</sup>

Pennefather's report had yet to be published when Lord Stanley, colonial secretary, announced that imperial funding for Indian affairs would end in 1860.<sup>49</sup> Canadian officials were dismayed. Citing the findings of the five previous commissions of inquiry, Pennefather argued persuasively that an historic consensus had been reached on the policy and goals of Indian administration which explicitly rejected the option of Indian abandonment. The Crown had a responsibility to ensure the well-being of its Indian "wards" because "the treaties made with the several tribes, and the peculiar position of the people, require great care and

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48. Province of Canada. Journals of the Legislative Assembly, Sessional Papers, Appendix 21, "Report of the Special Commissioners to investigate Indian Affairs in Canada, Part III," Toronto, 1858. The pages of all three sections are not numbered. See also, J.E. Hodgetts, Pioneer Public Service. An Administrative History of the United Canadas, 1841-1867 (Toronto: University of Toronto Press 1955). Chapter 13, "Indian Affairs: The White Man's Albatross," argues that Indian administration operated in a political backwater, received little political attention, thus few resources were allocated to implement an effective assimilation program.

49. Great Britain. House of Commons, Parliamentary Papers, Vol. XLIV, No. 595, 20.

consideration in securing their just rights whilst their lands are opened for settlement.”<sup>50</sup>

The Governor-General Sir Edmund Walker Head, concurred with Pennefather's assessment. In May 1858, Head recommended to the colonial secretary that the Province of Canada assume full responsibility for Indian affairs and that the operations of the Indian Department be funded, as recommended by Pennefather, from the sale of Indian lands.<sup>51</sup> The British authorities accepted the Canadian proposals and on 1 June 1860, the final transfer of jurisdiction took place.<sup>52</sup> The exodus of British officials and Indian traders, as presented in following Figure Three, produced the greatest change in Indian policy community membership in any period both before and after Confederation.

Thus when the Province of Canada assumed responsibility for Indian affairs in 1860, an Indian civilization program based on land cession treaties, reserves, education, religious conversion, and agricultural instruction was firmly entrenched and fully operational. Also, an historic commitment had been confirmed that the Crown had a responsibility to protect Indian people and Indian lands. By 1860, the pre-Confederation Indian policy community of politicians, government administrators, and missionaries had fashioned a policy and program

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50. Ibid., 22. The primacy of the Crown's responsibilities for Indian affairs was confirmed in a legal opinion tendered on 18 February 1836, by the Attorney-General for Upper Canada, Robert S. Jameson. NAC, RG10, Vol. 60, 60737-60738.

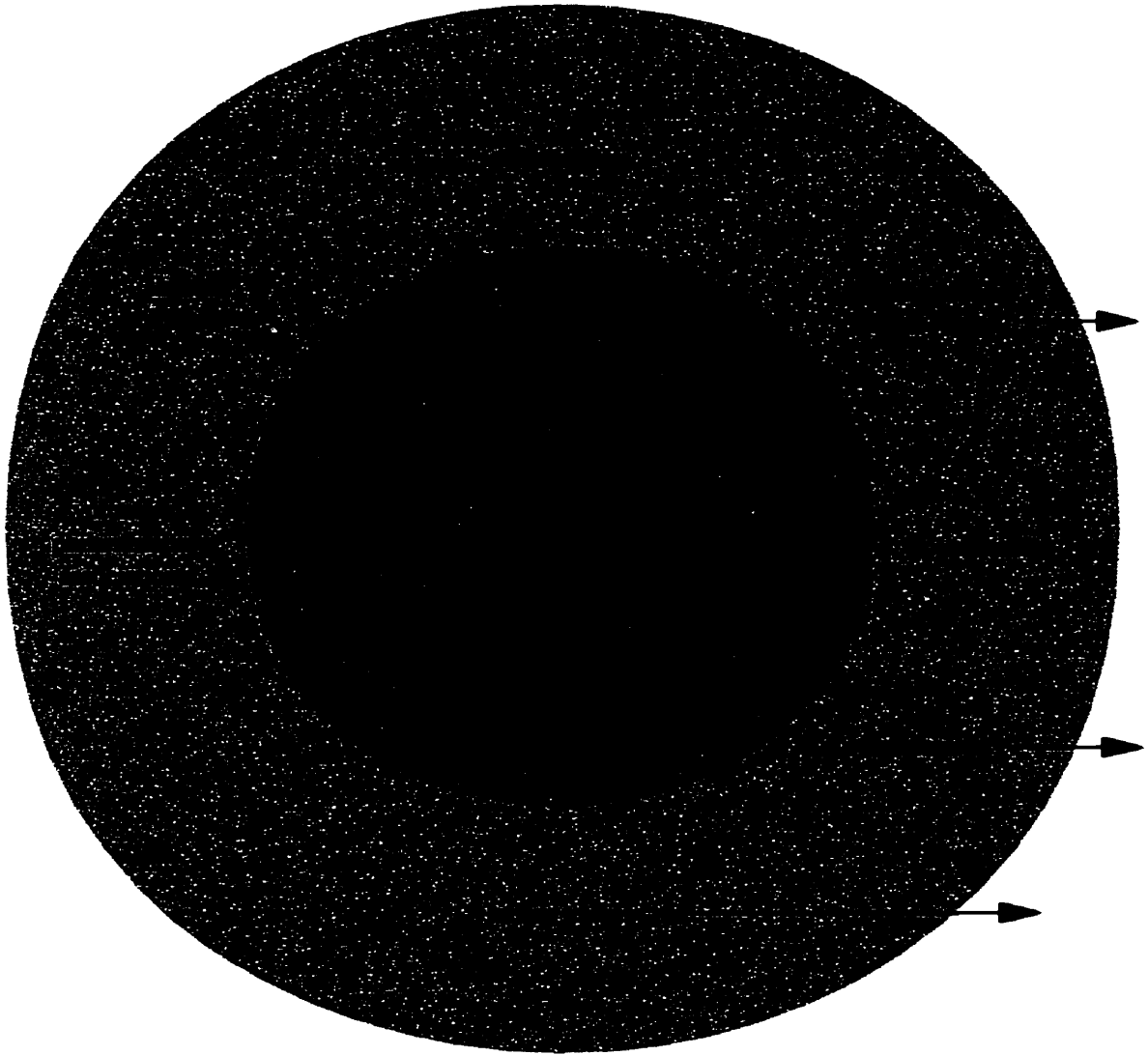
51. Ibid., 22-23. See C. Pacey, "History of the Indian Land Management Fund, 1856-1913," DIAND, Claims and Historical Research Centre, File A-21.

52. Province of Canada. Statutes, 23 Victoria, c. 151, 1860, "An Act respecting the Management of Indian Lands and Property." Indian affairs was placed under the control of the Crown Lands Department. On 17 March 1862, the office of deputy superintendent general of Indian affairs was created and William Spragge was appointed to fill the post.



*The Indian Policy Community: 1820-1867*

INDIAN ASSIMILATION DEVISED



NATIVE BANDS AND SETTLEMENTS

for advancing Indian interests and promoting their attainment of full citizenship. After Confederation, this approach was inherited by the new Dominion government and applied with varying degrees of commitment and consistency to diverse Indian cultures across Canada.<sup>53</sup>

The pre-Confederation Crown responsibility for "Indians and lands reserved for Indians" was given constitutional expression in Section 91(24) of the British North America Act, 1867. Initially, Indian administration was the responsibility of the secretary of state for the provinces. The federal government immediately took steps to consolidate and focus the

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53. For example, see, L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867 (Vancouver: University of British Columbia Press, 1979); Robin Fisher, Contact and Conflict. Indian-European Relations in British Columbia, 1774-1890 (Vancouver: University of British Columbia Press, 1977); Ken Coates, Best Left as Indians. Native-White Relations in the Yukon Territory, 1840-1973 (McGill-Queen's Press, 1991). J.R. Miller, Skyscrapers hide the heavens. A history of Indian-White Relations in Canada (Toronto: University of Toronto Press, 1990); S. Carter, Lost Harvests. Prairie Indian Reserve Farmers and Government Policy (Montreal McGill-Queen's Press, 1990); and D. Newell, Tangled webs of history: Indians and the law in Canada's Pacific Coast Fisheries (Toronto: University of Toronto Press, 1993). In 1949, when Newfoundland entered Confederation, negotiators determined that Micmac, Inuit, and Innu peoples of Labrador and Newfoundland would not be a federal responsibility under 91(24) of the BNA Act, but would be looked after by the province using financial assistance from Ottawa. In 1950 and 1964, Department of Justice legal opinions stated Ottawa had exclusive responsibility for such peoples. In 1954, a Dominion-Provincial agreement placed limits on funds to be spent on financing Innu social services. See E. Tompkins, "Pencilled out Indians," Research Report, Library of Parliament, 1988.

civilization program on the settled tribes of Ontario, Québec and the Maritime provinces.<sup>54</sup>

Two pieces of legislation were involved. The first measure, “An Act for providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands”<sup>55</sup> reaffirmed many pre-Confederation practices. This 1868 statute reiterated the historic principle of Indian protection by virtually repeating the 1850 definition of “Indian” and by delineating an extensive schedule of penalties for non-Indians who settled or trespassed on designated Indian lands.

The second principle, promoting Indian cultural assimilation, was confirmed in “An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42.”<sup>56</sup> This 1869 enactment gave increased powers to the superintendent general to intervene arbitrarily in internal band matters including the election of chiefs and councils, expenditure of band funds, and the disposition of estates of deceased Indians. The Indian enfranchisement provisions ensured that successful candidates acquired the same political rights and social responsibilities as non-Indians,

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54. R. Bartlett, Indian Reserves in the Atlantic Provinces of Canada (Saskatoon: University of Saskatchewan Native Law Centre, 1986). In the Maritimes effective Indian administration was problematic. Indian agents were few and part-time. As well, many reserves had been established via licences of occupation granted to particular Indian families. These licences provided little security in protecting Indian lands from encroachment and government expropriation.

55. Statutes of Canada. 31 Victoria, c. 42, (22 May 1868).

56. Statutes of Canada. 32-33 Victoria, c.6, (22 June 1869). Section 6 qualified the broad self-definition of Indian contained in Section 15, 31 Victoria, c. 42, (1868). Indian women who married non-Indians lost status, as did her children. This was legislative confirmation of the administrative practice concerning presents affirmed in 1818 and again in 1842.

including the right to vote, if reserve property qualifications were met.

This latter statute also set down a short list of band council powers relating to: promotion of public health, prevention of trespass, repression of intemperance, maintenance of local public works, reserve schools, council houses, and other Indian public buildings. These measures were designed to train Indian people in running local reserve government institutions similar to those of rural municipalities. They were also intended by government to eventually supercede the traditional or hereditary system of chiefs.

The focus of government activity in Western Canada (excluding British Columbia) was different than in the east where many bands had longstanding and extensive contact with Europeans. After the Dominion acquired Rupert's Land in 1870, a series of seven Ottawa-directed land cession treaties was negotiated between 1871 and 1877 to extinguish the Indian title to the fertile belt. The land cession treaty and Indian reserve systems became the cornerstones of the western Canada Indian civilization program and the vehicles for ensuring the successful implementation of Macdonald's National Policy in the prairies.<sup>57</sup>

The situation in British Columbia was an anomaly. It was the only western province to enter Confederation with control of its Crown lands. Article 13 of the 1871 Terms of Union had promised as "liberal" treatment of Indian people as elsewhere in Canada.

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57. See John L. Taylor, "The Development of an Indian Policy for the Canadian North-West, 1869-79," Ph.D. thesis, (Queen's University, 1976). In 1873, Indian Affairs became part of department of the interior. To administer Indians in Manitoba, the North-West Territories, and British Columbia, a Board of Indian Commissioners was created in 1873 (O.C. 1873-111). The Indian boards were abolished in 1875 and the Indian department assumed administrative responsibility (O.C. 1875-1052/342D). At this time, the Victoria, Fraser, Manitoba, and North-West Superintendencies were established.

However, the land cession treaty system was not pursued after 1871, and the manner in which reserve lands were set aside created such controversy that several reserve commissions had to be established to unravel the mess. As will be seen later in this chapter, the B.C. Indian situation became a matter for parliamentary study in the 1920s (and land claim negotiations in the 1990s).

Once in place, the newly created Indian reserves became, as in Upper Canada, the focus of a coordinated state-church assault on tribal customs, structures, and traditions. As in the Canadas before Confederation, the ultimate goal of government programs was economic self-sufficiency and full citizenship for Indian people. In pursuing this elusive socio-economic objective, the attainment of which always seemed just around the corner, departmental officials and their supporters in the non-Indian policy community became increasingly impatient and authoritarian in their attitudes and practices towards Indian people.<sup>58</sup> Since government policy was made for Indians with minimal consultation,<sup>59</sup> Indian people came to suspect and then deeply fear government designs. This deep mistrust

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58. Statutes of Canada. 37 Victoria, c. 21, 1874, "An Act to amend certain laws respecting Indians, and to extend certain laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia." The 1874 statute confirmed the definition of Indian enacted in 1869.

59. NAC, RG10, Vol. 1942, File 4103. When government officials consolidated Indian legislation in 1876 the Grand General Council of Ontario and Quebec Indians, or the "Grand Ojibway Council" was consulted. This organization was composed of assimilation-minded Ojibwa and Delaware Indians from southern Ontario headed by Chief Simcoe Kerr. See also, R.R.H. Lueger, "A History of Indian Associations in Canada, 1870-1970," M.A. thesis, (Carleton University, 1977).

fostered Indian resistance and a determination to retain Indian lifestyles.<sup>60</sup>

The first consolidated Indian Act that applied to all Canadian Indians, and was to form the basis for federal Indian legislation until 1951, was passed in 1876.<sup>61</sup> Many provisions of this act - which had their philosophical origin in the recommendations of the pre-Confederation Indian inquiries - were designed to implement government treaty promises and facilitate the establishment of western reserves. Indeed, in the minds of some Indian people, the numbered treaties took precedence over the Indian Act and subsequent government initiatives to amend the Indian Act were interpreted as unilateral government action to alter treaty promises.<sup>62</sup>

The 1876 Indian Act modified slightly existing Indian enfranchisement measures,<sup>63</sup> but gave more local authority to chiefs and councils created via the elective band council system. From a government perspective, the most important innovation was the introduction of the reserve location ticket scheme (Sections 4-10) which authorized the superintendent general to subdivide reserve lands and to assign specific plots to Indians advanced in agriculture. This

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60. Katherine Pettipas, Severing the Ties that Bind. Government Repression of Indigenous Religious Ceremonies on the Prairies (Winnipeg: The University of Manitoba Press, 1994).

61. Statutes of Canada. 39 Victoria, c. 18, (12 April 1876). Section 3(c) established a new form of Indian status for women who married non-Natives. Women lost Indian status, but could continue to share in band annuity distribution - these people became "red ticket" Indians.

62. Two groups, the Queen Victoria Treaty Protective Association comprising select Saskatchewan Indian bands, and Six Nations Iroquois traditionalists in Ontario refused to recognize the validity of the Indian Act.

63. Section 70 excluded Indian people from receiving homestead grants in Manitoba and the Northwest Territories since they had received land allotments via treaty.

system did not amount to fee-simple ownership, but was intended as an intermediate step in instructing "Indian wards" in the concepts of property ownership and its management.<sup>64</sup> If, after a period of three years, the Indian farmer demonstrated effective development of his allotted lands, at his request, he could be enfranchised and given full title to his property.

However, there was an alternative process to enfranchisement contained in the same act which required less time and government supervision. If an Indian gained professional qualifications as a minister, doctor, teacher or lawyer, the superintendent general could wave the probation period and enfranchise him immediately. Thus after Confederation, in eastern Canada, Indian enfranchisement rather than protection became the focus of government's attention. For government officials concerned with statistics, Indian enfranchisement was a demonstrable process. First, the number of Indians who enfranchised provided a useful gauge for measuring the success of terminating "Indianness". Second, an Indian who enfranchised via the location ticket scheme was a double bonus - he reduced the size of reserves by acquiring individual title and reduced government costs when removed from band and treaty pay lists.<sup>65</sup>

The 1876 Indian Act, like its predecessors, focused on the bands and reserves east of Lake Superior where it was assumed that longstanding contact between Indians,

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64. On 22 August 1876, Lawrence Vankoughnet, deputy superintendent general opined "the legal status of the Indians of Canada is that of minors, with the Government of Canada as their guardians." NAC RG10, Vol. 1995, File 6886, "Memorandum to Indian Branch, Department of Interior, relative to the Policy of the Government of the Dominion in their administration of Indian Affairs."

65. John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," Western Canadian Journal of Anthropology, 6(2) (1976): 44-45.

Europeans, and missionary groups had instilled basic values and skills which would facilitate enfranchisement.<sup>66</sup> To reinforce the enfranchisement provisions, the 1876 Indian Act contained measures aimed at destroying traditional Indian customs, dealing with illegitimate Indian children, and preventing trespass on reserves. As before Confederation, Indian agents were given the powers of justices of the peace. This empowered them to enforce not only the Indian Act and its attendant regulations, but also the criminal code when violated by Indians or Whites.

The eastern bands were reluctant to accept what they perceived as the limited powers and benefits conferred by the elective system of government. Band chiefs feared loss of their traditional authority and hereditary rights. They also hesitated to assume new powers since the superintendent general, acting through the local Indian agent, had veto power and could interfere in internal band affairs.<sup>67</sup> Some Indian bands expressed their concerns to government, but government officials interpreted this resistance as just another indication that Indian people needed greater direction and guidance from the “caring and trusting hand” of the superintendent general.<sup>68</sup>

The Indian Act of 1880 for the first time, created a separate Department of Indian

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66. Canada. House of Commons, Debates, Third Parliament, Third Session, 2 March 1876, 342-343. These pages reflect David Laird's philosophy regarding the process of Indian enfranchisement.

67. John Leslie and Ron Maguire (eds.), The Historical Development of the Indian Act 2 ed. (Ottawa: Research Branch, Indian and Northern Affairs Canada, 1979), 65-66.

68. NAC, RG10, Vol. 1077, File 11,432.



Affairs.<sup>69</sup> Previously the department had been attached successively to the Commander of the Forces, the Governor-General, the Secretary of State for the Provinces, and the Department of the Interior. Even in 1880, despite attaining separate departmental status, its political head was the minister of the interior, Sir John A. Macdonald. The department remained a separate entity until 1936 when, because of government retrenchment, it was reduced to a branch of the Department of Mines and Resources. It did not regain departmental status until 1966.

No matter what its status, the Indian Department had difficulty in competing for political attention, attracting qualified personnel, and adequate funding. In many ways it remained until 1945, and, arguably afterward, a backwater government operation with a reputation for unenlightened personnel and poor administration. The lack of political attention and commitment, except at parliamentary estimates, permitted long serving deputy superintendents such as Lawrence Vankoughnet (1874-1893) and Duncan Campbell Scott (1913-1932) to control and direct policy relatively free of Indian and outside political interference.<sup>70</sup>

This unique political environment had a profound impact on the composition and structure of the Indian policy community. As Figure Four, which follows, clearly demonstrates, "systemic stasis" became the defining feature of the policy community from Confederation to the Second World War. Operating virtually on its own, and with difficult

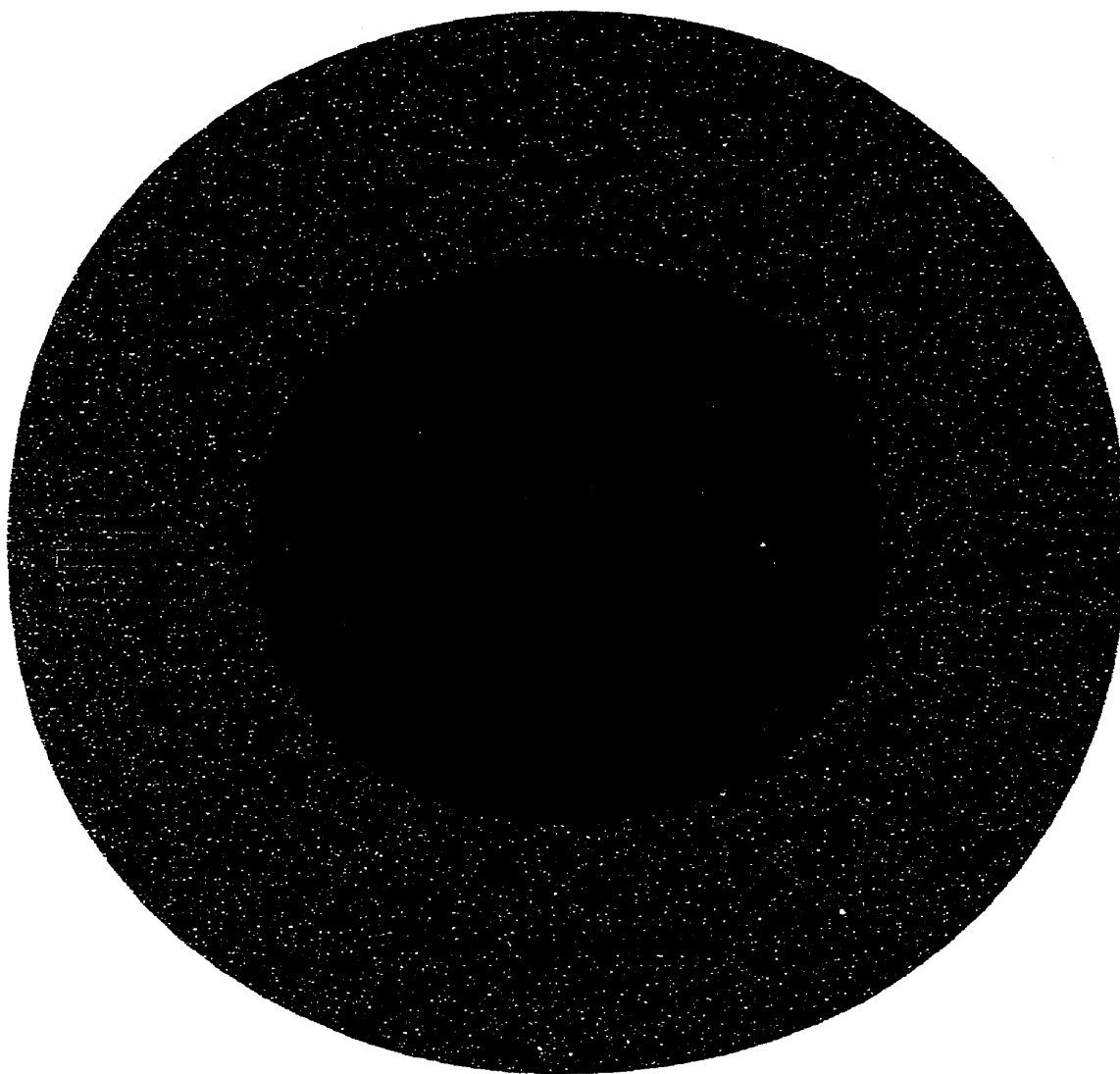
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69. Statutes of Canada. 43 Victoria, c. 28, (7 May 1880).

70. From 1873 to 1945, 21 ministers held responsibility for Indian Affairs, an average of 3.4 years in office. In the same period there were only 6 deputy ministers whose average tenure was 12 years. Thus continuity of policy and the administrative system was sustained despite frequent change at the political level.

*The Indian Policy Community: 1867-1939*

INDIAN ASSIMILATION AFFIRMED



NATIVE PEOPLE ON RESERVES

and diverse client groups, there developed the mystique of the Indian Department field official whose special knowledge of the Indian civilization program and intimate contact with unpredictable chiefs and councils conferred upon him an "imparted wisdom" to formulate and apply government policy with minimal external criticism. The Indian Department's corporate memory was thus never challenged or modified.

The 1880 Indian Act contained a number of direct measures designed to speed Indian assimilation which reflected increasing government impatience with apparently slow progress.<sup>71</sup> The superintendent general, through the system of local Indian agents, was empowered to impose the elective system on Indian bands when, in his view, they were ready for it. The superintendent general could also depose hereditary chiefs by ruling that only elected band representatives were qualified to deal with government and receive benefits. Thus, elected band councils were seen as a major instrument for destroying traditional tribal political systems. Missionaries, educators, government administrators, farm instructors, and the NWMP would ensure that any remaining practices and institutions would be forcibly suppressed.

As usual, government officials and missionaries did not take into account Indian

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71. Nineteenth century social thought was heavily influenced by evolutionary theory in the natural sciences and came to view societal development in evolutionary terms. Social theorist Herbert Spencer, anthropologists E.G. Taylor and Lewis Morgan postulated a sequence of stages in the development of society from primitive savagery to barbarism, to European-style civilization. In this scheme, Indians were "barbarians" capable of attaining "civilization". The later Boasian school of cultural anthropology challenged this argument. Its effect was to give tacit scientific support to the "collectivist" tendency, to discount diversity among Indian groups in favour of generalization and to support the "cultural racism" that dominated both non-Indian attitudes and policy towards Indians in the twentieth century.

resourcefulness in circumventing government initiatives.<sup>72</sup> Some bands, seeking government favour, simply confirmed by election leaders they had chosen by custom. Other bands adopted the elective system but conducted reserve business in a traditional manner by-passing government-run band council meetings. The government countered this resistance with new legislation "An Act for conferring certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal power."<sup>73</sup>

The 1884 Indian Advancement Act expanded the elected band council's power to levy taxes on real property and to manage local police and public health matters. Additional powers were delegated to the local Indian agents which enhanced their control over a band's internal affairs.<sup>74</sup> Indian agents could now call elections and band meetings, preside over them, take minutes, and advise the band council on expenditures. Whether the agent lived on-site, or because of distance visited the reserve intermittently, all decisions and communications required his sanction. Indeed, on the information of an Indian agent, recalcitrant chiefs and councillors could be deposed by the superintendent general on grounds of incompetence, immorality, or intemperance. Total power relating to technological and cultural change rested with the government agent. This led to debilitating Indian dependency, and in turn, smoldering hostility towards the department.

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72. J.R. Miller, "Owen Glendower, Hotspur, and Canadian Indian Policy," Ethnohistory 37(4) 1990: 386-415; also Katherine Pettipas, Severing the Ties that Bind. Government Repression of Indigenous Religious Ceremonies on the Prairies (Winnipeg: The University of Manitoba Press, 1994), Chapter 6, "Responses to Religious Suppression: 1896 to 1914," 127-143.

73. Statutes of Canada 47 Victoria, c. 28, (19 April 1884).

74. John L. Tobias, "Protection, Civilization, Assimilation," 46.

In 1885 the Electoral Franchise Act gave qualified Indian people east of Lake Superior the federal vote.<sup>75</sup> Granting the federal vote went hand-in-glove with government measures to force Indians into the elective system of band governance. Thus Indians were to be educated in the political process both on and off the reserves. This was viewed as training for responsible citizenship. However, whether due to disinterest or a form of protest, Indian turn-out at the polls was sporadic. In 1896 the federal franchise was withdrawn from Indian people.<sup>76</sup>

Increased government interference in band political affairs spilled over to greater control of a band's reserve resources. Since most eastern Canadian bands opposed enfranchisement because of the attendant alienation of reserve lands that this process entailed, elected chiefs and councils often thwarted government policy by refusing to approve subdivision of their reserves. Without a system of allotted land, the issuance of a location ticket was impossible, and, of course, without such a ticket, Indian enfranchisement according to government regulations and procedures could not take place.

In 1879 the Indian Act was amended to enable the superintendent general to allot

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75. Section 11(c), Electoral Franchise Act (1885), disqualified: "Indians in Manitoba, British Columbia, Keewatin and the Northwest Territories, and any Indian on any reserve elsewhere in Canada who is not in possession and occupation of a separate and distinct tract of land in such reserve, and whose improvements are not of the value of at least one hundred and fifty dollars, and who is not otherwise possessed of the qualifications entitling him to be registered on the list of voters under this Act."

76. The 1885 Electoral Franchise Act used the Dominion voters list. In 1896, with the return of the Laurier Liberals, provincial voters lists were used. The Liberals may have been suspicious of a Conservative "Indian vote". Qualified Indians could, at that time, vote in Nova Scotia provincial elections.

reserve lands arbitrarily to individuals.<sup>77</sup> This worsened the situation. Eastern bands became increasingly reluctant to alienate reserve lands for whatever purpose. Individual Indians who possessed location tickets could not lease a portion of their land to non-Indians, to raise much needed investment income, since the process required band council sanction. Consequently, in 1884 the Indian Act was amended (47 Vict. c. 27) and again in 1894 (57-58 Vict. c. 32) to permit the superintendent general to lease such lands for purposes of raising money. This action required no formal surrender vote by the respective band council. In 1898, when a number of eastern bands failed to exercise minimal supervision over road maintenance, public health, and police matters, the superintendent general was authorized to make appropriate regulations and to spend band revenues to correct matters.<sup>78</sup>

The situation of the western Canada tribes presented a challenge to government officials because these peoples had recently been confined to reserves and the civilization program was barely underway. Despite settlement on reserves, lax government supervision and poor communications enabled remote bands to practice traditional ways and customs. Indeed most tribesmen supplemented modest agricultural production with seasonal off-reserve hunting and fishing excursions. Indian resistance to poorly implemented government programs grew in militancy under the leadership of Cree Chiefs Big Bear, Piapot, and Little Pine, who, in the summers of 1883 and 1884, organized gatherings of Indians -- the "Autonomy Movement" -- to bring grievances relating to the fulfilment of treaty provisions

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77. Statutes of Canada. 42 Victoria, c. 34, "An Act to amend The Indian Act, 1876", (15 May 1879).

78. Statutes of Canada. C. 34, "An Act further to amend the Indian Act," (13 June 1898).

to the attention of government officials.<sup>79</sup> The Northwest Rebellion of 1885, and the threat of a general Indian uprising, convinced government administrators and missionaries that additional powers were necessary to control Indian movements (the Indian pass system) and to eliminate tribal structures and customs.

Traditional dances and practices were frowned upon by those in authority because they reinforced ancient religious beliefs which only hindered the acquisition and promotion of Christianity and European values. An 1884 Indian Act amendment (Section 3) contained criminal code measures making it illegal for B.C. Indians to engage in the Potlatch ceremony and for Prairie Indians to perform the Sun Dance.<sup>80</sup> Subsequent legislation banned the wearing of traditional costumes and performance of tribal dances at country fairs and rodeos.<sup>81</sup>

A series of legislative initiatives was also devised to encourage Indian people to remain on their reserves and to acquire skills to manage their personal property as well as reserve resources. The 1881 Indian Act prohibited the sale, barter or exchange of any reserve-grown crops and other produce.<sup>82</sup> Section 27 of the previous 1880 Indian Act had created

79. NAC, RG10, Vol. 3697, File 15,423. See Sarah Carter, Lost Harvests. Prairie Indian Reserve Farmers and Government Policy (McGill-Queen's Press, 1990), 115-129; and James Miller, Big Bear (Mistahimusqua) (Toronto: ECW Press, 1996).

80. Statutes of Canada. 47 Victoria, c. 27, "An Act further to amend the Indian Act, 1880," (19 April 1884), Section 3.

81. Revised Statutes of Canada. 49 Victoria, c. 43, "An Act respecting Indians," (1886), Section 114.

82. Statutes of Canada. 44 Victoria, c. 17, "An Act to amend The Indian Act, 1880" (21 March 1881), Sections 1-3.

a licence system to protect reserve resources from illegal sale or expropriation.<sup>83</sup> These licensing systems remained in force after the 1951 revisions and became symbols of autocratic government administration for many western bands.

Finally, in 1890, a further amendment made the game laws of Manitoba and the Northwest Territories applicable to off-reserve Indians.<sup>84</sup> This measure was taken to discourage Indians in southern parklands and prairies from pursuing traditional hunting practices off reserves. The seasonal nature of these activities distracted Indian families from agricultural pursuits and discouraged regular school attendance by Indian children.

Indian education was of foremost concern to government officials, missionaries, and Indian people. Regular school attendance, since pre-Confederation times, had been viewed as a mechanism for ensuring Indian economic advancement and cultural

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83. Statutes of Canada. 43 Victoria, c. 28, "An Act to amend and consolidate the laws respecting Indians," (7 May 1880).

84. Statutes of Canada. 53 Victoria, c. 29, "An Act further to amend - The Indian Act," Chapter forty-three of the Revised Statutes," (16 May 1890), Section 133.



assimilation.<sup>85</sup> Early in the civilization program educators such as Methodist Egerton Ryerson and local missionaries had devised a program of government-financed boarding and industrial schools staffed by missionaries. The scheme met with little success as Indian parents and children objected to family separation and questioned the quality of teachers and the utility of the curriculum.

Education issues thus caught the ever-watchful eye of government officials. The 1894 Indian Act authorized the governor-in-council (Section 11) to make appropriate regulations to ensure compulsory school attendance by Indian children.<sup>86</sup> Indeed, the legislation empowered the superintendent general to take steps "for the arrest and conveyance to school, and detention there, of truant children" and for the possible imprisonment of parents not complying with government orders.

By the mid 1890s, western settlement and agricultural development had reached the stage where, as it had previously in Upper Canada, observers questioned whether Indian

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85. There was an exception to this view. The short-lived Canadian Indian Research Aid Society (1891-92), that published issues of The Canadian Indian, was a reformist Victorian voluntary association that sought to combine missionary and scientific research. It comprised church officials such as Anglican Rev. E.F. Wilson (CMS) and noted anthropologists A.F. Chamberlain, Horatio Hale, Sir David Wilson, and David Boyle. The Society blamed Indian degeneration on White contact and offered a counter argument to assimilation urging the formation of an "independent Indian community" with its own political representatives. Wilson himself concluded that cultural synthesis and political autonomy were superior to cultural replacement and paternalism. See D.A. Nock, "The Canadian Indian Research and Aid Society: A Victorian Voluntary Association," The Western Canadian Journal of Anthropology 6(2) (1976): 31-62. See also, Ramsay Cook, The Regenerators, Social Criticism in Late Victorian English Canada (Toronto: University of Toronto Press, 1985).

86. Statutes of Canada. 57-58 Victoria, c. 32, "An Act further to amend The Indian Act," (23 July 1894), Sections 137-139.

reserves not only hindered western economic development and transportation links, but were also ineffective instruments for assimilation. The attack on the integrity of the Prairie Indian reserve system came in the 1895 Indian Act which gave the superintendent general authority to lease reserve lands for “the benefit of any Indian”, without band council consent.<sup>87</sup> There followed in 1898 (61 Vict. c. 34) and in 1907 (6 Edward VII, c. 20) additional amendments to facilitate the disposition of Indian lands, property, or timber “held in trust for the Indians” and for the investment of the resulting proceeds in local reserve improvements.<sup>88</sup>

In 1911, the “Oliver Clause” (Section 49a) was inserted in the Indian Act. This provision, named after the minister of the interior, authorized the federal government to expropriate reserve lands whose boundaries fell within the limits of towns possessing a population greater than 8000 people.<sup>89</sup> The amendment had an unintended consequence: it perpetuated the economic marginality of Indian people by removing them from proximity to cities where markets for casual labour and Indian products were available.

Growing government dissatisfaction with the reserve system stemmed from the fact that it was not fulfilling its function as a vehicle to promote rapid Indian assimilation. The new assault came from two directions. In 1918, to meet war-time food production quotas,

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87. Statutes of Canada. 58-59 Victoria, c. 35, “An Act further to amend the Indian Act,” (22 July 1895), Section 38.

88. The 1906 Indian Act, R.S.C. (1906), c. 81, contained 26 penalty sections on enfranchisement, and 46 guiding the protective management of Indian reserve lands and resources.

89. Statutes of Canada. 1-2 George V, c. 14, (19 May 1911), Section 49A. This clause was named after Liberal Frank Oliver, minister of the interior, 1905-1911. It was used to take the surrender of the Songhees Reserve at Victoria in 1911 and portions of the Sarnia Reserve.

the Indian Act was amended to permit the superintendent general to arrange for surplus reserve lands to be cultivated by non-Indians without a prior surrender for leasing purposes.<sup>90</sup> In this fashion, five Greater Production Farms were established under the supervision of W.M. Graham.<sup>91</sup> In total, 16, 374 acres were leased for grain production and 297,024 acres for grazing purposes.<sup>92</sup> Indeed, Deputy Superintendent General Duncan Campbell Scott saw Indian leasing of excess reserve lands as a hindrance to assimilation because, from his viewpoint, Indian people could raise money without working, and the reserve remained intact. In fact, Scott advised Arthur Meighen, superintendent general of Indian affairs and minister of the interior, that breaking up the existing Indian reserve system was advisable and could be accomplished expeditiously by taking surrenders for sale purposes.<sup>93</sup> If a significant number of the more isolated reserves were so destroyed, the dwindling Indian population could be consolidated on reserves close to the scrutiny of Indian agents, farm instructors, and missionaries.

In accordance with Scott's views, in July 1919 the Indian Act was amended to include a third section, "Soldier Settlement", that ensured all surrendered, unsold Indian reserve lands

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90. Statutes of Canada, 8-9 George V, c. 26 "An Act to amend the Indian Act," (24 May 1918), Section 4.

91. E. Brian Titley, "W.M. Graham: Indian Agent Extraordinaire," Prairie Forum 8, No. 1 (1983): 25-41; see also, William M. Graham, Treaty Days. Reflections of an Indian Commissioner (Calgary: Glenbow Museum, 1991).

92. Canada. Sessional Papers, 1920, No. 27, "Report of the Deputy Superintendent General," 10-12.

93. NAC, RG10, Vol. 4069, File 427,063. D.C. Scott to Arthur Meighen, 3 April 1919.

were withdrawn from immediate sale and placed under the administrative aegis of the Soldier Settlement Board.<sup>94</sup> In total, approximately 72,000 acres of Indian land were appropriated for distribution to returning war veterans.<sup>95</sup>

On a related front, the slow pace of Indian enfranchisement, the Conservative government's patience again wore thin. Scott reported to Meighen that only 102 Indians had been enfranchised between 1867 and 1918.<sup>96</sup> In 1918, the Indian Act, amended by section 122A, permitted the superintendent general, to forcibly enfranchise any Indian on application, even if he did not possess a reserve location ticket, provided he was willing to accept a share of the band's funds and to give up future title to reserve land.<sup>97</sup> This amendment accelerated the pace of Indian enfranchisement; between 1918 and 1920, 258 filed applications.<sup>98</sup>

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94. Statutes of Canada. 9-10 George V, c. 56, "An Act to amend the Indian Act," (7 July 1919).

95. Canada. Sessional Papers, 1920, No. 27, 40-41.

96. Canada. Sessional Papers, 1921, No. 27, "Report of the Deputy Superintendent General," 13.

97. Statutes of Canada. 8-9 George V, c. 26, "An Act to amend the Indian Act," (24 May 1918).

98. Canada. Sessional Papers, 1921, No. 27, "Report of the Deputy Superintendent General," 13.

Duncan Campbell Scott, however, was not satisfied with political half-measures.<sup>99</sup> In 1920, the Conservative government of Arthur Meighen brought Bill 14 before the House of Commons.<sup>100</sup> The object of this legislation -- compulsory Indian enfranchisement -- can best be described in Scott's own words:

Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question and no Indian Department that is the whole object of this Bill.<sup>101</sup>

The proposed amendment granted the superintendent general the power to end "Indianness" by establishing government boards of inquiry to examine the fitness of individual Indians to become citizens. Three-member inspection boards would be established without application from individuals, and reports would be forwarded to government reporting on their fitness

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99. See E. P. Patterson III, "The poet and the Indian: Indian themes in the poetry of D.C. Scott and John Collier", *Ontario History*, 59(2) (1976), 69-78; and B. Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986). Scott believed that the future of the Indians lay in assimilation. The reserves and special legal status were only temporary measures. This theme was restated in an article which appeared on 15 May 1939, in *The Times* of London.
100. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 7. On 1 May, 1920, Scott forwarded to J.F. Reid, M.P., a report on the Indians of Lorette prepared in 1919 by Marius Barbeau, director of anthropology, Geological Survey of Canada. Barbeau reported that the Lorette Indians were comparable in every respect to their French-Canadian neighbours due to intermarriage. In fact, many were simply taking advantage of Indian status to receive government relief, while others were hampered by legal inequalities. The Lorette Indians became Scott's model Indian community for arguing compulsory enfranchisement and for the removal of all legal distinctions. See an article by Marius Barbeau, "Our Indians - Their Disappearance," *Queen's Quarterly*, 38 (1931): 692.
101. Canada. House of Commons, *Debates*, 1920, 4173.

for enfranchisement.

As in 1857, Indians bands and their non-Indian supporters protested loudly, viewing the measures as an instrument for the break-up of the reserves and tribal structures.<sup>102</sup> As in 1857, their protests were to no avail. The revised 1920 Indian Act contained five sections, 107-111, outlining the policy and procedures for compulsory Indian enfranchisement.<sup>103</sup>

When the Liberals under W.L. Mackenzie King returned to power in 1921, the Conservative government's Indian enfranchisement clauses were amended.<sup>104</sup> Inspection boards would be established upon the request of an applicant seeking to be enfranchised. In 1933, however, compulsory Indian enfranchisement was reintroduced by the Conservative government of R.B. Bennett.<sup>105</sup> There is no extant archival evidence or government reports to suggest that compulsory enfranchisement was ever proceeded with by government; nevertheless these contentious measures remained in the Indian Act and were one of the flash points of concern and unrest among Native people beyond 1951 until compulsory enfranchisement was abolished in 1961.

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102. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 7. See for example, petitions from the Abenaki Indians (19 April 1920) and the Six Nations at Ohsweken, as well from the Mohawks at Tyendinaga, St. Regis, Caughnawaga, and Oka (30 March 1920). The Sault Ste. Marie Trades and Labor Council also sent in a protest on 13 April 1920. A dissenting voice was the Missionary Society of the Methodist Church (6 May 1920) which supported Scott's efforts.

103. Statutes of Canada. 10-11 George V, c. 50, "An Act to amend the Indian Act," (1 July 1920).

104. Statutes of Canada. 12-13 George V, c. 26, "An Act to amend the Indian Act," (28 June 1922), Section 107.

105. Statutes of Canada. 23-24 George V, c. 42, "An Act to amend the Indian Act," (23 May 1933), Section 7.

Another concern of government in the twentieth century was the growth of Native rights associations as vehicles of Indian protest. Duncan Campbell Scott, in particular, was greatly disturbed with the post-war activities of F.O. Loft (1861-1934), a Six Nations war veteran who, after the Great War, sought to establish a national Indian organization, the League of Indians of Canada.<sup>106</sup> Loft proved to be an effective Indian organizer and his League became a vocal opponent of many government measures, particularly compulsory enfranchisement. On 28 January 1920, Scott informed the superintendent general of Indian affairs, Arthur Meighen, that a side benefit to compulsory Indian enfranchisement was that Indian activists, such as Loft, could be enfranchised and their political clout as leaders of Native rights associations would be reduced.<sup>107</sup>

Scott's view of Native rights associations was consistent with longstanding departmental directives to discourage Indians from travelling to Ottawa to air grievances or hire outside legal advisors to present petitions. In 1903, Toronto lawyers G. Mills McClurg and W.H. Hunter had been hired by the Chippewa and Mississauga Indians to pursue treaty-

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106. See R.R.H. Lueger, "A History of Indian Associations in Canada, 1870-1970," M.A. thesis, (Carleton University 1977), 97-99 and 135-144. Also, Peter Kulchyski, "A Considerable Unrest": F.O. Loft and the League of Indians," Native Studies Review 4, Nos. 1 and 2, (1988): 95-117. See Loft's obituary, "Famous Chief Passes. A Benefactor of His People," Toronto Globe, 7 July 1934.

107. NAC, RG10, Vol. 6809, File 470-2-3 Pt. 6, D.C. Scott to A. Meighen, 28 January 1920.

related claims.<sup>108</sup> In January 1911, several treaty chiefs from Manitoba and Saskatchewan travelled to Ottawa to discuss treaty-related, administrative and welfare issues, with Frank Oliver, David Laird, and Scott himself. The unscheduled conference lasted eight days and consumed the attention of headquarters staff.<sup>109</sup>

During the 1920s, the Rev. A.E. O'Meara, an Anglican clergyman and lawyer, was counsel to the Allied Tribes of B.C. in pursuing settlement of their Aboriginal land claim.<sup>110</sup> As a result, in 1926-1927, Indian Department officials were compelled to appear before a joint committee of the Senate and House of Commons to testify on the validity of the B.C.

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108. See Richard C. Daniel, "A History of Native Claims Processes in Canada, 1867-1979," (Ottawa: Research Branch, Corporate Policy, Indian and Northern Affairs Canada, 1980), 67-68. See also, Archives of Ontario, "Inventory of the A.E. Williams/United Indian Bands of Chippewas and Mississauga Papers, F 4337 (October 1955)."
109. John L. Tobias, "The Origins of the Treaty Rights Movement in Saskatchewan," in Laurie Barron and James Waldram (eds.), 1885 and after: native society in transition (Regina: Canadian Plains Research Centre 1986). See also NAC, RG10, Vol. 4053, file 379, 203-1, "Reports...on complaints from Indians in the Pelly, Portage la Prairie, Crooked Lakes and Qu'Appelle Agencies, 1908-1911," and File 379, 203-2, "Hard cover memorandum to representations made by an Indian delegation from the West, 1911."
110. Non-Indian sympathizers formed an informal association, "Friends of the Indians". Missionaries took the lead in presenting the Indian cause. Most prominent were Methodist Reverends Thomas Crosby, A.E. Green, and Ebenezer Robson. In 1894 the Anglican Church Missionary Society and the Methodists cooperated to revive land claims as a matter of social justice to living Indians. In the 1940s the Church Missionary Society admitted that their actions were based on the assumption that the Indians were a "dying race, unable to exist as a segregated society."



Allied Tribes' claims documentation.<sup>111</sup> Also, rumours were received at departmental headquarters, that various American lawyers had recently solicited funds from the Oneida, St. Regis, (Akwesasne), Oka (Kanesatake), and Lorette (Nation Huronne Wendat) Indians. To head off agitators, the Indian Act was amended in 1927 to prohibit unauthorized individuals from soliciting funds from individual Indians or Indian bands for the prosecution of claims without departmental approval. This provision, Section 141, remained part of the Indian Act until 1951.<sup>112</sup> In 1933, an official departmental ban was placed on Indians travelling to Ottawa to discuss grievances and land claims issues.<sup>113</sup>

Between 1934 and 1945 virtually no important Indian legislation was passed.<sup>114</sup> The period was marked by severe economic depression and a second great war which distracted

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111. Paul C. Tennant, Aboriginal Peoples and Politics. The Indian Land Question in British Columbia, 1849-1989 (Vancouver: University of British Columbia Press 1990), 105-108. Andrew Paull and the Rev. Peter Kelly were members of the B.C. Allied Tribes delegation. See also, R.M. Galois, "The Indian Rights Association, Native Protest Activity and the 'Land Question' in British Columbia, 1903-1916," Native Studies Review 8, (2) (1992), 1034.

112. Revised Statutes of Canada. 17 George V, c. 98, "An Act respecting Indians," (1927).

113. NAC, RG10, Vol. 3245, File 600,381. H. McGill to All Agents and Inspectors, 15 March 1933. Dr. McGill directed field staff to ensure that Indian petitions and complaints were dealt with at the local level and did not result in delegations visiting headquarters in Ottawa.

114. See John F. Leslie and Ron Maguire (eds.), The Historical Development of the Indian Act 2 ed. (Ottawa: Research Branch, Indian and Northern Affairs Canada, 1979), 124-130.

government attention and drained its resources (Organization Chart One).<sup>115</sup> Indian Affairs administration, reduced to a branch of the Mines and Resources Department on 23 June 1936 (I Edward VIII, c. 33) was left largely on its own. The Indian assimilation program and supporting legislation remained in place carefully tended and defended by Branch Secretary T.R.L. MacInnes<sup>116</sup> and his Director Dr. Harold W. McGill, an R.B. Bennett appointee.<sup>117</sup>

During the late 1930s Indian administration stagnated. The branch had always been a hierarchical, authoritarian operation that operated in the political backwater of official Ottawa. Long-serving deputy superintendents general Vankoughnet and Scott ruled headquarters with an iron fist and directed field operations via directives contained in circular letters. Headquarters contact with Indians was discouraged: this was the domain of Indian agents.

The agents themselves were a motley lot. Few had formal training in the skills that

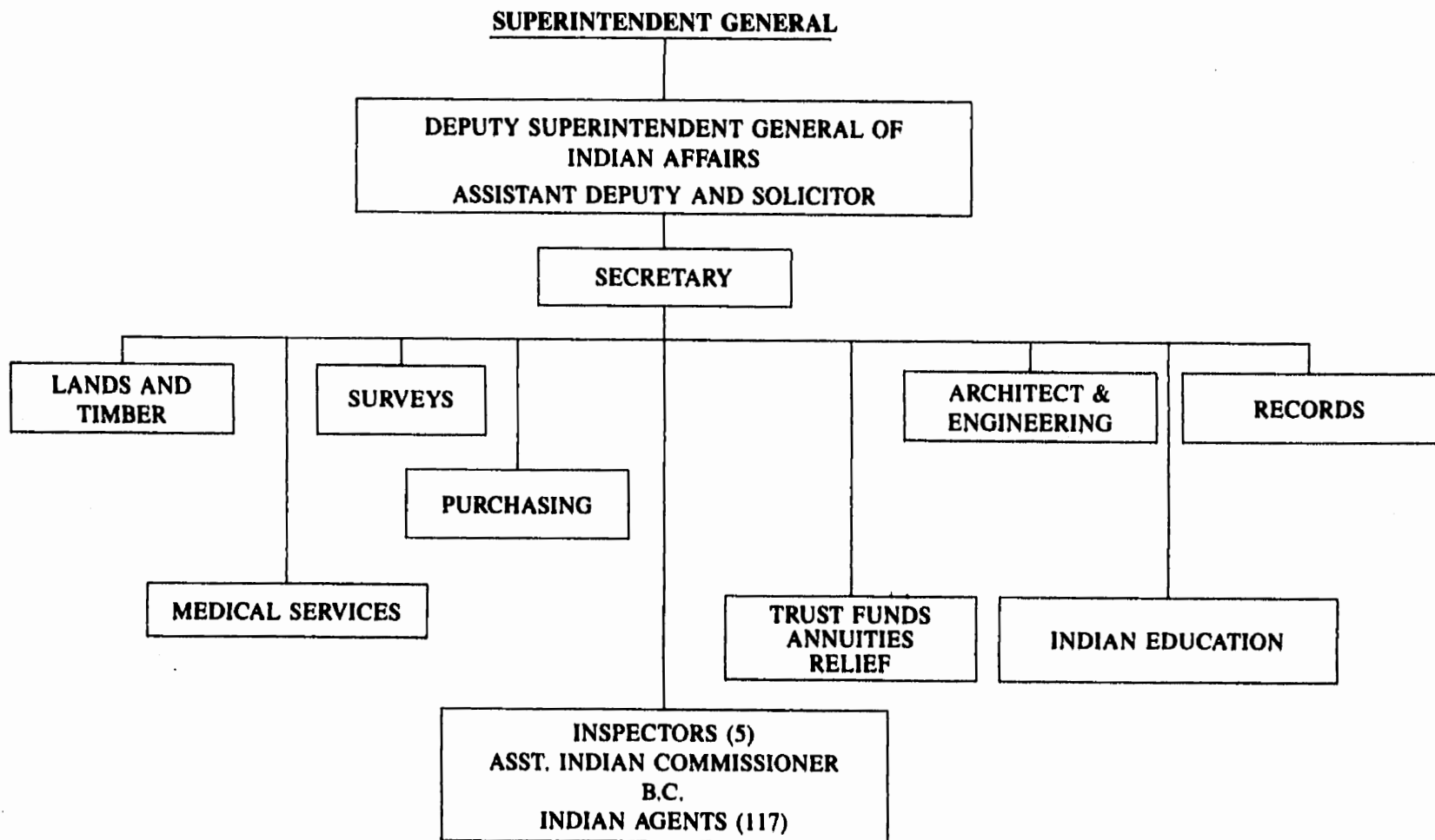
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115. Robert B. Bryce, Maturing in Hard Times. Canada's Department of Finance through the Great Depression. The Institute of Public Administration of Canada. (Montreal: McGill-Queen's University Press, 1986). The following Organization Chart One provides a glimpse of departmental responsibilities on the eve of its demise.

116. NAC, RG10, Vol. 6812, File 481-1-14 Pt. 1. On 21 February 1933, MacInnes gave a talk on radio station CNRO (Ottawa) in which he reaffirmed the dual principles of "Indian protection and civilization" and stated the "policy of our department is to advance the Indians until they are ready to take their place on an equal footing with our white neighbours as full Canadian citizens." The same policy themes were repeated to the members of the Ottawa Kiwanis Club on 14 May 1937.

117. Dr. McGill was appointed by Prime Minister R.B. Bennett to the position of branch director. A suspected Conservative, both Deputy Minister Charles Camsell and Minister T.A. Crerar kept their distance. Thus political communication and administrative direction and support was infrequent. Both Crerar and Camsell were also more interested in northern mineral exploration than Indian administration.

**ORGANIZATION CHART, DEPARTMENT OF INDIAN AFFAIRS  
1936**



they were to impart to Native people. Most were patronage appointments and were not part of the regular civil service. Directives from Ottawa were seldom questioned although their implementation was problematic due to chronic staff shortages, financial retrenchment, poor communications, and the remote location of many reserves.

As for policy-making, this had always been incrementally based on administrative precedent, expediency and political ennui. Administrators had inherited a system and philosophical outlook from the nineteenth century that, in their view, still had merit and application. The Indian population was on the rise and reserve conditions were deteriorating, but branch officials held to the view that the solution to the "Indian problem" was more effective administration. In this scheme of things, the Indian viewpoint carried little weight and public opinion was not an issue.

To be sure, government administrators, politicians, church authorities, academics, lawyers and other concerned citizens periodically raised questions or debated issues relating to Indian and Eskimo administration.<sup>118</sup> Indian people also voiced their disapproval with departmental practices and sent petitions to Ottawa seeking reform.<sup>119</sup> These, like those

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118. On 5 April 1939, the Supreme Court of Canada ruled that, for administrative purposes, Eskimos (Inuit) were to be considered "Indians", and thus a federal responsibility under Section 91 (24). See R.J. Diubaldo, "The Absurd Little Mouse: when Eskimos became Indians," Journal of Canadian Studies, 16(2) Summer 1981: 34-40.

119. NAC, RG10, Vol. 6810, File 470-2-3 Pt. 9. This file contains protests (in petition form) from the Village des Hurons de Lorette (17 March 1933); Chiefs of the Fraser Valley (15 June 1933); and Rolling River Reserve No. 67, Manitoba, (26 July 1934), concerning imposition of compulsory enfranchisement. The Toronto Telegram of 15 May 1933, contained an article, "Ojibway Pow-Pow Objects to Compulsory Enfranchisement," noting opposition from Chief Henry Jackson of the Pottawattamies (sic).

emanating from other quarters, were routinely ignored or replied to with a curt form letter response. Indeed, the eighty-five American, Canadian, and Indian delegates who attended a joint Yale/University of Toronto conference on "The North American Indian Today," 4-16 September 1939, were informed by Diamond Jenness, chief of anthropology in the Department of Mines and Resources, and senior Indian Affairs Branch officials, that existing Indian legislation and administrative arrangements were adequate and appropriate for promoting Indian assimilation.<sup>120</sup> Clearly the policy paradigm set in early colonial days was firmly entrenched and the few who bothered with Indian policy matters encountered government disinterest and intransigence.<sup>121</sup>

However, not all elements of the Indian policy equation remained unchanged. Included as members of the Canadian delegation, at the insistence of Professor Thomas McIlwraith, were a number of carefully chosen, "respectable" Indians: the Methodist Rev. Peter Kelly (Haida), Native Brotherhood of B.C.; Teddy Yellowfly, manager of the Blackfoot Reserve coal mine; Canon Maurice Sanderson, an Anglican Ojibwa from northwestern

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120. NAC, RG10, Vol. 3186, File 464,314. D. Jenness, chief, division of anthropology to T.R.L. MacInnes, secretary, Indian affairs branch, 15 March 1939; also, T.R.L. MacInnes, "The History and Policies of Indian Administration in Canada," in C.T. Loram and T.F. McIlwraith (eds.), The North American Indian Today (Toronto: University of Toronto Press, 1943), 163.

121. U.S. National Archives, Washington, D.C. RG75, Entry 178, Box 4, Collier Officer File. J.C. McCaskill, assistant to the commissioner, to Mr. Collier, "Re: Toronto Conference", 23 September 1939. In his conference report McCaskill stated: "The Canadian missionaries as well as the Canadian officials were almost entirely historical in all of their efforts to deal with the problems. Their accounts usually brought the subject up to about 1914 and then ended. A more tight-lipped, defensive group I have never encountered. They had no problems, knew all the answers, and the Indians were doing beautifully."

Ontario; Joseph Peletier Sr., an Indian spokesman from Manitoulin Island; Norman Lickers, a Six Nations lawyer; and Edith Brant Monture, an extension lecturer for the Indian Affairs Branch and Women's Institutes. At the close of the Toronto Conference, the Canadian Indian delegates joined their American Indian counterparts, including Arthur C. Parker, director of the Rochester Museum of Arts and Sciences; D'Arcy McNickle, an anthropologist with the Washington office of Indian affairs; and Louis Bruce, director of Indian projects, National Youth Administration, New York State, to pass a number of resolutions demanding that future conferences on Indian welfare matters "be limited to bona fide Indian leaders actually among the Indian people...and further, that such conferences remain free of political, anthropological, missionary, administrative, or other domination."<sup>122</sup>

The 1939 Toronto Indian conference is an important benchmark in two respects. Conference proceedings accurately reflected, at least publicly, the entrenched policy views of Canadian government officials. In private conversation, however, civil servants expressed concern at the high incidence of tuberculosis found among Indians and Eskimos and at the mounting evidence of social disintegration in reserve communities. Some degree of government intervention and outside expert assistance was necessary to alleviate Indian reserve conditions.

The resolutions adopted by the Indian delegates also reflected a desire for political and social change, to enable Indian people to come together to discuss their problems and find solutions free from outside interference. Historian John L. Taylor, surveying the inter-war

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122. C.T. Loram and T.F. McIlwraith (eds.), The North American Indian Today (Toronto: University of Toronto Press, 1943), 349.

years from an Indian perspective, has concluded:

What is interesting...is the degree of understanding achieved by some Indian people about themselves and their situation. This is evident in their approach to issues such as the B.C. land question, enfranchisement, and Indian political associations. The British Columbia Indians wanted to negotiate with governments as equals. Political associations were intended to be channels of communication and vehicles for the determination of matters affecting Indian people and their future. There began to develop in this period concepts of "being Indian" that differed from mere enfranchisement and were not necessarily incompatible with full Canadian citizenship.<sup>123</sup>

As the end of the Second World War came into view, politicians, bureaucrats, and Indian leaders urged action to modernize Indian administration and revise the Indian Act. This reform impulse was buoyed by public opinion as Canadians questioned the nature and quality of the society that would emerge when hostilities ceased. In the enlivened atmosphere of social questioning and inquiry associated with plans for post-war reconstruction, the dismal conditions of Canada's 125,000 Indian people,<sup>124</sup> the viability and legitimacy of the existing Indian policy, and the cost-effectiveness of Indian administration, became an issue for public discourse and parliamentary investigation.

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From the formal inception of the British Indian civilization program in 1830 to the advent of the Second World War, the goal of Indian policy was assimilation. Indian administration remained a backwater government operation that received only sporadic public

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123. John L. Taylor, "Canadian Indian Policy During the Inter-War Years, 1918-1939," (Ottawa: Research Branch, Indian and Northern Affairs, 1984), 7.

124. Indians comprised only one percent of the population, but occupied some 2165 reserves, comprising 5.5 million acres. They were predominantly rural, uneducated and were disenfranchised both federally and provincially. Only Indian residents in Nova Scotia could vote in provincial elections.

attention or political scrutiny thus the department's corporate memory remained unchallenged. The nineteenth century civilization mentality of policy-makers persisted: paternalism, hegemony, and wardship effectively limited policy options and administrative innovation. Native activists were not yet sufficiently organized to mobilize forces that would threaten the status quo. What would have to happen to awaken government policy-makers from their somnolent state?



## **CHAPTER TWO**

### **National Indian Political Resurgence and Government Responses, 1939-1946**

From 1930 to 1945 severe economic depression and a second world conflict monopolized the attention of the public and that of government officials at all political levels in Canada. The absence of attention to Indian administration, however, belied activity beneath the political surface in the administrative machinery of the Indian Affairs Branch and among Native rights associations which had come into being following the Great War. Both Indian and government dissatisfaction with existing Indian Act legislation, administrative arrangements, and living conditions resurfaced in the attention of reconstruction-minded officials in the years from 1943 to 1945. This systemic unrest was the precursor of government action after the end of the Second World War when a special joint committee of the Senate and the House of Commons was established to examine the Indian Act and Indian Branch administration. The special joint committee of 1946-48 became the focus for the deliberations and activities of an expanded Indian policy community.

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Despite worsening Indian conditions in the 1930s, Indian Branch officials maintained confidence in the basic philosophical principles underpinning administrative practices: Indian

protection, amelioration and assimilation. Thomas A. Crerar,<sup>1</sup> minister of mines and resources, and superintendent general, reaffirmed the three principles in 1937, in a series of CBC radio talks on Indian peoples and Canada's natural resources.<sup>2</sup> Senior branch officials, attending the September 1939, Yale-University of Toronto Conference on "The North American Indian Today", expressed unquestioning approbation for both the Indian Act and existing administrative arrangements as vehicles for achieving full Indian citizenship. In their view, what was needed was administrative renovation and clarification of existing Indian legislation.

On 22 November 1938, Dr. Harold McGill<sup>3</sup>, branch director, sent a circular letter to all Indian agents informing them that Indian Act revision was contemplated.<sup>4</sup> He solicited

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1. Thomas A. Crerar was a Manitoba farmer and grain grower. He was past president of the United Grain Growers Ltd., a one-time Progressive, and a former director of Great West Life Assurance Co., Algoma Steel Corp. Ltd., Canada Steamship Lines Ltd., and Modern Dairies. From 23 October 1935 to 30 November 1936 he was minister of the interior and superintendent general of Indian affairs; he was minister of mines and resources, and superintendent general of Indian affairs from 1 December 1936 to 17 April 1945. Crerar was called to the Senate on 18 April 1945 and resigned 31 May 1966. See J.E. Rea, T.A. Crerar: a political life (Montreal: McGill-Queen's Press, 1997).
  2. Crerar's talk, entitled "The Indians Speak to Canada" occurred on 23 February 1937, and was the fourth in a series of ten on Canada's natural resources. Dr. Gilbert Monture from the Six Nations spoke on 6 November 1937. The text was printed as a pamphlet by the King's Printer in 1939. Consult the Canadian Indian rights Collection, National Library of Canada.
  3. Dr. McGill, a Calgary Conservative, was an appointee of R.B. Bennett. McGill was concerned with rising Indian Affairs Branch expenditures which, in light of the increasing Indian population, meant "grave considerations of policy in the near future".
  4. DIAND, File 6-15-1, Vol. 1, Dr. H.G. McGill, branch director, to all "Indian Agents".

their views on how to improve administrative practices and streamline existing legislation. As part of the review process, A.E. St. Louis, branch records officer and archivist, was instructed to research extant legislative historical records to determine whether a rationale could be provided for the existence and wording of various sections of the Indian Act.<sup>5</sup>

W.M. Cory, departmental solicitor, also contacted John Collier, U.S. commissioner for Indian affairs, to ascertain whether the 1934 Indian Reorganization Act and other American Indian legislation might inform the Canadian review process.<sup>6</sup> Collier's reply described the complexity and variety of American practices and he suggested that the branch purchase C.J. Kappler's, U.S. Indian Laws and Treaties.<sup>7</sup> By mid-summer 1939, Indian Act review was underway and Clarence Jackson, chief executive assistant to Thomas A. Crerar, queried branch officials when draft legislation might be available for ministerial review.<sup>8</sup>

The outbreak of war in Europe and Canada's formal entry on 10 September 1939 effectively put Indian Act review on the political backburner. Nonetheless, internal branch consideration of amendments moved ahead and advice from Indian agents was solicited on

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5. A.E. St. Louis unearthed a departmental document dating from 1902 titled, "An Act relating to Indians and Lands reserved for Indians." The draft legislation was in bill form and branch legal advisors thought that it might still form the basis for a revised Indian Act in the 1930s. See NAC, RG10, Vol. 11209, File 7.
  6. NAC, RG10, Vol. 11209, File 7. W.M. Cory to Hon. John Collier, 22 November 1939.
  7. Ibid., John Collier to W.M. Cory, 1 December 1939.
  8. Ibid., C.W. Jackson to Dr. McGill, 26 July 1939. Clarence Jackson was born at Stonewall, Manitoba. He was private secretary to T.A. Crerar when he was minister of railways and canals, 1929-1930. When Crerar became minister of mines and resources in 1936, Jackson continued his career as a trusted advisor.

an intermittent basis throughout the early 1940s. As well, a beginning was made on the preparation of a branch Field Manual for Indian agents that would set down guidelines for dealing with administrative matters, disbursement of welfare benefits, and enforcement of laws dealing with Indian morality and non-Native trespass.

A select review of incoming suggestions from Indian agents from this 1939 canvas provides information concerning the state of Indian field administration and local reserve conditions. In considering this evidence, one should consider certain factors: viz. the wide geographic dispersal of the reserves (from the American border to the Arctic Circle), poor communications, lack of financing, and the questionable skills and abilities of branch field officers. These often made effective supervision of Indian reserves problematic, delivery of treaty benefits and government supplies uncertain, and consistent implementation of branch policy directives improbable. Indeed, unless the local Indian agent was in proximity to his charges and could make regular inspection trips, Indian people, particularly in remote northern areas of the Prairie provinces, were left to their own devices and could maintain many traditional practices and customs.<sup>9</sup>

Indian affairs officials were also working with Indian Act legislation that had been

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9. See John S. Milloy, "A Partnership of Races - Indian & White, Cross-cultural relations and Criminal Justice in Manitoba, 1670-1949." Prepared for the Public Inquiry into the Administration of Justice and Aboriginal People. Draft Report (1990), 95-97. For example, in 1940, the Manitoba Inspectorate had 11 agents to cover 101 reserves and 25,000 Indians: an average of one agent for every ten reserves. See also the testimony of A.G. Hamilton, inspector of Manitoba Indian agencies, SJC, Minutes of Proceedings & Evidence (No. 31, 6 June 1947), 1643-1648. Kerry Abel found a similar situation in the Canadian northwest, see Drum Songs, Glimpses of Dene History (Montreal and Kingston: McGill-Queen's University Press, 1993).

amended twenty-eight times since 1880. As a result, the document contained many unintelligible or even contradictory sections. Local Indian agents complained to headquarters that when Indian chiefs and councillors asked for an explanation of certain sections, often no logical or satisfying response could be provided.

Resident field agents, in particular, wanted clarification of their authority to act as justices of the peace to enforce Indian Act regulations or aspects of the Criminal Code. Most agents wanted the existing thirty-three penalty clauses of the Indian Act strengthened to deal with reserve trespass, liquor law violators, immorality, vagrancy, desertion and child support. However, there was a major grievance that went to the very heart of the existing Indian Act and Indian administration, namely the definition of who was to be considered "Indian".<sup>10</sup> The revised Indian Act (1927) contained a definition of "Indian" that was virtually the same as that of 1880. Even before Confederation, legislative definition of Indian status was directly linked to membership in a band. The 1927 Indian Act stated:

3. The term "Indian" means -

First. Any male person of Indian blood reputed to belong to a particular band;

Secondly. Any child of such persons;

Thirdly. Any woman who is or was lawfully married to such a person.<sup>11</sup>

The definition of "Indian" was also confounded by related definitions such as "Irregular band"

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10. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 10.

11. Revised Statutes of Canada c. 98, "An Act respecting Indians," 1927.

and a “non-treaty Indian”.<sup>12</sup> These terms were so imprecise that agents had difficulty in sorting out conflicting claims concerning eligibility to reside on a reserve, to receive treaty benefits, and to obtain government social assistance. The situation was compounded by the lack of verifiable band membership lists, poor supervision of isolated reserves, and by Depression era conditions, which encouraged Indians to move from band to band seeking relief, or to return from the city to reserves after years of absence. In many cases, government officials turned a blind eye to these practices out of humanitarian and other considerations.

Another issue, this time jurisdictional, occupied the attention of Indian agents in western Canada. In 1930, the Natural Resources Transfer Agreement had turned over the title to unoccupied federal crown lands and their resources to the prairie provinces. Soon provincial game conservation officers came into conflict with off-reserve Indian hunters, trappers, and fishermen who claimed their treaty rights were being infringed and their livelihood threatened. Local Indian agents rejected Indian assertions, urged Indians to remain on reserve, and asked Ottawa to clarify the legal situation.<sup>13</sup>

In the east, a lingering historical issue required attention. Traditional elements of the Iroquois Confederacy at Brantford (Ohsweken), Oka (Kanesatake), Caughnawaga

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12. According to Section 2(g): “An irregular band means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown”; Section 2(h) termed a ‘non-treaty’ Indian as “any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada.”

13. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 10.

(Kahnawake), and St. Regis (Akwasasne) claimed they were "allies" of the Crown, not subjects. They rejected the application of both the Indian Act and Indian administration to their reserve constituents claiming, even before the League of Nations,<sup>14</sup> sovereign status and the right to govern their communities according to ancient tribal law and customs.<sup>15</sup> The question led to violence at Ohsweken in 1924, and during the 1930s the "Mohawk Workers" faction threatened the return of violence.

Some submissions from field agents questioned the premises of existing policy and administration. Two reports are useful to cite as a reminder that, despite its hierarchical structure and authoritarian bent, internal branch dissent did exist. The first report on 17 April 1939 came from Thomas Robertson, inspector of Indian agencies for Saskatchewan.<sup>16</sup> His 1939 study incorporated suggestions from farm instructors and Indian agents who had met at Battleford and Regina. Robertson assured Ottawa that the proposals had been discussed with local Anglican and Roman Catholic church officials and had received their approval. The

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14. See, The Redman's Appeal for Justice. The Position of the Six Nations that they Constitute an Independent State (March 1924). Levi General (Chief Deskaheh), speaker of the Six Nations Council, presented this document to the League of Nations to support Six Nations sovereignty claims. It will be remembered that similar claims and pretensions from the Six Nations were dismissed by Upper Canada government officials in the 1830s.
  15. NAC, MG26, J. Vol. 268, Mackenzie King Papers, T.R.L. MacInnes, Indian affairs branch secretary to J.A. Gibson, Prime Minister's Office, 7 December 1939. For a thorough discussion of the origin of the "sovereignty" issue see Robert S. Allen, "His Majesty's Indian Allies: British Indian policy in defence of Canada 1774-1815," Ph.D. thesis, (The University of Wales, Aberystwyth 1991), 196-198. See also footnote 34, Chapter One.
  16. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 10. Thomas Robertson, inspector of Indian agencies, Saskatchewan, to the Secretary, Indian Affairs Branch, 17 April 1939.

recommendations included: removing unpromising students (from residential schools) once they reached the age of fourteen; allowing Indian women to retain their Indian status after marriage to non-Indians; and permitting Indian women to vote at band council elections.

The second submission, consolidating the views of Indian agents in British Columbia, concluded with the observation by Charles C. Perry, B.C. Indian commissioner:

We should not aim at merely segregating the Indians and dragooning them into what we consider is respectable living, and preserving them for ever on reserves. We have to let them gather experience and self-control and gradually fuse with our own people so far as they come to desire such fusion and above all we must not seem to them to be forcing them to observe regulations we do not observe ourselves.<sup>17</sup>

Contemporary government thinking on Indian policy did not envisage a fundamental restructuring of the traditional Indian-government relationship that had existed since Confederation. Paternalism dominated policy formulation and the dependency relationship that characterized the Indian policy paradigm limited the options and means available to both Indian people and government officials for initiating change.

The bankrupt state of Indian administration was recognized in May 1944 when Indian Affairs Branch officials appeared before the House of Commons special committee on reconstruction and re-establishment to outline their plans for "reconstructing" the living conditions of Indian people.<sup>18</sup> Their testimony prompted the call for a parliamentary inquiry into Indian administration once the European war had been concluded. These hearings will

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17. NAC, RG10, Vol. 6810, File 470-2-3, Pt. 10.

18. Canada. House of Commons, Special Committee on Reconstruction and Re-establishment, (Minutes of Proceedings and Evidence, 18 and 24 May 1944), 237-263, and 267-328, respectively.



be dealt with later in this chapter.

One vehicle for policy change existed outside the sanctioned structures of Indian-government relations: Native rights associations. The reappearance of Native rights organizations after the Great War (for example, the League of the Indians of Canada) was not sanctioned by the Indian Affairs Branch and through policy directives, legislation, and RCMP surveillance, their suppression was sought. Both the branch and their church allies viewed these Native rights organizations as counter-productive. They were seen as instruments for maintaining traditional Native values and practices that inhibited assimilation; they interfered with the efficient administration of branch operations by disrupting the special relationship between the Indian agent and the Indians under his supervision; and finally, they were considered the tools of non-Indian agitators who duped Indians into pursuing unfounded claims and specious grievances associated with ancient treaties and alleged Aboriginal rights.

Despite official government opposition to the emergence of Native rights associations, they continued to coalesce throughout central and western Canada during the late 1930s and the early 1940s.<sup>19</sup> Since the formation of Native rights associations has received scholarly attention, there is no specific need here to trace their historical

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19. DIAND, File 1/24-2-20, Vol. 1. After 1936 the Indian Affairs Branch under Dr. Harold McGill continued Duncan Campbell Scott's policy of actively opposing the formation of Indian associations. Of particular concern was the activities of the American, Lawrence Two Axe, in establishing the "League of Nations of North American Indians", and John B. Tootoosis (Poundmaker Reserve, Saskatchewan) in forming the "League of Indians of Western Canada" that was an extension of F.O. Loft's "League of the Indians of Canada", founded in 1918. In August 1936, Tootoosis forwarded a sixteen page petition to Indian Affairs detailing the grievances of Indians who had met at North Battleford 30 July - 1 August: most grievances dealt with lax regional Indian administration and improper conduct by farm instructors and other field staff.

development.<sup>20</sup> All historical accounts generally agree that these early political organizations possessed similar characteristics.

First, all were "rights" oriented, arising and sustaining greatest activity during times of perceived crisis, such as the imposition of compulsory enfranchisement, compulsory war service, or off-reserve taxation. Virtually all associations looked to the past, either to their history of contact with Europeans or to ancient treaties and proclamations, to assert rights and to document alleged breaches of treaties and other government promises. At this point most Canadian Indian associations, with the vocal exception of "traditional" Six Nations Iroquois elements in Ontario and Quebec, did not seek abolition of the Indian Act nor a

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20. See for example: R.R.H. Lueger, "A History of Indian Associations in Canada, 1870-1970," M.A. thesis, (Carleton University 1977); Donald Whiteside, "Efforts to Develop Aboriginal Political Associations in Canada 1850-1965," (Ottawa: Aboriginal Institute of Canada, 1974); Murray Dobbin, The One-And-A-Half Men. The Story of Jim Brady and Malcolm Norris. Metis Patriots of the 20th Century (Vancouver: New Star Books, 1981); Paul Tennant, Aboriginal Peoples and Politics. The Indian Land Question in British Columbia, 1849-1989 (Vancouver: University of British Columbia Press, 1990); Alan Morley, Roar of the Breakers. A biography of Peter Kelly (Toronto: Ryerson Press, 1967); Joseph F. Dion, My Tribe the Crees (Calgary: Glenbow Museum 1979); Edward Ahenakew (ed. Ruth M. Buck), Voices of the Plains Cree (Toronto: McClelland and Stewart, 1973); Norma Sluman and Jean Goodwill, John Tootoosis: Biography of a Cree Leader (Ottawa: Golden Dog Press 1982); Stan Cuthand, "The Native Peoples of the Prairie Provinces in the 1920s and 1930s," 31-41; E. Palmer Patterson, "Andrew Paull and the Early History of British Columbia Indian Organizations," 43-54, in Ian Getty and Donald B. Smith (eds.), One Century Later. Western Canadian Reserve Indians Since Treaty 7 (Vancouver: University of British Columbia Press 1977); and Robert M. Leavitt and David A. Francis (eds.), Wapapi Akonutomakonol. The Wampum Records. Wabanaki Traditional Laws (Fredericton: University of New Brunswick, Micmac-Maliseet Institute, 1990).

significant restructuring of existing Indian-government relations.<sup>21</sup> For the most part, the early Native associations were integrative in purpose: they accepted the values and institutions of non-Indian society, but sought reform in the areas of enhanced band council powers, control of band membership, better qualified Indian agents, and improved services and welfare benefits from the “mini-government” represented by the Indian Affairs Branch.

The leadership of Native associations fell to educated and articulate men who were local or regional figures with experience in dealing with non-Indian society. Some leaders such as Andrew Paull, a Squamish Indian from North Vancouver, and John Tootoosis, a Cree from Saskatchewan, were suspicious of Euro-Canadian society and opposed assimilation; others such as the Methodist Rev. Peter Kelly, a Haida Indian from Skidegate, conditionally welcomed assimilation. No matter what their views were on this and other Indian policy matters, Indian Branch and church officials regularly questioned how representative Indian leaders were of rank-and-file reserve opinion. Indeed, on many occasions Indian leaders appeared to speak for themselves, a factor that confounded the deliberations of parliamentarians during the 1946-1948 Indian Act hearings.

A fundamental weakness of fledgling Native rights associations was their reliance on

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21. Peter Kulchyski, “Aboriginal Peoples and Hegemony in Canada”, Journal of Canadian Studies 30(1), Spring 1995: 60-68. Kulchyski argues that many Aboriginal leaders had “internalized” the Indian Act, and thus accepted the practices and values of the dominant culture.

the expertise and financial support of non-Indian benefactors.<sup>22</sup> Lacking economic and political power, Native people remained dependent upon the good-will of social and political elites to support their call for improved services and living conditions and to awaken a somnolent bureaucracy to action. Since these elites believed in a single Canadian citizenship and in the goal of Indian assimilation - differing only in strategies and timing - Indian claims to "sovereignty" and forms of special status, such as "citizens plus", were denied. Nevertheless, the 1946-1948 Indian Act hearings did provide a public forum for the expression of special status arguments by Indian groups. This gave some legitimacy to their Aboriginal claims and expressions of national self-determination.<sup>23</sup>

During the 1940s and 1950s, indeed well into the 1960s, most Native associations, except the government-funded National Indian Council, remained local or regional in membership and structure. Many factors common to small societies inhibited the formation of effective provincial and national Native organizations. These included: band poverty; the

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22. An early supporter and secretary of the Indian Association of Alberta until 1959 was Calgary school teacher John Lee Laurie. He was aided by Ruth Gorman, a Calgary lawyer. See Dick Snell, "The Housewife who fights for the Indians," The Star Weekly Magazine, 4 March 1961, 22-29; and Ruth Gorman, "Dr. John Laurie, The Doctor Schweitzer of the Western Plains....," Canadian Golden West, Vol. 9, Fall 1972, 12-37; and Donald Smith, "John Laurie, A Good Samaritan," in Citymakers. Calgarians after the Frontier, Max Foran and S. Jameson (eds.), (Historical Society of Alberta, Chinook Country Chapter, 1987), 263-274. Also influential in formation of the Union of Saskatchewan Indians was Dr. Morris Shumiatcher, G.H. Castleden M.P., and CCF Premier T.C. Douglas.

23. National self-determination maintains that it is "the right of a group of people who consider themselves separate and distinct from others to determine for themselves the state in which they will live and the form of government it will have." See Walker Connor, "The Politics of Ethnonationalism," Journal of International Affairs, 27(1), 1977: 1-21.

geographic isolation of Indian communities; widespread illiteracy; inter-tribal and intra-band rivalries and suspicions; different levels of band acculturation; lack of experienced leaders; and the previously noted "crisis orientation" of most associations. Thus Indian protests concerning specific policy and rights issues were generally localized, short-lived, and poorly publicized. This permitted Indian Affairs Branch officials to maintain both effective control over the Native client groups and the political environment. The lack of a sustained "Indian voice" contributed to incrementalism in policy development and to the feeling of government officials that existing arrangements did not require restructuring. Events in 1943 and 1944, however, undermined the government's confidence in the status quo.

A pattern common to a politically marginalized people is that their interests and issues become part of the public agenda only when related concerns of the majority come under scrutiny. By the mid 1940s the Canadian government was apprehensive about post-war society and the need to make a smooth transition to a peace-time economy. An advisory committee of noted Canadian citizens and academics (headed by Principal Cyril James of McGill) had been struck early in the war to advise the cabinet committee on demobilization and rehabilitation headed by Minister Ian Mackenzie.

The advisory committee sponsored various studies which advocated social security measures, health care insurance, and family allowances. This discussion, in turn, stimulated public interest in post-war issues and urged an active role for government in social and economic spheres. From this aim there came an opening for a discussion of Indian matters.

Prime Minister Mackenzie King's cautious conversion to social reform, reflected in the January 1943 Speech from the Throne, prompted the formation of special Senate and

House of Commons committees to examine reconstruction measures. Government officials were summoned to give testimony and briefs were sought from business and other interested parties.

In May 1944, as a result of heightened political and public interest in Native issues, Indian Branch officials were summoned to appear before the House Committee on Reconstruction and Re-establishment to outline their plans for ameliorating Indian living conditions. A review and analysis of branch testimony demonstrates the bankrupt state of Indian administration and the lack of policy vision. But such an analysis requires a prior discussion of Indian political activity in 1943-44.

During these two years, the Indian Branch began to lose control over the actions of its Indian clientele. War-time Indian activism had early Canadian roots, but it also had American models, including the American Indian Defense League (1926). For years American Indian groups had lobbied Congress to reform administrative practices. Their efforts paid off in 1934 with passage of John Collier's Indian Reorganization Act that promised preservation of the reserve system, implementation of self-government, and cultural renewal. The success of the Americans in agitating for change spurred Canadian Native leaders to emulate their program. This Indian activism marks the beginning of national Indian political resurgence and it contributed significantly to a questioning of traditional government policies and practices.

It all began with an apparently innocuous trip. In June 1943, Andrew Paull (1892-1959), who was business representative for the Native Brotherhood of British Columbia (NBBC), Dan Assu, and W.T. Burgess of the United Fishermen and Allied Workers Union,

travelled to Ottawa to seek a meeting with Colin Gibson, minister of national revenue. They wished to obtain repeal of a wartime ceiling (Order A723) on the price of sockeye salmon and to protest the imposition of income tax on commercial Indian fishermen. Before setting out, Andrew Paull had contacted Caughnawaga Chief Joseph Delisle, secretary, United League of Nations of North American Indians, and Jules Sioui, administrator, protective committee, Huron Village (Nation Huronne Wendat), suggesting that they and other Indian leaders from Oka and St. Regis meet at Caughnawaga once Andrew Paull had finished his business in Ottawa.<sup>24</sup>

As a result of this Caughnawaga gathering, a petition was drawn up and sent to the Minister of Justice, Louis St. Laurent, on 30 June 1943. The petition sought Indian exemption from compulsory military service on the basis of promises contained in the Royal Proclamation of 1763, Treaty No. 3 (1873), and Article 40 of the Articles of Capitulation signed at Montreal in 1760. The Indian signatories also argued that because they did not have the federal vote, were not recipients of statutory social welfare benefits, and had received a compulsory military service exemption in World War One, a similar service exemption should be instituted in 1943. Alluding to a form of supranational status, the petitioners contended that Indians possessed hereditary rights not available to other Canadian citizens. They cited Article 3 of Jay's Treaty, 1774 (sic) as conferring special border-crossing

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24. NAC, MG30, C226, Andrew Paull Papers. "Report of the Fourteenth Annual Convention of the Native Brotherhood of B.C., Cape Mudge, 1-7 Dec. 1943," 10 pages. See also, E. Palmer Patterson II, "Andrew Paull (1892-1959): Finding a voice for the 'New Indian,'" The Western Canadian Journal of Anthropology, 6(2) (1976): 63-82; and E. Palmer Patterson's, "Andrew Paull and Canadian Indian Resurgence," Ph.D. thesis, (University of Washington, 1962).

and immigration privileges. Finally, the petition claimed that Canadian Indians were allies of the Crown, not subjects, and possessed characteristics of "domestic dependent nations" that supported a claim to "separate nation" status.<sup>25</sup>

Following the Caughnawaga assembly, the Indian delegates agreed to meet again at Ohsweken in early September 1943. At Ohsweken, the delegates passed resolutions against payment of income tax on off-reserve earnings and against compulsory military service. At a third meeting, held at Caughnawaga on 8 September, it was agreed that a delegation should be sent to Ottawa to present their demands. Jules Sioui was instructed to contact Indian bands across Canada to solicit their participation.<sup>26</sup>

The Indian Affairs Branch tried to discourage Indian attendance at this gathering by refusing to authorize the use of band funds for travel.<sup>27</sup> The branch's efforts failed. On 19-21 October 1943, 55 delegates from 14 bands mainly from Ontario and Quebec met at the Victoria Museum in Ottawa to discuss their grievances. A sixty-five point questionnaire was distributed to participants. From their responses a petition was drawn up and sent to Prime Minister King's private secretary on 27 October, complaining about compulsory war

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25. AD, HR6060, C73R, 100. "War...Peace...in Canada. The Invader Responsible for the death of the Patriot Louis Riel," 9-13. This is a publication of Jules Sioui who, in June 1944, was administrator, protective committee, Huron Village. On 7 November, Chief Moses Diabosi, Caughnawaga, wrote to Ernest Bevin, Britain's foreign secretary, seeking his support in declaring Caughnawaga reserve a sovereign nation. RG10, Vol. 8583, File 1#1-2-16, Pt. 1.

26. NAC, MG30, C226, Andrew Paull Papers, "Report of the Fourteenth Annual Convention...", 4-8.

27. DIAND, File 1/24-2-20, Vol. 1. H. McGill, director, to F. Brisebois, Indian agent, Caughnawaga, 13 October 1943.



service, off-reserve taxation, and reserve conditions.<sup>28</sup> At the close of the Ottawa convention, Indian leaders voted to meet again in Ottawa. A date of 5 June 1944 was set.<sup>29</sup>

On 15 May 1944, Jules Sioui notified Thomas Crerar that a delegation of 200 Indians representing 50 Indian bands would be arriving in Ottawa on 5 June, to discuss continuing war-related grievances, reserve conditions, and "grave irregularities" concerning Indian administration. On 25 May 1944, R.A. Hoey issued a circular letter to all Indian agents stating the branch "...is prepared to receive small delegations of Indians who came with the approval of Indian agents and duly established Councils for Bands they represent."<sup>30</sup> Hoey made it clear that Jules Sioui was not welcome, as he did not represent a recognized Indian organization, and was facing criminal charges for other alleged illegal activities.

On 5 June Indian delegates began to arrive in Ottawa. On 6 June Crerar received a small delegation in his office on Parliament Hill. The Indians were upset. A few weeks before, on 24 May, Indian Branch Secretary T.R.L. MacInnes had appeared before the House of Commons reconstruction committee and suggested eventual termination of the reserve

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28. NAC, MG30, C226, Andrew Paull Papers, "Report of the Fourteenth Annual Convention...", 4-8. Also, "War...Peace...Canada," by Jules Sioui, 14-26. Minister Thomas Crerar and Dr. Harold McGill, branch director, refused to meet the Indian delegates. But according to Andrew Paull's account, after a brief meeting with British High Commissioner, Sir Malcolm MacDonald (a former secretary of state for dominion affairs), a session was hastily arranged with Clarence Jackson, Crerar's executive secretary, Deputy Minister Charles Camsell, R.A. Hoey, superintendent of welfare and training, Indian Affairs Branch, and James A. Mackinnon, minister of trade and commerce.

29. Ibid.

30. DIAND, File 1/24-2-20, Vol. 1.

system.<sup>31</sup> Did the government have a hidden policy agenda?

The next day, 7 June, Crerar addressed the Indian delegates gathered in the Carnegie Library auditorium. Crerar disavowed MacInnes's testimony, characterizing it as personal opinion and not government policy. Crerar noted that the Indian population had been increasing in recent years, whereas fifty years earlier it had been in decline. Indians were no longer a vanishing race and the Crown had a responsibility to improve reserve conditions with the help and commitment of Indian people. He declared the federal government was "trustee" for the Indians and, as such, it would honour its obligations. The minister also promised to improve Indian administration by recruiting qualified Indian agents and farm instructors: "The agent must be a man who has firmness and understanding and sympathy; he must have what I describe as the missionary spirit." However, he cautioned against "upsetting the whole applecart and changing the whole system" because of dissatisfaction with a few agents.<sup>32</sup>

The Indian delegates continued their deliberations without Crerar and, as it turned out, without Jules Sioui and John Tootoosis, who formed their own political association, "The

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31. Canada. Parliament. House of Commons. Special Committee on Reconstruction and Re-establishment, (Minutes of Proceedings and Evidence, 24 May 1944), 312-319.

32. AD, HR6060, C73R, 99. "Who is Your Master? What are you coming to do here," prepared by Jules Sioui, Secretary, "The Indian Nation of North America," Headquarters: Loretteville, Que. n.d., 14-20.

Indian Nation of North America.”<sup>33</sup> The main body of delegates voted to form a new national Indian political association, the North American Indian Brotherhood (NAIB), whose aim was “to give leadership to the Indian Nation, within the Sovereignty of the British Crown, a nation, by treaty obligation, under a protective government.” The preamble to the “Report of Executive Conference, NAIB, held at Ottawa, 10-12 December 1945,” set down a twenty point agenda that became the seminal document for post-war national Indian political activity. The manifesto deserves detailed examination.<sup>34</sup>

The NAIB stated that it would “...seek recognition from the Government of Canada of a united Indian Nation as one established body with the Sovereignty powers [sic] of the Dominion of Canada”. Pledging cooperation with the “white race”, the NAIB demanded an independent commission to deal with “Indian questions” before which Indian groups or individuals could testify on “any claims or treaty obligations.” Future “grievances or misunderstandings” between “the state and wards of the state” should be settled by a

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33. AD, HR6060, C73R, 98. On 7 June a splinter group, stressing aboriginal and treaty rights, met at the YMCA to form The Indian Nation of North America. The Supreme Chief was James Horton, Assistant Chief, John Tootosis, Secretary, Jules Sioui. This Indian organization stressed recognition of the Royal Proclamation of 1763, fulfilment of the treaties, unrestricted Indian hunting, fishing, and trapping rights in North America, removal of Whites from reserves, and recognition of Indians as a “Nation” which would live on peaceful terms with other nations. Each Indian, upon payment of a fee, would carry an identification card issued by “The Government of the North American Indian Nation.” This group appears to have disappeared around 1949. However, the group’s original ID card of the 1940s, and an updated version signed by Dave Courchene, former president of the Manitoba Indian Brotherhood in the 1970s, were in circulation in 1992 on certain reserves in Ontario and Quebec viz. Lac Barrière in northwestern Quebec.

34. AD, HR6060, C73R, 114. “Report of Executive Conference.” North American Indian Brotherhood. Ottawa, 10-12 December 1945.

**“mediator or arbitrator.” To achieve reform the unity of Canadian Indians was essential, as well as an awakening of Indian pride in their history and cultures. There followed a list of social, economic, and political demands:**

- a) restoration of all treaty obligations and “redress for all in full measure, and compensation for all cases of encroachment...”;**
- b) establishment of day schools on reserves and improved vocational training;**
- c) provision of old age pensions, family allowances, and other social security benefits that were available to whites;**
- d) exemption from income tax and compulsory military service; indeed, exemption from “any compulsory legislation” in the future;**
- e) promotion of Indian art, crafts, songs, history and ethnology since “...the Indian stamped his identity on the very soul and history of the country...”;**
- f) extension of full veterans’ benefits to all Indian people;**
- g) representation through their own members of parliament;**
- h) no enfranchisement of Indian minors with their parents until they were old enough to choose their own status;**
- i) provision of financial assistance and economic development projects to alleviate depressed reserve conditions; and finally**
- j) restoration of hunting, fishing and trapping rights guaranteed by the Royal Proclamation of 1763.<sup>35</sup>**

The gatherings of Indian people in Ottawa in 1943 and 1944, and the petitions forwarded to politicians and other officials, ignited government interest in Indian administration and reserve conditions.

Concurrently, the administrative branch also received attention. As noted above, on

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35. Ibid.

18 and 24 May 1944, senior branch officials had appeared before the special House of Commons committee on reconstruction and re-establishment. Senior officers, D.J. Allan, superintendent, reserves and trusts; R.A. Hoey, superintendent, welfare and training; and Hugh R. Conn, fur supervisor, were scheduled to testify on Indian rehabilitation schemes. The testimony of civil servants which focused on past branch achievements revealed to members of parliament the demoralized state of Indian administration and the lack of any forward-thinking and planning.

The first official to testify on 18 May was D.J. Allan, superintendent of reserves and trusts. He provided a survey of Indian conditions: the Indian population was approximately 118,000, settled on reserves comprising 5.5 million acres. In terms of occupations, 50% were employed in the fur industry, 25% in agriculture or ranching, 15% in fishing, 7% in forestry and lumber, and 3% in manufacturing.

Since most returning Indian veterans would resume their traditional occupations, Allan noted the recent establishment of five beaver preserves in Quebec (Peribonka, Nottaway, Abitibi, Old Factory, and Grand Lac Victoria), as well as improvements to the Summerberry Marsh muskrat preserve in northern Manitoba. Indian reserves had few known mineral or oil deposits, although there was a coal mine on the Blackfoot Reserve. However, the reserves were "not designed" to support a large Indian population. Rather, he said, they were to be "a place for the Indians to live, and we find they have to go far beyond the confines of the reserves to make a living".<sup>36</sup>

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36. Canada. House of Commons. Special Committee on Reconstruction and Re-establishment (Minutes of Proceedings and Evidence, 18 May 1944), 237-243 and (24 May 1944), 280-294.

After D.J. Allan's presentation, one committee member, M.P. Dorise Nielsen, expressed the view that Canadian Indian policy was still in the "horse and buggy stage and the rest of the world has gone by".<sup>37</sup> In her view, a thorough review of existing legislation and administration was overdue. R.A. Hoey and T.R.L. MacInnes, branch secretary, replied to these criticisms.

Hoey opined that his position as superintendent of welfare and training was "the toughest task that I have ever undertaken. There is no sense of appreciation, no sense of recognition". Since 1930, departmental services had declined due to the Depression and war effort. Hoey testified that when he entered the branch in 1937 officials of the Church of England had told him that the Indian problem would disappear in a few decades, as "the better Indians will be assimilated, the old will die off." This forecast had proven erroneous; Indian people were now the fastest growing "racial group" in Canada (see Table One). He concluded: "I think this is the time to review the whole Indian problem."<sup>38</sup>

T.R.L. MacInnes, who had been with the branch for 31 years was the next to testify. He, too, criticized Indian administration and asked for outside help and new ideas for

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37. Ibid. (24 May 1944). A view expressed by M.P. Dorise Nielsen (United Progressive-North Battleford), 304.

38. Ibid, 305-306.

Table One

**INDIAN POPULATION  
1871-1963**

1871.....	79,594
1876.....	92,518
1881.....	107,722
1886.....	128,761
1891.....	121,638
1896.....	100,027
1901.....	99,527
1906.....	109,394
1911.....	103,661
1916.....	105,561
1921.....	105,998
1926.....	104,894
1931.....	108,012
1936.....	112,510
1939.....	118,378
1944.....	125,686
1949.....	136,407
1954.....	151,558
1959.....	179,126
1963.....	204,796

Source: Special Joint Committee of the Senate and House of Commons (SJC), Minutes of Proceedings and Evidence (No. 1, 28 May 1946), 8; and Citizenship and Immigration, Indian Affairs Annual Reports, 1951, 1956, 1964.

advancing Indian assimilation and ending the reserve system.<sup>39</sup> As noted, Thomas Crerar, his minister, would repudiate MacInnes's comments at an Indian convention in Ottawa two weeks later. MacInnes began his remarks by deconstructing the Indian problem. Because his view of the reserves was so much at variance with past and current policy, it is worth citing at length:

...there is still the dead weight on the Indian of the reserve. The reserve was not established for the purpose of coralling the Indian or curbing his liberty or making him uncomfortable. It was to provide for him a place where he would be protected against despoliation and exploitation. It was a sincere and good move and it was for good reasons that it was done. But while it may be still necessary as a protective measure in western Canada where the Indians have only been seventy-five years or less in contact with whites to any extent, where they have not really overcome the first shock of their contact with civilization, on the other hand, in eastern Canada, where the Indians have been in organized districts and familiar with the white man and the white man's ways and general life of the community for 200 to 300 years, there does not seem to be any justification for our staying in the Indian reserve business. It is retarding them. Its value is weakening. It is like the child who has passed the weaning stage. If you try to keep him pap fed from then on, he will sicken and deteriorate. Those Indians in eastern Canada who make up about 1/3 of the Indian community, nearly 40% I would say, should be divorced from the reserve system entirely--put on their own. It is their only salvation. In eastern Canada we should be climbing out of the Indian reserve instead of digging ourselves into it. The trouble is that some of us who are officials are so engrossed with our troubles that we are inclined to look down into the hole instead of up out of it, you see; and I think perhaps we have got to a certain degree of stagnation such as Mrs. Nielson has mentioned, and

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39. Thomas Crerar, his successor J.A. Glen, and senior branch officials R. Hoey, Clarence Jackson, and D.J. Allan constituted a "Manitoba mafia" who promoted administrative reform from within. The reconstruction committee inquiries of 1943-44 offered officials an opportunity to solicit support from outside individuals and groups that were also critical of Indian administration. For a theoretical analysis of this strategic bureaucratic tactic to problem solving, see: "Input and withinput: Pressure Group demands and administrative survival," by A. Paul Pross in A. Paul Pross (ed.), Pressure Group Behaviour in Canadian Politics (Toronto: McGraw-Hill Ryerson, 1975), 148-171.



that it would be good if we had a little push from a legislative body to do something fairly drastic to speed up the process of making the Indian a regular part of the Canadian community, without any separate, and what I have referred to as substandard special status.<sup>40</sup>

At the conclusion of MacInnes's testimony M.P. George Ross (Liberal-Calgary East), concluded that an inquiry should be held "to ascertain what, if anything can be done in the way of helping them". Ross raised the possibility of a special investigative committee:

...a board of Indian affairs consisting of persons outside the service as well as those within the service to advise the government on what would be the proper thing to do. However, at the present time, I feel that a committee of the House of Commons with powers to call witnesses and to go into the matter very thoroughly and make recommendations to the House of Commons would be in order.<sup>41</sup>

J.R. MacNichol (PC - Davenport) cited negligence by Commons members, for over the years there had been minimal discussion of Indian administration in the House. Branch estimates were tabled in the last days of the parliamentary session and approved "without investigation or any report aside from what the minister makes when he brings in his estimates." MacNichol, who had travelled throughout Ontario to visit Indian reserves concluded:

I mentioned some four years ago that a committee should be set up just as Mr. Ross stated today, to summon interested parties, including Indian chiefs from the reserves and Indian agents and others who could give us advice; not for the purposes of criticism; we all hear that you are doing the best work that you can do with what you have to do with; but I do think we should have a parliamentary committee on Indian affairs so we could

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40. Canada. House of Commons. Special Committee on Reconstruction and Re-establishment (Minutes, 18 May 1944), 312-319.

41. Ibid., 326.

give something like adequate consideration to this important matter.<sup>42</sup>

In response to members' remarks, D.J. Allan, superintendent of reserves and trusts, confessed that he had come to the committee hearings with "some feelings of trepidation", expecting severe criticism. "We are very prone possibly to regard ourselves as a little side show of government", he commented, but he felt the branch had secured a "very sympathetic and understanding reception".<sup>43</sup>

The reconstruction committee received two written briefs from non-government organizations that called for a thorough review and reform of Indian administration: the Indian Association of Alberta, and the non-Native Okanagan Society for the Revival of Indian Arts and Crafts. Their submissions recast the solution to the "Indian problem" in terms of providing government-funded social welfare and health care services to reserve domiciled Indians.

To promote assimilation, the Okanagan Society called for a royal commission to investigate Indian administration and reform the Indian Act along the lines of the U.S. Indian Reorganization Act (1934). The Society recommended an end to denominational residential schools. It supported "self-government" initiatives on Indian reserves, and backed enhanced health, welfare, and social security benefits for Native people. The key to Indian advancement was community development programs, the creation of an indigenous leadership cadre, and the establishment of cooperative financial and economic development ventures. These co-operative measures were viewed as logical extensions to traditional communal tribal practices.

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42. Ibid., 328.

43. Ibid., 326.

The goal of Indian administration was to train Indian people in the rights and responsibilities of Canadian citizenship.<sup>44</sup>

Similar suggestions came in the brief submitted by the Indian Association of Alberta, drawn up by its secretary, John Lee Laurie. The document called for improved Indian educational facilities and enhanced vocational training to enable Indian people to qualify for jobs in the Indian Affairs Branch. Reserve residents required greater access to health care, welfare services, and social security benefits. Treaty rights had to be respected. There should be no compulsory military service for Indians or imposition of income tax. The permit system governing the sale of reserve resources should be eliminated. Revenue from the sale of gravel, timber, and minerals should be distributed directly to the authorized Indian recipients. Finally, the brief called upon government to recognize Indian associations as “one of the channels for the expression of Indian thought” and as “a stage towards fuller responsibilities of citizenship...”.<sup>45</sup>

These various pressures seem to have had an effect. On 14 August 1944, (during debate on the Indian Affairs estimates), Thomas Crerar informed the House of Commons that recent Indian petitions, conferences, and testimony from government officials had convinced him that the Indian Act and Indian administration required public review. He then endorsed the recommendation of the reconstruction and re-establishment committee that an

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44. AD, HR6062, C73R, 1. “Native Canadians. A Plan for the Rehabilitation of Indians.” Submitted to the Committee on Reconstruction and Re-establishment by the Okanagan Society For the Revival of Indian Arts and Crafts, Oliver, B.C.

45. AD, HR6009, C73R, 3. “Memorial on Indian Affairs.” Presented by the Indian Association of Alberta, 1944.

investigative parliamentary committee be struck once the war was over.<sup>46</sup>

In early 1945 senior personnel furthered this idea of a comprehensive review of Indian policy. Dr. Harold McGill, branch director since 1932, was replaced by Superintendent of Welfare and Training Robert A. Hoey, an ordained Methodist minister, and a former minister of Education for Manitoba.<sup>47</sup> Hoey had political links with T.A. Crerar and the Progressive movement in Manitoba. Hoey supported its social platform which emphasized education for citizenship, and a revitalization of rural life through extension of health care and social services and community development projects. At the ministerial level, Crerar himself was replaced on 18 April 1945 by Manitoban J. Allison Glen, a former speaker of the House of Commons.<sup>48</sup> Both Hoey and Glen were determined to reform Indian administration. Thus, the previous hostile approach of D.C. Scott and Harold McGill to Indian political activity was gradually altered to cautious indulgence.

This alteration received a further push when shortly after his appointment, J.A. Glen

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46. Canada. House of Commons, Debates. Vol. LXXXII, No. 123, 6602-6604.

47. Robert A. Hoey was born in 1883 at Enniskillen, Ireland. He graduated from Wesley College, Winnipeg, in 1915, and toiled as a Methodist preacher at Springfield and Brandon. He became associated with the Manitoba Grain Growers' Association and subsequently with the United Farmers of Manitoba. He ran for the Progressives in Springfield riding in 1921, won, and served in Ottawa as an M.P. until 1925. He turned to provincial politics and was named minister of education in the John Bracken administration. Hoey (a close friend of T.A. Crerar) joined the Indian Affairs Branch in 1936 and retired in 1948 after accepting a United Nations posting.

48. J.A. Glen was born at Dumbartonshire, Scotland, in 1877. He was a member of the United Church. Glen was elected Liberal M.P. for the Manitoba riding of Marquette, 1926-1930, was re-elected in 1935, 1940, and 1945. He was a former president of the Manitoba School Trustees Association, 1920-1924, and former president of the Manitoba Economic Conference, 1924-1926.

received a letter from Dr. P.B. Mellon, secretary-treasurer of the Army and Navy veterans in Canada. This missive praised the contribution of Indian men and women in the armed forces and suggested that the Indian Act be amended to permit returning Indian veterans to continue to exercise the “rights and benefits of full citizens” as they had done in Europe.<sup>49</sup>

On 10 October 1945, Reta G. Rowan, secretary of the Edmonton “Committee of Friends of the Indians”, wrote to R.A. Hoey demanding a royal commission to investigate both the Indian Act and Indian administration. She drew Hoey’s attention to the fact that her petition had support from the United Church of Canada, the University Women’s Clubs of Canada, the Canadian Federation of Home and School Associations, the Alberta Federation of Home and School, the Alberta Council on Child and Family Welfare, the Council for Canadian Unity (Edmonton), the Okanagan Society for Revisal [sic] of the Indian Act, the Society for the Furtherance of Indian Arts and Crafts (Victoria), “as well as by organized Indian bodies in Alberta, British Columbia, Saskatchewan, and the “American Brotherhood [sic].”<sup>50</sup>

Similar submissions came from the Cowichan Branch of the Canadian Legion and the Vancouver Dock and Shipyard Workers Union. Hoey replied to these outside interests that the question of appointing a royal commission to investigate Indian affairs was a cabinet

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49. NAC, RG10, Vol. 6811, File 470-2-3, Pt. 4. Dr. P.B. Mellon to Hon. J.A. Glen, 10 May 1945. By the end of 1944 more than 2,600 voluntary Indian enlistments had been recorded. Canada. Department of Mines and Resources. Indian Affairs Branch, Annual Report, Fiscal Year Ended 15 March 1945, 160.

50. NAC, RG10, Vol. 6811, File 470-2-3, Pt. 11.

decision. No political decision had yet been made on a policy review mechanism.<sup>51</sup>

In December 1945, J.A. Glen and senior branch officials participated in the annual meeting of the North American Indian Brotherhood held in Ottawa. Indian leaders presented a twenty-point political agenda to branch management and discussed ways to improve administration. On 12 December Minister J.A. Glen, Clarence Jackson, Glen's executive secretary, and R.A. Hoey, branch director, met privately with seventeen convention delegates, including President Andrew Paull. The Indian leaders complained that local Indian agents had too much power and, instead of acting as advisors, performed the role of "informer and policeman" subjecting Indian people, in some cases, to physical abuse. They suggested a royal commission to investigate treaty issues and insisted that the 1930 Natural Resources Transfer Agreement in the Prairies should not curtail traditional Indian hunting, fishing, and trapping rights.

When Minister Glen asked the Indian delegates whether they preferred a parliamentary committee or royal commission to investigate the Indian Act, their chief spokesman, Andrew Paull, was non-committal. Paull informed Glen that the NAIB had hired two lawyers, Senators William McGuire and James Murdock of Toronto. The organization was actively seeking the services of former Canadian Ambassador to the U.S.A., Leighton McCarthy.<sup>52</sup> It seemed that Indian grievances would be pursued through the courts if no government action was forthcoming.

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51. Ibid.

52. AD, HR6060, C73R, 114. "Report of Executive Conference," North American Indian Brotherhood of Canada, Ottawa, 10-12 December 1945, 12-14.

The question of Indian band membership was also informally discussed. Glen concurred that Indian people should effectively determine the qualifications for band membership by majority vote. The meeting ended on a positive note when the minister agreed to provide the Indian branch with funds to assist western Canadian delegates to return home.<sup>53</sup>

On the final day of the convention the Brotherhood's Secretary, Henry Jackson, an Ojibwa from Christian Island, Ontario, issued a plea to Canadians:

In this phase of writing I wish to appeal to all creeds or races of our fair land, to lend a helping hand to salvage the Indians from the ashes of the past, and uplift the Indian Race to a standard where he can successfully compete with the white man, in the industrial activities of our nation, and help side by side in the development of our country.

I strongly urge that the Statutes of the Indian be revised and that they be put on an equal civil status with complete freedom as self-respecting Canadians on the basis of treaty obligations and without relinquishing any of their tribal and national rights which is their heritage—Indian suffrage to Parliamentary representation, by Indians.<sup>54</sup>

The "Concluding Statement of the Secretary in Dealing with the Present Status of the Indians" stated that Indian peoples in Canada were a "subject race", since both the Indian Act and Indian agents rendered Indians powerless. Indeed, he said, the agents' duties had become "more and more like the commander of an internment camp for a defeated enemy." Two days after the NAIB convention, on 14 December 1945, J.A. Glen announced in the House of Commons that a review mechanism would be established to examine amendments to the Indian Act. This announcement acknowledged that the King Government and, in particular J.A. Glen, had heard the various complaints about Indian policy and administration, and were

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53. Ibid.

54. Ibid., 15-16.

trying to limit the political fall-out by promising to give the matter a public review. It should also be noted that as a result of the Indian gatherings newspapers and journals across Canada had taken up the Indian cause and issued demands for a government inquiry into Indian administration.<sup>55</sup> An article in the 1 April 1945, issue of the Dalhousie Review titled "Canada's Indian Problem" reflected the mood of the nation:

During the past year or so, more white people right across Canada have raised an outcry in protest at the obsolete and arbitrary methods of the Indian Department. Give the Indians a vote, these people say, for they won't get a square deal until they carry some weight in the world of politics. Why continue to treat them like unintelligent children? Give them at least as good an education as we give to young people of our own race. Give them responsibilities and something to live for.<sup>56</sup>

Across Canada newspaper coverage and editorial comment lauded Glen's announcement and condemned the outdated activities and philosophical outlook of the Indian Affairs Branch.<sup>57</sup>

In early January 1946, Glen and his senior advisors decided to act. Accordingly, Glen prepared a "personal and confidential" letter to all branch field agents in which he outlined new measures to upgrade branch services, reform administration, and involve Indian associations in future decision-making activities. Glen's letter, probably drafted by Clarence

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55. NAC, RG10, Vol. 6811, file 470-3-7. "Special Joint Committee of the Senate and House of Commons on Indian Affairs - Clippings, 1945-1947."

56. H. Glynn-Ward, "Canada's Indian Problem," Dalhousie Review (XXV), 1 April 1945:46; Hazel Robinson, "Blueprint for the Redman," Canadian Forum, Jan. 1946: 233-234.

57. NAC, RG10, Vol. 6811, File 470-3-7.



Jackson, was a departure from longstanding branch administrative practice and philosophy.<sup>58</sup> It is, therefore, a pivotal document in the history of postwar Indian-government relations.

The letter opened with the acknowledgement of an "awakening public interest" in Indian conditions and administration. It noted also that a similar awakening was taking place in many Native communities, and this was reflected in the recent activities of Native rights associations. Glen viewed these as a positive sign, but urged such activities be guided into "sane and constructive channels." In an age of "organized effort and collective action" Indian people could not be expected to help themselves through individual effort. Native associations were "here to stay" and he predicted they would probably multiply. Indeed, Glen forecast that if responsible Native rights associations could be established on a provincial basis, a "Dominion Council" might be constituted which, "from time to time, could bring the legitimate claims of all Indians" to the government's attention. He cautioned, however, that Indian leaders would have to be representative of their constituents and should exercise moderation "in their claims for public support."

The minister outlined a program of government initiatives to improve reserve conditions. An extensive construction program would repair and build new agency facilities, houses, schools and hospitals. New muskrat conservation projects and beaver preserves would be established in northern Quebec and in the prairies to provide a livelihood for those Indians following a traditional lifestyle. Land grants and financial assistance would be made available to Indian war veterans under auspices of the Veterans' Land Act. In 1944, family

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58. NAC, RG10, Vol. 6811, File 470-2-8, Pt. 1. Hon. J.A. Glen to "All Indian Agents," 7 Jan. 1946.

allowances were paid to Indian families and the minister was confident that this social assistance would help feed and clothe the children and encourage regular school attendance.

Clearly the winds of administrative change had grown stronger.

Glen then addressed remarks to the much maligned field staff who were “in the front lines.” The minister promised improved communication from headquarters and regular conferences to exchange information and share experiences. In the future, the activities of Indian agents should be guided by three principles:

- a) agents should foster greater trust among the Indians with regard to branch activities and the intentions of field staff;
- b) they should preach “the gospel of self-help” among Indian people by organizing “Indian advisory boards” to supervise construction projects and the maintenance of schools, agency buildings, community halls, and to run athletic events; and
- c) use should be made of provincial “extension services” to organize short courses for Indians on health care, sanitation, animal husbandry, agricultural techniques, fur conservation, and game resources.<sup>59</sup>

The minister concluded his remarks by reminding agents that “we are assisting a group of people to adapt themselves to modern conditions and in so doing, encourage them to assume a greater share in the rights, duties, and responsibilities of democratic citizenship.”

Thirty-five agents responded to the minister’s circular.<sup>60</sup> Their comments, like those

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59. Ibid.

60. See Vic Satzewich, “Indian Agents and the ‘Indian problem’ in Canada in 1946: reconsidering the theory of coercive tutelage”, The Canadian Journal of Native Studies VII (1997): 227-257. Dr. Satzewich argues that while some Indian agents did articulate racist and blaming the victim conceptions of the “Indian problem”, others offered explanations that implicated their own practices and the insensitive, remote bureaucracy for which they worked.

of the late 1930s concerning Indian Act revision, provide evidence of the views, values, activities, and morale of the neglected Indian agent. Virtually all replies expressed gratitude that the minister valued their services. Ottawa's management style in previous years was termed "remote" and "aloof", the promised new spirit of branch consultation and cooperation was welcomed. To a man, agents praised the construction and repair of reserve and agency buildings, for few new structures had been built since the 1920s.

Some comments from agents were particularly telling. Agent F.J.C. Ball, Vancouver, stated that "senior officials" of the branch had been treating Indian people like "employees", not recognizing they were a "free people". He added: "we must not ignore Indian customs and traditions" and avoid the "superimposing of a strictly cold legalistic implacable attitude on all Reserve matters." He concluded that Indians "have certain ways of doing things which appear haphazard to us, especially in dealings among themselves regarding property, land, etc. but it is surprising how well their unbelievable methods work, where strictly legal methods cause confusion, resentment and unrest."<sup>61</sup>

F. Earl Anfield, agent at Bella Coola, B.C., responded that he had been with the department for 25 years and, in that period, "too much was done for the Indians, and not enough with him." He concluded that "the absorption of any minority group into the body politic must be done on a partnership basis if it is to succeed and mutual trust and confidence is a prerequisite of any such programme."<sup>62</sup> Anfield's remarks concerning Indian mistrust of

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61. NAC, RG10, Vol. 6811, File 470-2-8, Pt.1. F.J.C. Ball, Indian agent, Vancouver, to Hon. J.A. Glen, 30 January 1946.

62. Ibid., F. Earl Anfield, Indian agent, Bella Coola to Hon. J.A. Glen, 30 January 1946.

branch policies and administrative practices were echoed by other agents who suggested more openness and regular meetings with reserve leaders.

It was noted that illiteracy among Indian leaders created problems. Because many chiefs and councillors could neither read nor write, the Indian agent had to explain branch policy circulars, fill out requisitions for supplies and relief, and give an oral accounting of band trust funds.<sup>63</sup> Naturally, this dependency on the agent heightened suspicions among Indian people, encouraged the spread of rumours and, in some cases, indirectly tempted Indian agents to divert, embezzle, and otherwise illegally dispose of Indian assets and property.

Indian agents were enthusiastic about the suggestion that provincial government agencies and university extension specialists should assist in providing vocational and adult education courses to Indian people. Opinion, however, was divided on the utility of employing Indian advisory boards in the management of reserve projects. Agents were also cool to the notion that Native rights associations should be consulted on a regular basis. Agent Ball, for example, characterized Andrew Paull, president of the B.C.-based NAIB, as a "troublemaker." Others feared that Indian advisory boards and rights associations would attract outspoken and militant Indians along with "white agitators" from local communities. Nonetheless, many Indian agents recognized the need for Indian involvement in community planning and reserve management.

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63. Ibid., J.A. Marleau, Indian agent, Sturgeon Falls, Ont., to Hon. J.A. Glen, 26 January 1946.

By the spring of 1946, the political stage had been set for a formal review of the Indian Act and Indian administration. All players in the drama had been activated. Canadian Indian leaders, politicians and Indian Branch personnel had expressed discontent with existing practices. In addition, within the attentive public sector of the Indian policy community, a variety of special interest groups, concerned individuals, and media had been alerted to the possibility of a greater role in policy-making.

The federal government was spurred to action. On 9 and 11 April 1946, J.A. Glen discussed with his cabinet colleagues the content of a House of Commons resolution recommending the establishment of a special joint committee to review Indian legislation and administrative practices.<sup>64</sup> The traditional Indian policy paradigm characterized by paternalism and wardship was to come under scrutiny. But what new policy model would replace it?

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64. DIAND, File 6-15-1, Vol. 1. J.R. Baldwin, a/secretary to the cabinet, to Hon. J.A. Glen, 9 and 11 April 1946.

## **CHAPTER THREE**

### **The Special Joint Committee Hearings on the Indian Act, 1946-1948: The Search for a New Indian Policy**

At the end of the Second World War government officials, church authorities, voluntary and professional organizations, and Native activists agreed on the need to renovate the Indian Act and thereby revitalize a demoralized Indian administration. The emerging post-war Indian policy community was of the opinion that an external review mechanism not attached to the Indian Branch was the appropriate course of action. After some dithering, the Mackenzie King government decided to strike an investigative committee comprising members of the Senate and House of Commons.

The committee hearings which took place between 1946-48 became the focus and forum for the deliberations of an expanded Indian policy community. Traditional Indian policy-makers – the Indian Affairs Branch, Justice, and the churches – were joined in their deliberations by new actors from academe, professional and voluntary groups, and Native rights associations. Their discussions focused on ways to improve Indian administration and to resolve such major policy issues as: recognition of treaty rights, control of band membership, continued tax exemptions, Indian enfranchisement, access to liquor, trespass on reserves, and improvements to Indian education.

The special joint committee issued three reports before disbanding in 1948. The Indian Branch implemented some recommendations, but had to refer others, such as Indian Act revisions, to cabinet. The three years of hearings had an impact on policy discourse: “integration” replaced assimilation as the watchword of the branch. But whether there had

been a fundamental shift in the traditional philosophy and values of Indian administration only time would tell. What follows is an examination of the special joint committee's activities and an assessment of their impact on Indian administration and policy.

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### *Getting started*

The first step in the Indian policy review process was a memorandum informing senior branch managers of the minister's intentions and plans. On 4 February 1946, Clarence W. Jackson, acting deputy minister, advised R.A. Hoey, Indian Affairs Branch director, that Minister J.A. Glen did not intend to introduce revised Indian Act legislation in the House of Commons until a parliamentary committee had heard representations concerning the proposed changes.<sup>1</sup> Appended to Jackson's memorandum were draft terms of reference for the parliamentary investigation. These consisted of eight items:

- (a) The definition of an Indian;
- (b) Enfranchisement (compulsory and voluntary);
- (c) I. Adoption of Indian children by Indians;  
II. Adoption of White children by Indians;
- (d) Intoxicants;
- (e) Delinquency of Indian children;
- (f) Illegitimacy, membership and band fund rights;
- (g) Taxation;
- (h) Election of Indians as Indian councillors and chiefs including the question of Indian women voting therein and any other matter or thing pertaining which in the opinion of such Committee should be incorporated in the new proposed code of laws.<sup>2</sup>

On 7 February, Hoey agreed that a Commons committee would be useful. However,

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1. DIAND, File 6-15-1, Vol. 1, Clarence W. Jackson to R.A. Hoey, 4 February 1946.

2. Ibid.

he took issue with the terms of reference as they would not be conducive to a “calm and dispassionate study of Indian administration.” In his view, public reference to intoxicants, delinquency, and illegitimacy would attract adverse political attention to Indian conditions and be “bitterly resented by thousands of sober, industrious Indians.”<sup>3</sup> He suggested substantive changes that would put a more positive spin on the inquiry and put these forward for the minister’s consideration. The minister concurred and amended the draft terms of reference.

On 9 and 11 April, the federal cabinet considered and approved the wording of an appropriate resolution to establish a special joint committee. On 13 May and 16 May 1946, respectively, the House of Commons and the Senate passed parallel resolutions to establish the special joint committee on the Indian Act. The official terms of reference, as amended by Hoey, identified eight policy and administrative areas for investigation:

1. Treaty rights and obligations
2. Band Membership
3. Liability of Indians to pay taxes
4. Enfranchisement of Indians both voluntary and involuntary
5. Eligibility of Indians to vote at Dominion elections
6. The encroachment of white persons on Indian reserves
7. The operation of Indian Day and Residential schools
8. Any other matter or thing pertaining to the social and economic status of Indians and their advancement which, in the opinion of such committee should be incorporated in the revised Act.<sup>4</sup>

It is noteworthy that these final terms of reference reflected concerns expressed by Native rights associations during their meetings with government officials in the years 1943-1945.

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3. Ibid., R.A. Hoey to Clarence W. Jackson, 7 February 1946.

4. Canada. House of Commons, Debates, 13 May 1946, 1492.



During a three hour debate in the House of Commons on the government's resolution, J.A. Glen spoke at length. According to Glen, Indian discontent stemmed from: economies in administration insisted on by Canadian taxpayers; demands of the war itself (military service); the inflexible enforcement by provincial conservation officers of laws relating to resource harvesting; and the steady encroachment of non-Native trappers on lands nominally recognized as exclusive Indian hunting grounds.

Faced with these difficulties, the federal government had two policy alternatives. One option was to purchase at public expense additional reserve lands and licence rights for Indians exclusively to hunt and trap over specified tracts. A second option, in the long run less costly, was to launch education and welfare programs which would equip Indians to enter into competition with non-Natives in agricultural and industrial life. Glen expressed a personal view that extension of the reserve system and preservation of traditional lifestyles would not benefit the social and economic advancement of Indians.<sup>5</sup>

The government's resolution received support from all political parties. On 28 May 1946, the special joint committee (twelve Senators and twenty-two Members of Parliament) held its first meeting and chose as Joint Chairs Senator J. Fred Johnston ( Saskatchewan)

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5. Ibid., 1478-81.

and M.P. Donald F. Brown (Liberal-Essex West).<sup>6</sup> A steering committee on agenda and procedure was struck but soon encountered a number of thorny procedural issues: who would be called to testify? Would Indian representatives be allowed to participate? There was concern that if Indian spokesmen came to Ottawa they would insist on bringing along their "squaws and papooses".<sup>7</sup> Indeed, would Indian representatives be government funded, and if so, how should they be selected and contacted?

The steering committee on agenda and procedure determined that Indian Branch officials would be heard first since they were most familiar with the state of operations. To tackle the thorny matter of Indian representation, the special joint committee, on 6 June, appointed Norman E. Lickers, a distinguished Six Nations Indian lawyer, to act as committee counsel and liaison officer.<sup>8</sup>

Shortly after his selection Lickers wrote to all Indian bands on 17 June 1946, announcing the establishment of a special joint committee, detailing its terms of reference, and soliciting their views on changing Indian Act legislation and administrative practices.<sup>9</sup> The

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6. Canada. Parliament, Special Joint Committee of the Senate and the House of Commons appointed to examine and consider the Indian Act, (hereinafter SJC, Minutes of Proceedings and Evidence (No. 1, 28 May 1946), vii-viii. For a useful historical overview of the Special Joint Committee see, Ian V.B. Johnson, "Helping Indians to help themselves - A Committee to investigate itself. The 1951 Indian Act Consultation Process," (Ottawa: Research Branch, Indian Affairs, 1984).

7. SJC, Minutes of Proceedings and Evidence (No. 2, 4 June 1946), 43-53.

8. Ibid., 39-43, and SJC, Minutes of Proceedings and Evidence (No. 3, 6 June 1946), 61-62.

9. NAC, RG10, Vol. 8583, File 1/1-2-16, Pt. 1.

letter to the bands caught Indian agents off guard - they were accustomed to managing political expression - and they queried Ottawa about its legitimacy and how best to control Indian expectations concerning their participation.<sup>10</sup> R.A. Hoey, branch director, responded with a circular letter stating that the activity was legitimate. He cautioned agents against promising Indian leaders financial assistance for travel to Ottawa. For the present, written Indian briefs were encouraged.<sup>11</sup>

### *Government testimony*

Formal committee hearings began on 28 May 1946. The first branch officials to testify were Director R.A. Hoey, and Secretary T.R.L. MacInnes. Hoey described Indian Branch organization (Org. Chart Two) and operations, duties of local Indian agents, and provided a statistical overview of Indian conditions, conservation projects, and branch expenditures.<sup>12</sup> One salient fact quickly emerged: the Indian Affairs Branch possessed neither the staff, financial means, nor expertise to fulfill its mandate of ameliorating Indian conditions and promoting assimilation (see Tables Two and Three). Field administration was a shambles and local record keeping lax. Most important, the branch was unsure who exactly was an "Indian", and thus eligible to reside on the reserve and receive government welfare benefits

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10. Ibid, George W. Down, Indian agent, Muncey Reserve, to R.A. Hoey, director, 21 June 1946; Samuel Devlin, Indian agent, Parry Sound, to R.A. Hoey, director, 20 June 1946.

11. Ibid, R.A. Hoey to Agent George Down, 24 June 1946.

12. SJC, Minutes of Proceedings and Evidence (No. 1, 28 May, 30 May 1946), 1-38. In 1947, Hoey testified that Indian fur conservation and development projects could pay off the national debt! SJC, Minutes of Proceedings and Evidence (No. 39, 26 June 1947), 1962.

# ORGANIZATION CHART, INDIAN AFFAIRS BRANCH 1946

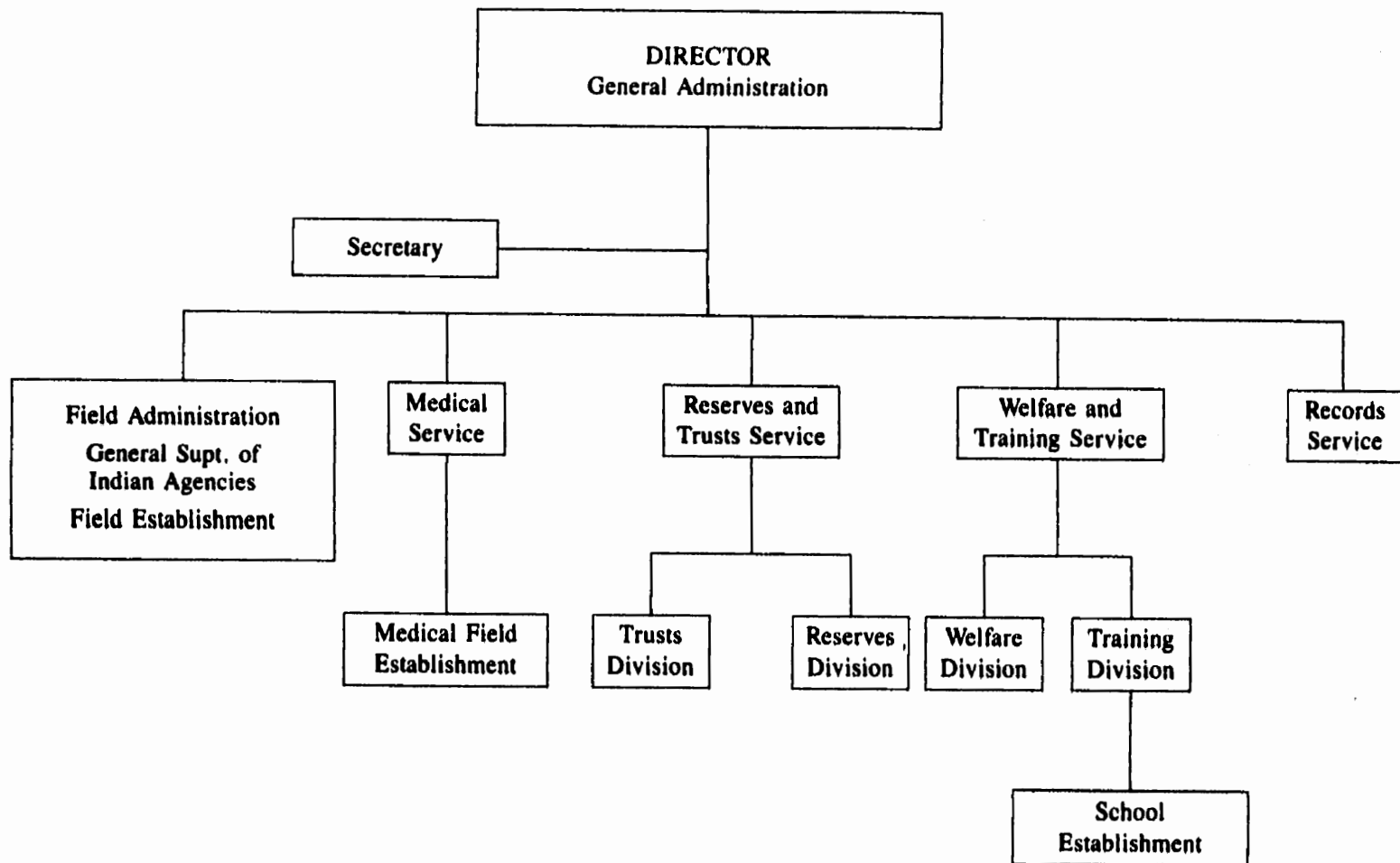


Table Two

**EMPLOYEES - DEPARTMENT OF INDIAN AFFAIRS: 1900-1936****1900\***

INSIDE SERVICE.....	43	
OFFICERS OF THE OUTSIDE SERVICE AT HEADQUARTERS.....	3	46
OUTSIDE SERVICE—		
ONTARIO.....	27	
QUEBEC.....	12	
NOVA SCOTIA.....	16	
NEW BRUNSWICK.....	3	
PRINCE EDWARD ISLAND.....	1	
BRITISH COLUMBIA.....	12	
NORTHWEST TERRITORIES, MANITOBA AND KEEWATIN.....	37	108
		154

**1918\***

INSIDE SERVICE—		
DEPUTY SUPERINTENDENT GENERAL		
SECRETARY'S BRANCH.....	21	
ACCOUNTANT'S BRANCH.....	23	
LAND AND TIMBER BRANCH.....	7	
SURVEY BRANCH.....	5	
RECORD BRANCH.....	11	
SCHOOL BRANCH.....	5	
ARCHITECT'S BRANCH.....	3	75
OUTSIDE SERVICE—		
ONTARIO.....	30	
QUEBEC.....	16	
NEW BRUNSWICK.....	4	
NOVA SCOTIA.....	19	
PRINCE EDWARD ISLAND.....	2	
NORTHWEST PROVINCES AND TERRITORIES.....	43	
BRITISH COLUMBIA.....	19	
YUKON TERRITORY.....	1	134
		209

**1936**

INSIDE SERVICE—		
OFFICE OF THE DEPUTY.....	8	
OFFICE OF THE SECRETARY.....	7	
LANDS AND TIMBER BRANCH.....	8	
SURVEYS BRANCH.....	5	
PURCHASING BRANCH.....	5	
TRUST FUNDS, ANNUITIES AND RELIEF.....	5	
OFFICE OF THE ARCHITECT AND ENGINEER.....	4	
RECORDS SERVICE.....	10	
OFFICE OF INDIAN EDUCATION.....	7	
MEDICAL SERVICE.....	6	65
OUTSIDE SERVICE—		
INDIAN EDUCATION.....	304	
MEDICAL SERVICE.....	456	
GENERAL ADMINISTRATION.....	364	1124
		1189

Source: SJC, Minutes of Proceedings and Evidence, No. 1, pp. 5-8.

\*Teachers not included

**DEPARTMENT OF MINES AND RESOURCES - INDIAN AFFAIRS BRANCH  
ORDINARY AND SPECIAL EXPENDITURE FROM PARLIAMETARY VOTE**

YEAR	TOTAL	MEDICAL	WELFARE	EDUCATION	FUR CONSERVATION	ANNUITIES	ADMINI- STRATION
	\$	\$	\$	\$	\$	\$	\$
1879-1880	709,175	3,901	217,954	12,954	-----	232,064	243,191
1889-1890	1,166,102	16,293	415,081	241,630	-----	147,836	345,262
1899-1900	1,093,429	46,623	219,091	370,972	-----	173,877	282,866
1909-1910	1,406,771	120,645	190,187	403,270	-----	191,388	501,281
1919-1920	1,673,385	286,373	384,910	1,057,663	-----	183,096	761,343
1929-1930	5,332,503	927,628	727,348	2,339,256	-----	219,416	1,118,855
1930-1931	6,068,827	1,061,278	841,954	2,768,923	-----	222,143	1,174,329
1931-1932	5,081,357	887,520	1,002,606	2,019,593	-----	224,292	947,346
1932-1933	4,499,144	837,010	952,871	1,725,281	-----	229,321	754,661
1933-1934	4,380,022	812,905	867,828	1,629,275	-----	233,135	836,879
1934-1935	4,541,420	862,596	868,051	1,834,407	-----	236,426	739,940
1935-1936	5,161,509	1,084,645	915,924	2,152,470	-----	240,105	768,365
1936-1937	5,071,007	1,058,126	1,006,922	1,842,786	-----	245,063	918,110
1937-1938	5,103,532	1,072,777	1,075,545	1,877,927	-----	252,644	734,639
1938-1939	5,345,332	1,289,884	1,004,814	1,951,337	38,000	253,189	808,108
1939-1940	5,840,082	1,525,417	1,020,660	2,116,430	63,733	259,594	854,248
1940-1941	5,277,398	1,363,193	909,119	1,933,874	65,149	259,920	746,143
1941-1942	5,082,184	1,390,949	743,013	1,878,726	71,056	262,127	736,313
1942-1943	5,074,375	1,458,115	678,531	1,850,450	75,124	261,741	750,414
1943-1944	5,251,810	1,532,519	685,818	1,929,082	74,022	268,700	762,669
1944-1945	6,232,582	2,095,827	800,023	2,156,882	68,342	284,563	826,945
1945-1946	6,796,826	2,329,163	913,651	2,244,978	104,303	291,825	912,906

and services.<sup>13</sup>

Hoey referred to the 1928 American Meriam Report, sponsored by the Brookings Institute, which he lauded as an example of a comprehensive government social science investigation.<sup>14</sup> Quoting extensively from the Meriam Report, Hoey concluded that the key to Canadian Indian advancement was the provision of health, welfare and education services. However, his subsequent testimony describing inadequate day and residential school conditions, poorly qualified teachers, and inappropriate curricula, underscored the government's insufficient financial commitment to an education system, or control over it. The system itself was operated primarily by the Roman Catholic, Anglican, Presbyterian, and United Churches. Fifty-seven percent of school aged children were enrolled in day and residential schools, while some 12,000 children in remote, and northern areas of the western provinces, Yukon and NWT had no access to Indian schools.<sup>15</sup>

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13. Ibid., 23-24. Also see, T.R.L. MacInnes, "History of Indian Administration in Canada," Canadian Journal of Economics and Political Science, 12(3), 1946: 394. MacInnes noted the anomaly of an increasing Indian population with a decreasing amount of Indian blood quantum.

14. Ibid., 25-26. The Meriam Report, or full title, The Problem of Indian Administration (Baltimore: The Johns Hopkins Press). The research project was commissioned by U.S. President Herbert Hoover and the findings served as the blueprint for the Indian New Deal of 1933. Indian administration was shorn of its religious and "civilizing" emphasis in the 1930s and replaced by priorities such as health, education, and welfare. See B.W. Dippie, The Vanishing American. White Attitudes and U.S. Indian Policy (Middletown: Wesleyan University Press, 1982).

15. Ibid., 11-16.

T.R.L. MacInnes<sup>16</sup> followed Hoey on 4 June and 6 June. MacInnes gave a detailed historical account of Indian administration, the historical background and importance of the 1763 Royal Proclamation, and the evolution of the Indian treaty system in Upper Canada and the Prairie West.<sup>17</sup> He felt that a recurring problem was that Indians read many special rights into historic documents while government felt these were archaic and contained minimal legal obligations.<sup>18</sup>

To balance criticism of Canadian Indian policy and administration, MacInnes drew the committee's attention to a 1915 American study of Canadian Indian administration, conducted by F.H. Abbott, secretary, board of Indian commissioners. Abbott lauded Canada's centralized Indian Act and historically consistent assimilationist approach to Indian policy.<sup>19</sup> These disclosures caught the interest of the parliamentarians and resulted in a motion to invite a senior official from the U.S. Office of Indian Affairs to testify on recent developments. In particular they were interested in the 1934 Indian Reorganization Act (the American Indian "New Deal") and Commissioner John Collier's subsequent policy innovations to preserve the reservation land base, promote self-government, and foster

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16. T.R.L. MacInnes was born at Victoria, B.C. He was educated at McGill and entered service with Indian Affairs in 1913. In 1915, he married Natalie Lampman, daughter of poet Archibald Lampman. MacInnes was recognized as a skilled editor and became a working associate of Deputy Superintendent General D.C. Scott in the production of his books of poetry. In 1928 he became editor of the Civil Service Review, a position he held until his death in May 1952.

17. SJC, Minutes of Proceedings and Evidence (No. 2, 4 June 1946), 53-59.

18. SJC, Minutes of Proceedings and Evidence (No. 3, 6 June 1946), 79-82.

19. *Ibid.*, 83.



economic development and cultural pride.<sup>20</sup>

Following the appearance of senior branch officials, Brooke Claxton, minister of national health and welfare, testified on the state of Indian and Eskimo health conditions and on the new initiatives being undertaken by the Indian Health Services division, that had been transferred to National Health and Welfare from Indian Affairs in November 1945.<sup>21</sup> Conditions were abysmal, particularly in northern Canada, but Claxton expressed optimism that new treatment procedures for tuberculosis and trachoma, additional care facilities, and improved ground and air transportation would rectify the situation.

Claxton emphasized that Indian and Eskimo health care was a moral responsibility of the federal government and a vital component for fostering Native social and economic development.<sup>22</sup> As part of his brief, Claxton presented four detailed medical studies of Cree Indians living in northern Manitoba.<sup>23</sup> These reports reinforced the parliamentarians' view that the "Indian problem" should be redefined in terms of a disadvantaged social group who were in desperate need of improved health, welfare, social, and education services. On 24

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20. Ibid., 84.

21. O.C. 1945-6495. See also "New Health Program Urged for Indians", Winnipeg Tribune, 21 June 1947.

22. SJC, Minutes of Proceedings and Evidence (No. 3, 6 June 1946), 53-93. See also, "Claxton Gives Plan for Indians' Health," Ottawa Evening Journal, 6 June 1946.

23. Ibid. "Medical practice among the bush Indians of northern Manitoba," by Dr. Cameron Corrigan, 97-100; "Medical survey of nutrition among the northern Manitoba Indians," by Dr. P.E. Moore, 101-108; "A Survey of the ophthalmic status of the Cree Indians at Norway House, Manitoba," by W/C J.V. Nichols, 109-113; "Scurvy in a Cree Indian," by Dr. C. Corrigan, 114-115. For a useful historical overview of Indian health, see Dr. G. Graham-Cumming, "Health of the Original Canadians, 1867-1967," Medical Services Journal, (Feb. 1967): 115-166.

June, W.S. Arneil, inspector of Indian agencies for Ontario, gave his views on Indian agricultural progress and Indian administration in general. Arneil described the many strategies that had been tried to stimulate Indian interest in agriculture and the profitable production of crops.<sup>24</sup> He pointed out that the current reserve system, comprising approximately 5.5 million acres, could not sustain the growing Indian population. Present acreage amounted to an average of 50 acres per person or some 200 acres per family. Subdivision of assigned reserve lands into individual family plots made it increasingly difficult to support family life.<sup>25</sup>

Arneil felt that "the solution to the Indian problem if I may refer to it as such is supervision", vocational training and education, but these were not now sufficient, nor had they been so since the 1930s.<sup>26</sup> This opinion was supported by Hoey and MacInnes who also sought an administrative solution to the "Indian problem". Both Inspector Arneil and committee counsel Norman Lickers urged the hiring of qualified agents and farm instructors with increased administrative authority. The branch's practice of referring all but the most meaningless decisions to Ottawa was cumbersome, time-consuming, and reduced the status and authority of the local Indian agent in the eyes of Indian people.<sup>27</sup>

Arneil concluded his testimony noting that the "better" Indians of Ontario, in his view the Six Nations at Ohsweken, made a distinction between the terms "assimilation" and

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24. SJC, Minutes of Proceedings and Evidence (No. 8, 24 June 1946), 369-414.

25. *Ibid.*, 372.

26. *Ibid.*, 383.

27. *Ibid.*, 385-386.

“enfranchisement”. If Indian assimilation meant an improved standard of living equivalent to local non-Natives, this was acceptable. However, there should be no loss of Indian status, as material advantage was not gained through being cut-off from family ties and reserve life, reserve services, and having to pay income and provincial taxes.<sup>28</sup>

*Native leaders intrude*

The process received a jolt on 17 June, when the committee chair, “in breach of the settled procedure”, agreed to hear from a delegation representing the B.C.-based NAIB headed by its President Andrew Paull, Treasurer Chief Thomas Jones (Cape Croker, Ontario), and the Rev. Peter Kelly, chairman, legislative committee, Native Brotherhood of B.C. Paull was determined “to speak his mind” stating: “I stand here before you representing somebody your equal”; he warned that he was going to say some “disagreeable things”.<sup>29</sup> Paull condemned the Parliamentarians “sitting here as a committee investigating yourselves”.<sup>30</sup> Paull characterized the Indian Act as an instrument that imposed an autocratic administration on Indian people. Were Indians “wards” of the state or “British subjects”? Historic treaty

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28. Ibid., 384-385.

29. SJC, Minutes of Proceedings and Evidence (No. 9, 27 June 1946), 419. At this point the chairman interrupted: “I am sure that you want to be quite polite in your presentation”.

30. Ibid., 420. In The Fourth World, co-authors George Manuel and Michael Posluns referred to the NAIB as an organization “with a head and no body; while the NBBC was a body with no head”.

provisions had been violated,<sup>31</sup> and the B.C. Aboriginal title and reserve cut-off land issues remained unresolved. The only viable solution to improve Indian conditions was the creation of a pyramid-like structure for “Indian self-government”, comprising both Indians and non-Indians.

We mean there should be an Indian council which would meet, and there would be no Indian agent there when the Indian council meets, and we believe there should be a provincial council, and that provincial council should be responsible to a central board of governors in Ottawa who are not responsible to the government in power, but who are responsible to the Parliament of Canada.<sup>32</sup>

The approach would enable “Indians to administer Indians”. Paull then presented thirteen resolutions from the NAIB which addressed the special joint committee’s terms of reference.<sup>33</sup>

The essence of these resolutions are captured on Table Four following this page.

NAIB Treasurer, Chief Thomas Jones and Secretary Rev. Peter Kelly endorsed Andrew Paull’s presentation. Each added his own perspective. Chief Jones criticized the poor calibre of Indian agents, while the Rev. Kelly emphasized the need to settle B.C. Aboriginal land claims. Kelly also wished to ensure that, at future committee hearings, the

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31. Ibid., 422. Andrew Paull cited four types of Indian treaties: “international”, involving the United States, Britain and the Six Nations; “sanctuary”, permitting Sitting Bull to reside in Canada after 1876; “national”, involving Canadian Indians and the Crown, each “with sovereign powers”; and “unwritten” treaties, involving promises by Crown officials and the conditions set by Indians for natural resource development.

32. Ibid., 427.

33. See “North American Indian Brotherhood Resolutions, June 1946” SJC, Minutes of Proceedings and Evidence (No. 9, 27 June 1946), 419. These resolutions were supplemented by a detailed factum titled, “Indians of Canada Contravention of Certain Rights”, (Appendix AD, SJC, 1946), 829-844.

**NORTH AMERICAN INDIAN BROTHERHOOD RESOLUTIONS, JUNE 1946**

- (1) The joint committee should investigate the violation of Indian treaty rights;
- (2) Indian band membership should be determined by Indians themselves;
- (3) Treaties guarantee Indian people exemption from dominion and provincial taxation;
- (4) Treaty rights to hunt, fish, and trap are paramount to provincial legislation and regulations;
- (5) The policy of compulsory Indian enfranchisement should be abolished;
- (6) Denominational schools on reserves should be abolished; Indian education should be directed by regional boards controlled by Indians;
- (7) Indians should elect their own members of parliament;
- (8) Indian Affairs administration should be decentralized and provincial regional boards established, reporting directly to a federal agency or parliament;
- (9) Indian Affairs Branch should hire qualified Indians;
- (10) Local Indian councils should have full authority to manage their local affairs;
- (11) Indians should ride for half-faire on railroads;
- (12) Indians should be able to police their own reserves;
- (13) Reserve centralization scheme (in the Maritimes) should not be implemented without band consent.

diversity of B.C. Indian cultures, economies and conditions, and Indian aspirations, were represented by appropriate spokesmen.<sup>34</sup>

Following the NAIB testimony the remaining committee meetings in July and August were devoted to resolving the issue of how best to hear Indian and church representatives and to complete the testimony of government officials and outside experts. The format for future hearings involving Indian people was particularly troublesome. On the basis of earlier Indian presentations, some parliamentarians questioned the value of Indian participation. Others, such as G.H. Castleden (CCF-Yorkton) recommended a five-member Indian "watching-brief", while Douglas Harkness (PC-Calgary East) spoke for those members who wanted Indian representatives called to Ottawa as required.<sup>35</sup>

The debate over Indian participation revived the issue of whether Native rights associations and their spokesmen reflected rank-and-file Indian opinion on reserves. There was a general suspicion that their views were either personal, non-Native instigated, or represented a specific Indian faction. The issue of Indian participation became an embarrassment when the Owen Sound Daily Sun-Times (9 July 1946) and the Toronto Star (10 July 1946) ran prominent stories indicating that Indian people would not be allowed to testify.<sup>36</sup> After considerable debate the committee agreed to defer a decision on Indian

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34. Ibid., 430-441.

35. SJC, Minutes of Proceedings and Evidence (No. 11, 9 July 1946), 483-488.

36. Ibid., 512 and 535. Committee members held a dim view of Indian rights spokesmen characterizing them as unrepresentative and self-serving. The attentive press held the view that Indians should participate in the hearings since their interests and well-being were at stake. The press never suggested an influential role for Indian leaders in policy-making.

participation for the remaining sessions in 1946. Parliamentarians would continue to hear government officials, and then to decide how to proceed, if the joint committee's mandate was renewed in 1947.

*Committee hearings resume*

With the issue of Indian participation set aside, the joint committee resumed its deliberations, again summoning senior Indian Affairs Branch officials. Important testimony came from L.L. Brown, junior departmental solicitor, who reported that lack of funds and qualified staff had impaired implementation of a key component of Indian policy: the survey and subdivision of reserve lands and the allocation of individual location tickets.<sup>37</sup> The Great Depression and the Second World War had curtailed Branch operations and induced policy and administrative stagnation.<sup>38</sup>

The penultimate witness to appear before the joint committee in 1946 was, in every respect, the joint committee's "model" Indian, Brigadier Oliver M. Martin (1893-1968), an enfranchised Six Nations Indian, who was a magistrate at the County of York Court. Magistrate Martin endorsed the view that Canadian Indian administration had effectively

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37. SJC, Minutes of Proceedings and Evidence (No. 13, 16 July 1946), 539-564. Brown reported that the location ticket scheme was in operation in only 38 reserves: 4 in Quebec, 23 in Ontario, 1 in Manitoba, 3 in Saskatchewan, and 7 in B.C. Brown also testified that since Confederation 2,000,000 reserve acres had been surrendered.

38. On 30 July 1946, C.H. Bland, chairman of the civil service commission, testified that during the war Indian Branch administrative capabilities stagnated. Effective recruitment was hindered by the war effort and by the fact that retiring personnel were given 6 months retirement leave during which no staffing action occurred. Bland also testified that the positions of school teachers, nurses, and farm instructors were not regular civil service appointments. The last group, outside staff, was subject to political patronage.

rendered Indian people “wards” of the state. He attributed his personal success to the fact that he had “escaped” the Six Nations Reserve. Since Indian assimilation was the prevailing *raison d’être* of Canadian Indian policy, he stated:

I believe that it is a purpose of this committee to recommend eventually some means whereby Indians have rights and obligations equal to those of other Canadians. There should be no differences...because we are all Canadians.<sup>39</sup>

Martin’s comments may have served to soften the earlier comments of Andrew Paull.

### *First report*

On 13 August, the special joint committee finished its hearings, and on 15 August forwarded an interim report to both the Senate and to the House of Commons. The report noted that 25 meetings had been held and 16 witnesses heard, including Indian representatives and government officials. It made no mention of the numerous written briefs that had been submitted and were appended to the committee’s report.

The joint committee’s initial report contained ten major recommendations including: the Indian Branch should fill vacant posts and recruit qualified field personnel through the Civil Service Commission; the branch should draft plans to build additional classrooms and day schools; fur conservation and economic development programs should be expanded; money owing to Indian bands through leases and rentals ought to be collected expeditiously; and an interdepartmental committee should be struck to study “Indian Treaty Rights and Obligations”. Finally, the committee recommended that a royal commission be appointed to

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39. SJC, Minutes of Proceedings and Evidence (No. 19, 6 August 1946), 744-766. In a further letter of 7 August 1946, to Committee Chairman Donald Brown, Magistrate Martin recommended that a separate Indian Affairs Department be established and that a “Standing Committee on Indian Affairs” be created to monitor the effectiveness of policy and administrative changes (p. 881).



continue the special joint committee's investigation in eastern Quebec and the Maritimes during the parliamentary recess. The interim report also noted that if the special joint committee's mandate was renewed in 1947, the sessions would be set aside to hear "Indian, church and other organizations" so that the process of Indian Act revision could be finalized.<sup>40</sup>

*A royal commission established*

In line with the committee's recommendation, a royal commission comprising members of the special joint committee was struck on 11 October 1946. This reincarnation was a cost-effective and politically safe device to advance the committee's investigations. The commission's mandate was to continue the process of Indian Act review by visiting reserves in eastern Quebec and the Maritimes.<sup>41</sup> In Nova Scotia, the centralization of nineteen Indian reserves at two sites, Eskasoni (Cape Breton) and Shubenacadie had become a major administrative and political issue. The parliamentarians felt that on-site reserve inspection was imperative.<sup>42</sup> On 20 October 1946, ten commissioners began an 18 day tour of 19 eastern reserves that concluded on 6 November. In the process 170 Indian witnesses testified. The royal commission's sixteen-page report, which followed the terms of reference set for the special joint committee, was formally presented to government on 8 July 1947.<sup>43</sup>

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40. SJC, "Report to the Senate and to the House of Commons," 15 August 1946, appended to the "Ninth (and final) Report of the subcommittee on Agenda and Procedure", Minutes of Proceedings and Evidence (No. 21, 13 August 1946).

41. O.C. 3797, 11 October 1946.

42. See Lisa Patterson, "Indian Affairs and the Nova Scotia Centralization Policy," M.A. thesis, (Dalhousie University, 1985).

43. "Report of Commission on Indian Affairs, 1946," 8 July 1947, DIAND file 6-15-1, Vol. 1.

The commissioners agreed with Director R.A. Hoey that "long-range programs were needed to improve reserve conditions in eastern Canada". However, they noted: "As time goes on, and the Indians are assimilated into the general body politic, the need for special services now rendered to these 'wards of the Crown' will gradually lessen."<sup>44</sup> Until Indian people became self-supporting citizens, the federal government had a moral and legal obligation to extend social security benefits to Indians, including old age security and blind person pensions and welfare relief. In this context, the centralization scheme was applauded since the consolidated settlements at Eskasoni and Shubenacadie would allegedly produce well-organized and self-sufficient Indian communities. Continued success depended on the Indian Affairs Branch providing improved school facilities, reserve housing, community development projects, and local employment.<sup>45</sup>

*Committee's mandate renewed (1947)*

On 13 February 1947, Parliament renewed the mandate of the special joint committee. The committee's membership remained substantially the same, with the addition of Conservative M.P. Tommy Church (PC-Broadview) and Senators L.J. Robicheau (PC) and W.H. Taylor (Lib.). The 1947 committee hearings lasted four months, from 5 March to 9 July. In all 67 meetings were held, 102 witnesses called, and some 153 written briefs were submitted. Evidence came from church leaders, academics, voluntary groups, Canadian government officials, Indian bands and Native rights associations.

The 1947 sessions became the focal point and public forum for the expanded post-war

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44. Ibid., 10-11.

45. Ibid., 12-13.

Indian policy community to convene and reach a consensus on the future course of Canadian Indian administration. The participants' testimony concerning major policy issues: Indian treaty rights and government obligations; Indian eligibility to vote at Dominion elections; encroachment of non-Natives on reserve lands; the operation of denominational day and residential schools, and a variety of related administrative topics, demarcated areas of consensus and contention among policy-makers. At the same time, the alternate political agendas of Indian "policy-takers" emerged from historical obscurity and became part of the parliamentary record.

The special joint committee devoted its March 1947 meetings to hearing the views of committee members who had made on-site inspection of local reserves during the Parliamentary recess. The consensus was that, although the Indian Affairs Branch was doing its best, the reserves required better schools, housing, roads, sewers, and fresh water supplies. Both young and old reserve residents needed enhanced access to social services, welfare benefits,<sup>46</sup> and medical care facilities. Additional trained branch field staff were required to manage programs and control costs associated with these upgraded services.

On some policy issues Indian people and politicians saw eye-to-eye: alleged violations

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46. On 24 May 1946, T.R.L. MacInnes presented a paper to the Canadian Political Science Association. In his presentation MacInnes said that Indian people were disqualified from receiving Old Age and Blind Persons pensions because they were financed by joint Dominion/Provincial agreement. The provinces saw Indians, not as provincial citizens, but as a federal responsibility. Thus the provinces refused to pay their fair share. Family allowances, a federal initiative, were paid (since 1944) to Indian recipients if their school-aged children were in day schools. If they attended residential schools, family allowances were not paid. See T.R.L. MacInnes, "History of Indian Administration," The Canadian Journal of Economics and Political Science, 12 (1946): 387-394.

of treaty-based hunting and fishing rights required investigation, as did the issue of Indian liability to pay federal and provincial taxes. On other matters such as Indian enfranchisement, band membership control, obtaining the electoral franchise, and the operation of denominational day and residential schools, officials were confounded by a bewildering range of Indian opinion.<sup>47</sup> Certainly the most contentious issue for all was the continued operation of denominational day and residential schools. There was little common ground on this question, with reserve opinion and Indian leaders divided according to their religious beliefs.

### *Testimony of experts*

On 25 March, anthropologist Dr. Diamond Jenness (1886-1969), chief of the inter-services topographical section, Department of National Defence, appeared before the joint committee to elaborate on his Plan to "liquidate" the Indian problem in 25 years.<sup>48</sup> This expert's scheme to advance Indian assimilation was applauded upon presentation. The objective was "[T]o abolish gradually but rapidly, the separate political and social status of the Indians (and Eskimos); to enfranchise them and merge them into the rest of the population on an equal footing".<sup>49</sup> This could be accomplished by placing all Indian children in non-

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47. SJC, Minutes of Proceedings and Evidence (Nos. 1-4, 11, 14, 18 March 1947), 31-50, 71-112, 113-135.

48. SJC, Minutes of Proceedings and Evidence (No. 7, 25 March 1947), 310-311. See also, Diamond Jenness, "Canada's Indian Problem," America Indigena, 1(2) (1941): 29-38; and Diamond Jenness, The Indians of Canada, (Ottawa: King's Printer, 1932).

49. Ibid. Was there a "structural complicity" between anthropologist Diamond Jenness and the Canadian State? See, Peter Kulchyski, "Anthropology in the Service of the State: Diamond Jenness and Canadian Indian Policy," Journal of Canadian Studies 28(2), Summer 1993: 21- 50.

denominational provincial schools; including Indians in all public health, unemployment and social security measures; extending a system of practical adult education to Indian residents in isolated areas; and by establishing a three-member commission to study Indian reserves with a view to their eventual dissolution. Diamond Jenness's testimony raised a number of philosophical issues which continued to crop up throughout the committee's hearings. These included the future of Indian reserves, and the future of Indian people as a distinct social group.

On 19 and 20 May, William Zimmerman Jr., assistant commissioner of U.S. Indian affairs, appeared before the special joint committee. He testified on contemporary initiatives to protect the reservations, promote self-government, and foster cultural revival. He noted the consistency in Canadian policy and the single Indian Act which he contrasted with the complex and varied history of American Indian administration with its system of 1500 separate laws.<sup>50</sup> In the course of questioning Zimmerman's testimony, M.P. Thomas Reid (Liberal-New Westminster), a vocal member of the committee, stated that many of his fellow parliamentarians had doubts whether the reserve system should be perpetuated along with a separate branch of government to administer Indian affairs. Reid thought that Indian assimilation was the answer - an amalgamation of the races.

Zimmerman's reply indicated that the Americans, under the auspices of the Indian Reorganization Act (1934) - Commissioner John Collier's Indian "New Deal" - were on a different course. Acknowledging that a process of Indian acculturation was underway, he

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50. SJC, Minutes of Proceedings and Evidence (Nos. 23-24, 19-20 May 1947), 1165-1209, 1218-1262.

stated that this process was not being forced upon American Indian people.<sup>51</sup> On the question of continuing the reserve system, Zimmerman concluded:

...I sometime feel that the attitude of the Indian is more wholesome than the attitude of the White man. We hear, as apparently do you, some complaints that the Indian should not be restrained and that he should not be held on the reserve, that the reserve should be abolished and the Indian should go his way. After all, the reservation is his home. The Indian is free to come with us but if he wants to stay at home and maintain his family ties, his home ties, I do not see why he should not be allowed to do so.<sup>52</sup>

On June 3, Professor Thomas McIlwraith, an anthropologist from the University of Toronto appeared, and like Diamond Jenness, envisaged no future for traditional Indian ways. According to Professor McIlwraith:

...for better or for worse, the White man's way is going to prevail and I see no way on which we can, with the atomic age coming on, have a small group of our population going on as fishermen and hunters or as peasant farmers. It is a sad thought.<sup>53</sup>

For McIlwraith the "Indian problem" was neither the fault of Indian people nor of the Indian affairs administration. Indian people had simply been overtaken by modern technology and they no longer possessed any "individual specialization" as they once had during the fur trade and military periods. Indian "wardship", created by a "soulless bureaucracy" had sapped

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51. SJC, Minutes of Proceedings and Evidence (No. 24, 20 May 1947), 1260. See also, "Report of the Select Committee to investigate Indian Affairs and Conditions in the United States," House of Representatives, 78th Congress, 2nd Session, Report 2091. U.S. Government Printing Office (Washington D.C., 1944). Also, "Aspects of Indian Policy," U.S. Senate Committee on Indian Affairs, 79th Congress, 1st Session, U.S. Government Printing Office (Washington D.C., 1945).

52. Ibid.

53. SJC, Minutes of Proceedings and Evidence (No. 29, 3 June 1947), 1529.

individual Indian initiative. Adult education and vocational training, along the lines of Danish "schools in the forest", were the keys to Indian adjustment and success.<sup>54</sup> In the opinion of McIlwraith, Dr. Gilbert Monture (1896-1973), a noted Canadian government scientist, committee counsel Norman Lickers, and Magistrate Oliver Martin were examples of ideal Canadian Indian citizens.

Professor McIlwraith's views were supported by Indian Branch Secretary T.R.L. MacInnes and M.P. G.H. Castleden. MacInnes characterized the continuation of the Indian reserve system as neither "feasible nor desirable in our day and age."<sup>55</sup> G.H. Castleden believed that integration of Indian education into provincial schemes was the "bridge" whereby Indians could progress from being "wards" to full citizens.<sup>56</sup>

What is striking about the testimony of outside observers and comments made by parliamentarians is evidence of the persistence of views and attitudes towards Native people that were prevalent a century before. Committee members favoured Indian assimilation, an

54. Ibid., 1530-1532.

55. SJC, Minutes of Proceedings and Evidence (No. 29, 3 June 1947), 1539. On 29 December 1946, MacInnes gave a talk on radio station CKCO entitled "Canada's Indian problem." He stated that two principles had guided Indian administration: protection and advancement. On the future of the Indian, he said: "Personally I believe that they re bound to be assimilated in time both physically and in other ways of life. After all, in Canada they are only one percent of the population, and one percent cannot be kept separate from the other ninety-nine percent forever."

56. Ibid., 1539-1540. G.H. Castleden, Regina lawyer Morris Shumiatcher, and Premier T.C. Douglas were instrumental in encouraging Saskatchewan Indians to form a unified provincial association, the Union of Saskatchewan Indians, at meetings held in Regina and Saskatoon during January-February 1946. See, Morris Shumiatcher, "Indian Smoke on the Western Sky," Canadian Forum, March 1946: 183-185; also L. Barron, Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF (Vancouver: University of British Columbia Press, 1997).

end to the reserves, termination of special Indian legal status, and a winding up of Indian Branch activities. In the short term, however, they were confronted with the practical problem of devising solutions to lingering social policy, and administrative questions. They were sanguine that, if these matters could be dealt with, Indian reserve conditions would be ameliorated, Indian administration streamlined, and Indian assimilation advanced. In this endeavour the negotiated support and cooperation of the churches was essential since these institutions were the main participants in providing Indian education and health care services.

### *Views of the policy community on Native issues*

How did members of the policy community align themselves on major policy issues? What were the views of Native people and how did they react to the intransigence on the part of policy-makers? An analysis of their respective positions and policy networks constitutes the next portion of this chapter.

### *Treaty rights*

The special joint committee's first item of business was to investigate the status of Indian treaties; the alleged violation of treaty rights to hunt, fish, and trap; and government's fulfillment of other lawful obligations. The question of Indian treaties and treaty rights issues was "terra incognita" to most committee members. Historical information was provided by counsel Norman Lickers, branch experts such as Fur Supervisor Hugh Conn, and Indian representatives.

From the testimony of Indian witnesses, committee members learned first-hand of the strong feelings that Indian people, particularly in western Canada, held in regard to their treaties and the view that the Natural Resources Transfer Agreement (1930) had illegally



placed the regulation of Indian hunting, fishing and trapping under provincial jurisdiction. The issue stirred arguments, for example, from Teddy Yellowfly (Blackfoot) of the Indian Association of Alberta,<sup>57</sup> and John B. Tootoosis (Cree) president, Union of Saskatchewan Indians,<sup>58</sup> that Indian people need not comply with provincial game laws and should be exempt from payment of provincial dues, licence fees, or other royalties associated with fish and game harvesting.

In some Indian presentations the treaties were cited as the basis for an assertion that

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57. SJC, Minutes of Proceedings and Evidence (No. 12, 21 April 1947), 547-554; (No. 13, 22 April 1947), 668-683. Teddy Yellowfly was born on 7 March 1898, of Blackfoot and Chinese parents. He attended Anglican boarding school until age 14; he then joined the Indian Branch as interpreter and office boy. Yellowfly wrote a biography of Chief Crowfoot which Judge J.W. Howay read at the annual CHA meeting in Montreal in 1927. He became manager of the Blackfoot coal mines and was a delegate to the 1939 Indian conference at Toronto. In 1950, he was hired by Western Air Lines to assist in publicity campaigns. He drowned in the Bow River near Calgary on 29 May 1950. See G.H. Gooderham, "Teddy Yellow Fly," Alberta History, Winter (1985): 10-13.

58. SJC, Minutes of Proceedings and Evidence (Nos. 19-20, 8-9 May 1947). John Baptiste Tootoosis was born on the Poundmaker Reserve on 18 July 1899. He attended Delmas Residential School. In later life he became a leader of the League of Indians of Western Canada comprising Cree Indians of Treaty 6 in Alberta and Saskatchewan. In 1947 he represented the Union of Saskatchewan Indians before the special joint committee and later participated actively in the 1951 conference on the Indian Act. He was elected Vice-President of the National Indian Council at its Garden River meeting in 1964; and in 1982, was Ambassador to the World Assembly of First Nations in Regina. He died on 2 February 1989, at the age of 89. His obituary appeared in the Toronto Globe and Mail, 4 February 1989. See Jean Goodwill and Norma Sluman, John Tootoosis (Winnipeg: Pemican Publications, 1984).

Indian people were members of independent nations.<sup>59</sup> The Saskatchewan-based Queen Victoria Treaty Protective Association stated repeatedly that they did not come under Indian Act jurisdiction since the numbered treaties established a direct and formal link between themselves, as a self-governing people, and the Crown.<sup>60</sup> Thus both the Indian Act and the Indian Affairs Branch were irrelevant to their acquisition of better reserve services and social benefits from federal government departments.

For the Six Nations Iroquois groups - whether those representing the government-recognized elected council, the "hereditary chiefs" (the "Iroquois Confederacy"), or the Indian Defence League of America (based in Niagara Falls, N.Y.),<sup>61</sup> - that testified, the treaties and

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59. In 1947 Indian arguments that the treaties recognized "an inherent right to self-government" were a novelty to most parliamentarians. The Penner Report on Indian Self-Government in Canada, released in 1983, accepted many of these assertions along with the Indian claim that the 1763 Royal Proclamation recognized an Indian right to self-government. The Union of Saskatchewan Indians advanced a comprehensive and convincing argument in their submission to the Special Joint Committee on 8 May 1947, SJC, Minutes of Proceedings and Evidence (No. 9, 8 May 1947), Appendix ES, 969- 977. The brief was prepared by lawyer Morris Shumiatcher, advisor to Premier T.C. Douglas and author of the Saskatchewan Bill of Rights, 1947. Shumiatcher obtained his ideas from Saskatchewan Indian leader John Gambler (Morris Shumiatcher, personal communication, July 1992).

60. SJC, Minutes of Proceedings and Evidence (No. 19, 8 May 1947), 934-935; (No. 20, 9 May 1947), 1017-1019. The Queen Victoria Treaty Protective Association was formed by Indian dissidents under Arthur Favel who objected, among other matters, to CCF influence in forming the Union of Saskatchewan Indians in 1946.

61. See Barbara Graymont, Fighting Tuscarora. The Autobiography of Chief Clinton Rickard (Syracuse: Syracuse University Press, 1973).

various historic proclamations confirmed special status as “allies” of the Crown,<sup>62</sup> not subjects or Canadian citizens. In their view, the term “band” in the Indian Act had no application to them since they were independent “nations” with specific territories in Canada.<sup>63</sup> A chain of British and American treaties formed the basis for recognition of Six Nations “self-government”, exclusive control of band membership, and exemption from all

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62. On 1 January 1947, “An Act respecting Citizenship, Nationality, Naturalization and Status of Aliens”, (Canadian Citizenship Act) was proclaimed. The Iroquois traditionalists claimed the act did not apply to them. The Citizenship Act was amended in June 1956 to explicitly include Indians (see Section 2, which amended the original Section 9).

63. The issue of the Six Nations status in Canada dated back to the 1784 Haldimand Grant and 1793 Simcoe Patent. Were the Six Nations “allies” or “subjects” of the British Crown? Joseph Brant, and his legal advisor Alexander Stewart, asserted sovereign “ally” status arguing that the Haldimand Grant created a fee-simple estate on the Grand River and recognized the Six Nations as a sovereign nation. See NAC, C.O. 42, Vol. 321, Brant’s Power of Attorney to Sell the Indian Lands, Grand River, 2 November 1792; and Brant’s address to William Claus on the Subject of the Indian Lands, Indian Council House, Fort George, 24 November 1796; also Charles M. Johnston (ed.), The Valley of the Six Nations, 81-84. In the nineteenth century Chief William Smith traveled to London to present the Six Nations case to the British government. In the twentieth century the sovereignty issue was unsuccessfully presented to the League of Nations by Levi General (Deskehah) in 1928. Two scholarly treatments of this question can be found in Malcolm Montgomery, “The Legal Status of the Six Nations Indians in Canada,” Ontario History, Vol. 60, No. 2 (1963): 93-105; and Peter Marshall, “First Americans and Last Loyalists: An Indian Dilemma in War and Peace,” in Esmond Wright (ed.), Red, White and True Blue: The Loyalists in the American Revolution (New York: Institute of U.S. Studies by AMS Press, 1976), 33-53. A more general treatment is H.E. Staats, “Some Aspects of the Legal Status of the Canadian Indians,” Osgoode Hall Law Journal, 3 (April 1964): 36-51.

forms of taxation and compulsory military service.<sup>64</sup> These assertions shocked committee members W.H. Bryce and Thomas Farquhar who stated that they had never encountered western plains Indians claiming sovereignty.<sup>65</sup>

Other treaty groups came forward with their own grievances. Chief Telford Adams of the Sarnia Reserve and a member of the Union of Ontario Indians wanted the pre-Confederation Upper Canada treaties (1764-1862) investigated to ensure that Indian bands had received their annuities.<sup>66</sup> Chief Cyril Big Canoe from Georgina Island demanded the treaties be renegotiated with modern interpretations given to outdated treaty benefits, rights and obligations. From those reserves contiguous to the American border arguments were put forward that Canadian Indians, under Article 3 of Jay's Treaty (1794), had the right to cross the international border free from payment of customs duties and compliance with immigration measures. In sum, Indian representatives told the committee that their treaties formed the basis for a direct relationship with the Crown, were recognition of special Indian rights, and were in effect, a form of "social contract", that required government compliance,

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64. SJC, Minutes of Proceedings and Evidence (Nos. 25-26, 22-23 May 1947), 1263-1417. Reginald Hill and Joseph C. Hill represented the Six Nations Council; Chief Sam Lickers, the Hereditary Chiefs; Asa Hill, the Indian Defense League of America; and William Smith, the Six Nations "Iroquois" Confederacy. The Indian Defence League of America was established in 1925 under the leadership of Chief Clinton Rickard to protect and promote Six Nations Confederacy rights to freely cross the international boundary in accordance with Article 3, Jay's Treaty, 1794.

65. SJC, Minutes of Proceedings and Evidence (No. 26, 23 May 1947), 1384-1385.

66. SJC, Minutes of Proceedings and Evidence (No. 25, 22 May 1947), see evidence presented by Chief Telford Adams, Sarnia Reserve, 1319; Six Nations representatives, 1287-1289; also see SJC, Minutes of Proceedings and Evidence (No. 33, 12 June 1947), Matthew Lazare, Hereditary Chiefs, Caughnawaga, 1709; and Chief Clifford White, St. Regis Reserve, Quebec, 1741-1745.

fulfilment and regular updating to meet changed conditions.<sup>67</sup> The view was that government had not lived up to its side of the bargain and Indian people had been short-changed.

As noted, committee members were sceptical of the more extreme assertions of Indian sovereignty. There was some acknowledgement that, in isolated cases, not all treaty provisions had been fulfilled, but the matter was complex and required in-depth consideration by the special joint committee's sub-committee on treaty rights and obligations.<sup>68</sup>

The committee's hesitant approach to treaties and Aboriginal rights issues was buttressed by testimony from George Gooderham, regional inspector of Alberta Indian agencies,<sup>69</sup> and by Canon Alderwood of the Anglican Church.<sup>70</sup> The two agreed that Indian people read too much into the "strict" terms of the treaties. Indeed current government services and benefits often exceeded vague treaty promises. Anglican Bishop Robert J. Renison (Moosonee) stated that since assimilation was the goal of Indian policy, treaty-based claims to special rights only perpetuated separate Indian status and political exclusion.<sup>71</sup>

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67. Testimony of Cyril Big Canoe, Georgina Island Reserve, SJC, Minutes of Proceedings and Evidence (No. 25, 22 May 1947), 1313. The Prairie bands were concerned with defending existing treaty rights to hunt, fish and trap, on unoccupied Crown lands, avoiding compulsory military service, and payment of income tax. Treaty renegotiation in 1947 appears to have originated with Ontario treaty groups whose pre-Confederation treaties contained few benefits comparable to the numbered western treaties (1871-1921).

68. SJC, Minutes of Proceedings and Evidence (No. 25, 22 May 1947), 1313.

69. SJC, Minutes of Proceedings and Evidence (No. 15, 25, 28 April 1947), 748.

70. SJC, Minutes of Proceedings and Evidence (No. 9, 28 March 1947), 433-434.

71. *Ibid.*, 419-420. See also, Bishop Robert J. Renison, One Day at a Time (Toronto: Kingswood House, 1957).

Treaty issues also shifted the focus away from the plight of more than half of Canada's Indians in B.C., Quebec and the Maritimes who had not signed land cession treaties. One thing committee members could not deny, however, was that the issue of Indian treaties, their interpretation and legal status affected other Indian policy and program issues which were under consideration.<sup>72</sup> Although non-Indian policy-makers tried to discount their importance and relevance, Indian representatives such as the chief and council of the James Smith Band, Saskatchewan, continually referred to the treaties when advancing an alternate vision of Indian peoples' enhanced civic status in post-war Canadian society.<sup>73</sup>

### *Band Membership*

The issue of Indian band membership was of particular interest to the Indian Affairs Branch, the Justice department, and Indian bands and Native rights associations. For Indian representatives control of band membership was linked directly to the achievement of "self-

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72. The western numbered Treaties 1-11 (1871-1921) contained provisions relating to Indian education, establishment of reserves, and hunting, fishing, trapping rights. In the Treaty Commissioners' reports for Treaties 8 and 11, verbal promises were given regarding non-payment of income tax and exemption from compulsory military service. Indian spokesmen referred to the "intent and spirit" of treaty negotiations in demanding fulfilment of government's obligations.

73. *SJC, Minutes of Proceedings and Evidence* (No. 21, 12 May 1947), Appendix EV, 1123. The Canadian Legion of the British Empire Service supported recognition of Indian treaty rights in a written brief to the special joint committee on 20 August 1946.

government", and the loosening of Indian Branch control of reserve affairs.<sup>74</sup> Prior to 1887, as administrative practice, local agents had decided who were members of a particular band. This practice was then sanctioned by legislation in 1887.<sup>75</sup> An 1895 amendment permitted a limited degree of Indian participation in determining a band's composition and this practice remained in the Indian Act until 1951.<sup>76</sup>

However, as noted in Chapter Two, by the 1930s Indian Branch officials often could not determine from existing records who was an "Indian" and thus entitled to reside on reserves and receive government benefits. If Indian social services and health care systems were expanded, as social workers, church authorities, and Indian leaders urged, then the issue of Indian status and eligibility would have to be cleared up once and for all. The issue was complex, hence it was referred for study to the Department of Justice and the special joint committee's Indian Act sub-committee.

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74. SJC, Minutes of Proceedings and Evidence (No. 12, 21 April 1947), 541. John Callihoo (1882-1957), president, Indian Association of Alberta, demanded a limitation on the arbitrary powers of the superintendent general, a mechanism to appeal his decisions, and more powers for the local chiefs and councils. The Indian Association of Alberta claimed to represent 27 bands. See also, Ian V.B. Johnson, "Helping Indians to help themselves. A Committee to investigate itself", (Ottawa: Research Branch, Indian and Northern Affairs Canada, 1984), 31-34.
75. Statutes of Canada, 50-51 Victoria c. 33, "An Act to amend The Indian Act," Sections 1-2, (23 June 1887).
76. Statutes of Canada, 58-59 Victoria c. 35, "An Act to Amend the Indian Act," Section 8, (22 July 1895). The "Peepeekeesis Reserve protests" were reviewed by the special joint committee but no recommendation was made how to deal with the controversy which originated at the turn of the century when Inspector W.M. Graham arbitrarily admitted 50 non-band members who were graduates of the File Hills Colony (an Indian agricultural instruction project in Saskatchewan). See NAC, RG26, Vol. 70, File 43.

By 1946 the issue of Indian control of band membership had become both a symbolic and an emotional issue. The situation, in part, stemmed from arbitrary government initiatives in the late 1930s in the Lesser Slave Lake Agency to strike "illegal" Indians, allegedly half-breeds who had taken scrip, from the official branch membership lists of 14 bands.<sup>77</sup> By 1 July 1942, these expulsions involved 640 Treaty 8 Indians (by 1943, 663) and had created a political uproar among other western tribes, the Oblate Order, and non-Native Indian supporters. The submissions put forward by the Indian Association of Alberta (written by John Laurie) to the House of Commons committee on reconstruction and re-establishment in 1944 and the special joint committee had also raised this contentious matter. The issue festered despite the appointment, in May 1944, of Mr. Justice A. Macdonald of the Alberta Supreme Court to investigate the matter. On 7 August 1944, he reported to the Hon. Thomas A. Crerar, minister responsible for Indian affairs, that the majority should be reinstated.<sup>78</sup>

The Lesser Slave Lake Agency dispute alerted Indians and their non-Native supporters that so long as non-Indians controlled band membership criteria, as well as who was considered an "Indian" under the Indian Act, Indian status and identity could be terminated arbitrarily by outsiders. In response, and wishing to prevent this, Indian representations to the special joint committee demanded that certain principles and practices be followed in determining band membership:

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77. For a historical overview of the Lesser Slave Lake band membership controversy see John Godard, Last Stand of the Lubicon Cree (Toronto: Douglas and McIntyre, 1991), 7-31.

78. DIAND, File 777/28-3, Vol. 7



- No Treaty Indian should be expelled from Treaty. (This was a direct reference to the 1942-1944 Lesser Slave Lake Agency controversy);
- Illegitimate Indian persons mentioned in Section 12 of the Indian Act should be granted full treaty privileges with the band's approval. No child should be punished for what was not his fault;
- Subject to band approval, all minor children of an Indian woman who married outside her reserve, lost her first husband, returned to her home reserve and remarried a Treaty Indian, should be received into the band with all treaty privileges. Children of widows described or orphans should also be granted full treaty rights;
- Subject to band approval, all children of a treaty Indian who married outside, should continue to have full band membership according to Section 2 (d)(ii) of the Indian Act;
- Subject to band approval, all descendants of a male treaty Indian should retain full treaty rights regardless of the ancestry of the female;
- Subject to band approval, no Treaty Indian should be expelled from a band even if a remote ancestor received half-breed scrip; and finally,
- Section 13 of the Indian Act prohibited an Indian from claiming benefits if he/she was absent from the reserve for 5 years continuously in a foreign country and without the written consent of the Superintendent General of Indian Affairs. Indian representatives viewed this clause as an abrogation of the right to domicile recognized under English Common Law. So long as an Indian expressed an intention to return to the reserve, his rights to government benefits should be retained.<sup>79</sup>

Government officials listened to Indian representations with polite attention, but their

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79. These principles were put forward in submissions from the Union of Saskatchewan Indians, (May 1947), Queen Victoria Treaty Protective Association, the Indian Association of Manitoba (June 1947), the Indian Association of Alberta, (April 1947), and various western bands. The similarity in Saskatchewan and Alberta submissions prompted Douglas Harkness to inquire whether there was prior consultation between the two associations on issues and recommendations. In fact, there was, as Morris Shumiatcher had a hand in preparing both briefs. It is interesting to note that Harkness and Laurie were teachers at Crescent Heights High School in Calgary and Morris Shumiatcher was once a student of John Laurie.

attention masked a different agenda. The goal, from a non-Native perspective, did not include enhancing support for Indian peculiarities or traditions. It never had. Indian people were to be assimilated, their special legal status, and the reserve system eventually terminated. To accomplish this policy objective, it was essential that government maintain control over the definition of who was "Indian" under the Indian Act. To permit significant Indian control over band membership, or to determine who was an Indian, would mean that government had lost control over the heart of Indian policy. And that would mean that Indian identity could be maintained and extended, and financial costs associated with extended welfare state benefits to reserve Indians would sky-rocket. This was unacceptable to virtually all non-Indian participants, in particular the parsimonious Treasury Board Branch of the Finance Department.

### *Taxation*

The question of Indian liability to pay taxes was of interest to members of the policy community because it touched on related Indian policy issues: treaty rights, citizenship, and the perpetuation of a special Indian status. After all, paying taxes was a duty associated with citizenship. With few exceptions, Native rights associations expressed the view in their evidence and briefs that Indians should not pay taxes on reserve property or on income earned on a reserve. In 1946, Andrew Paull, president of the North American Indian Brotherhood, took exception to a Department of Justice legal opinion that suggested Indians were British subjects and thus should pay income tax.<sup>80</sup> He pointed to the treaties, in particular Treaty 8 (1899), in which the treaty commissioners promised that Indian people would not be subject

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80. SJC, Minutes of Proceedings and Evidence (No. 9, 27 June 1946), 419-421.

to taxation.<sup>81</sup>

The arguments put forward by Indian groups for continued tax exemption can be summarized as follows: it was a treaty promise; Indians were “wards” of the government; they were not recipients of old age and blind persons pensions, nor other social welfare measures available to Canadian citizens; their incomes were insufficient to support existing family responsibilities; and they had no parliamentary representation.<sup>82</sup> These tax exemptions, they claimed, also applied to various provincial licence fees and to succession duties on estates of deceased Indians.

The Indian position on tax exemption received support from the churches. Representatives of the Roman Catholic Church urged the government to research the treaties to determine the extent and nature of the alleged tax exemptions.<sup>83</sup> The United Church proffered the view that tax exemption for status Indians was permissible; however, if a band enfranchised then their lands should be subject to taxation like everyone else's.<sup>84</sup> The Anglican Church of Canada added a new twist to the argument. Church leaders agreed that

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81. SJC, 1946, Appendix AD, 829-844.

82. The North American Indian Brotherhood submission in 1946, and the Alberta and Saskatchewan Indian Association briefs of April-May 1947 contained elements of this argument.

83. SJC, Minutes of Proceedings and Evidence (No. 27, 27 May 1947), 1456. The Rev. Father J.O. Plourde, O.M.I., superintendent, Indian welfare and training, Oblate Commission, presented a brief on behalf of the Catholic hierarchy of Canada and Catholic Indian missionaries, 1446-1464.

84. SJC, Minutes of Proceedings and Evidence (No. 28, 29 May 1947), 1506-1507. The Rev. George Dorey, D.D., secretary, Board of Home Missions, the United Church of Canada, presented the church's brief to the Committee, 1495-1502.

while Indians should be exempt from government taxation on reserve-earned income and property, a system of Indian municipal government should be devised for the reserves. Then Indian people could levy their own taxes to provide revenue for much needed welfare, social services, and educational facilities.<sup>85</sup>

The position of the Indian Affairs Branch on the Indian taxation issue was ambivalent. Officials recognized that most reserve Indians' income was well below levels at which taxation would become effective. In testimony, R.A. Hoey, branch director, referred to the American Meriam Report (1928) that suggested an educational approach to the taxation issue, stressing the point that payment of taxes was part of a citizen's civic obligations.<sup>86</sup>

#### *Enfranchisement and citizenship*

The issue of compulsory Indian enfranchisement (loss of Indian status under the Indian Act) was of paramount concern to all members of the Indian policy community. It will be recalled that provision for compulsory Indian enfranchisement had been part of the Indian Act (Section 110) since 1933 but had never been actively implemented. Nevertheless, Section

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85. SJC, Minutes of Proceedings and Evidence (No. 9, 28 March 1947), 405. The Rev. H.G. Watts, B.D., acting general secretary, Missionary Society of the Church of England in Canada presented the main brief, 387-406.

86. SJC, Minutes of Proceedings and Evidence (No. 1, 28, 30 May 30, 1946), 1-38.

110 was viewed by Indian people as a threat to their continued existence.<sup>87</sup> Not surprisingly, Indian submissions demanded that Section 110 be withdrawn or amended.

The majority of Indian leaders feared that enfranchisement would mean loss of treaty rights, imposition of taxation, and the rupture of reserve-based kinship networks.<sup>88</sup> Other concerns related to the loss of band funds that occurred when Indian women married non-Indian men or when band members enfranchised voluntarily.<sup>89</sup> Some Indian leaders expressed the view that, when Indian parents enfranchised, their children should not be enfranchised until they reached an age when they themselves could decide.<sup>90</sup> One Indian group, the Indian Veterans' Association of Wikwemikong (Ontario), requested that enfranchised Indian people

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87. The Iroquois hereditary Chiefs of Ohsweken and Caughnawaga claimed nation status with North American Indian citizenship. This assertion was based on an interpretation of ancient treaties and the 1763 Royal Proclamation. See for example the testimony of Matthew Lazare, Jr., Caughnawaga, SJC, Minutes of Proceedings and Evidence (No. 33, 12 June 1947), 1706-1712. The North American Indian Brotherhood and the Indian Association of Alberta reluctantly agreed to council supervision and control over commutation of band funds. See for example, submission of the Indian Association of Alberta, SJC, (No. 12, 21 April 1947), 571-602. The Native Brotherhood of B.C. through the Rev. Peter Kelly argued for full citizenship rights for Indians while allowing them to gradually abandon Indian rights. See SJC, Minutes of Proceedings and Evidence (No. 16, 1 May 1947), 766-767. Kelly was in favor of Indian assimilation and broke with Andrew Paull over this issue in 1947. Andrew Paull wanted Indian equality without assimilation. See "Interview with Percy Paull," 2 April 1972, Tape 2, Track 5, Aural History Project of British Columbia, B.C. Provincial Archives. The Andrew Paull-Peter Kelly relationship was also disrupted by religious strife. Kelly was a Methodist and Paull, a Roman Catholic with close ties to the Oblates.

88. See for example, "Submission of the Union of Saskatchewan Indians", SJC, Minutes of Proceedings and Evidence (No. 19, 8 May 1947), 1000-1001.

89. Ibid.

90. Submission of Chief Kenneth Plain, Sarnia Reserve, 9 August 1946; SJC, Minutes of Proceedings and Evidence (No. 26, 23 May 1947), 1427.

be permitted reinstatement into a band if they could not cope with off-reserve life.<sup>91</sup> Only the Serpent River and Spanish River Bands in Ontario expressed some satisfaction with existing arrangements.<sup>92</sup>

Of particular interest was a brief presented by Chief William Scow (Kwakiutl), president of the Native Brotherhood of British Columbia (NBBC), Guy Williams, secretary, and the Rev. Peter Kelly, (1885-1966) chairman of its legislative committee.<sup>93</sup> Unlike traditional Iroquois confederacy groups whose rhetoric espoused nationalism and a separate North American Indian status, the Brotherhood's brief supported Indian integration, not assimilation into Canadian society. In the Brotherhood's view Indian people did not want to exchange their hereditary rights, special privileges, and jeopardize family unity, for a package of supposedly "superior" privileges which imposed hardship and pain. The NBBC brief argued that Indian people should eventually become full Canadian citizens, but in the process, not be compelled to surrender their hereditary rights. This brief and others presented by Indian groups implied a differentiated Canadian citizenship in which Indian people would have more rights than non-Indians. The outlook was at odds with prevailing non-Indian

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91. Submission of Veterans' Association of Wikwemikong, Manitoulin Island, Ont.; SJC, Minutes of Proceedings and Evidence (No. 25, 22 May 1947), 1337.

92. Ibid., Brief of the Serpent River Band, 13 May 1946, 1343; Brief of the Spanish River Band, 13 May 1946, 1347.

93. SJC, Minutes of Proceedings and Evidence (No. 16, 1 May 1947), 766-767. The Native Brotherhood had been founded in 1930 by coastal Indians lead by Alfred Adams (Haida), as an organization to protect Indian fishing rights. In 1936 the Pacific Coast Native Fishermen's Association founded by Chief William Scow (Kwakiutl) was formed and soon joined forces with the NBBC. Its official organ was The Native Voice, established in December 1946. This newspaper became the vehicle for asserting an agenda for improved Indian conditions in B.C. and reporting political events associated with special joint committee hearings.

thought in the late 1940s that stressed Canadian cultural unity and a common citizenship.<sup>94</sup>

When Anglican officials testified before the special joint committee they were sympathetic with Indian concerns but, at the same time, identified a number of barriers which, if removed, would facilitate voluntary enfranchisement. The Anglican Church and the Roman Catholic Church were historically the major partners with the Indian Affairs Branch in providing education to Indian people across Canada.<sup>95</sup> The goal of education was to transform Indians into self-supporting Canadian citizens with rights and responsibilities equivalent to non-Indian Canadians. According to the Anglicans, the major barrier to Indian enfranchisement was that Indians still viewed themselves as wards of the government. This state of mind fostered a "citizenship deficiency" - the lack of a sense of personal responsibility and an inability to comprehend the spirit of service and civic duty that was the basis of liberal

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94. NAC, MG28, I85, Vol. 54, Papers of the Canadian Citizenship Council, memorandum October 1955, "History of the Canadian Citizenship Council". This 15 page, unsigned report, outlines Council activities from its inception in 1940 to 1954. The Citizenship Council was active in wartime information campaigns stressing Canadian social and democratic values. It was a prime mover behind the "Act respecting Citizenship, Nationality, Naturalization and Status of Aliens", Statutes of Canada, 10 George VI, 27 June 1946. After 1945, the Council stressed national unity, assimilation of minorities, and adult education as a key for achieving "full citizen" status. On 1 May 1947, King announced Canada's new immigration policy which reiterated a basic "whites" only policy favouring British, French and American immigrants. King's text was composed by J.W. Pickersgill, secretary, and H.L. Keenleyside, deputy minister, mines and resources.

95. See Jacqueline Gresko, "White 'Rites' and Indian 'Rites': Indian Education and Native Responses in the West, 1870-1910," 84-106, in David Jones et al (eds.), Shaping the Schools of the Canadian West (Calgary: Detselig Enterprises Ltd., 1979).

democratic government.<sup>96</sup> The solution was education for citizenship: teaching practical skills to Indian people for future employment and instilling in them not only pride in their culture, but also the advantages and values associated with advancing their status from government wards to full citizens.

The positions of the Roman Catholic and United Churches on the issue of Indian enfranchisement were in stark contrast to each other. The former was heard on 27 May, when Cardinal McGuigan, archbishop of Toronto, and Mgr. Vachon, archbishop of Ottawa, along with the Reverend Father J.O. Plourde, superintendent of the Oblate Indian Welfare and Training Commission, and Fathers Gérard Forcade (Grouard residential school), and Fergus O'Grady (Kamloops residential school), appeared before the joint committee.<sup>97</sup> Their testimony focused on Indian residential and day school education, a subject that will be dealt with towards the end of this chapter.

In the course of their testimony it was apparent that the prelates had no quarrel with existing administrative arrangements. The reserve system should be kept intact and Indian people should be enfranchised on a voluntary basis. Three noteworthy Indian co-operative ventures, one at Nootka, Vancouver Island; a second at the residential school of Cowessess, Saskatchewan; and the third at the Grouard residential school, Alberta; were cited as practical

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96. SJC, Minutes of Proceedings and Evidence (No. 9, 28 March 1947), 405. The Anglican Church argued for the establishment of a separate Department of Indian Affairs with its own minister so that long-range policies could be developed, receive adequate funding and be consistently implemented.

97. SJC, Minutes of Proceedings and Evidence (No. 27, 27 May 1947), 1446-1494. The testimony of Fathers O'Grady and Forcade are found on pages 1490-1494.



measures to train Indian people to operate co-operative business and financial ventures.<sup>98</sup> Experience and achievement would instill pride in community development and lead “its members on the upward march to a higher civilization”.<sup>99</sup> These mutual self-help initiatives, combined with increased government funding for Indian education, improved social services and health care, would improve the Indian standard of living.

Two days later, on 29 May, senior members of the United Church appeared before the committee. Their submission was critical of “paternalistic” Indian policies and patronage-ridden administrative practices. They backed the concept of voluntary enfranchisement, a process that encouraged the development of an individual’s judgement and initiative. Indeed, voluntary enfranchisement should be extended to whole bands of Indians who expressed a desire for such enfranchisement. As a step towards achieving this goal they recommended that the “rights of self-government” on reserves and band council powers should be extended until the reserve council and its members functioned along the lines of a rural municipality.<sup>100</sup>

The testimony of branch officials, observations by members of the special joint committee, and outside experts, noted that Indian people were unified in their opposition to compulsory enfranchisement. Few, however, saw a viable policy alternative, save perhaps

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98. Ibid., “Indian Co-operatives”, 1453-1454, and “The Grouard Indian Co-operative Association Ltd. of Grouard Mission, Alberta”, 1460-1464. For an analysis of the Indian co-operative experience in post-war Saskatchewan see L. Barron, Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF (Vancouver: University of British Columbia Press, 1997). In Saskatchewan the government saw co-ops as an important element in community development. The Indian financial co-ops were similar ventures to Quebec’s “caisses populaire”, see Ronald Rudin, Banking en français. The French Banks of Quebec, 1835-1925. (Toronto: University of Toronto Press, 1985).

99. Ibid., 1464.

100. SJC, Minutes of Proceedings and Evidence (No. 28, 29 May 1947), 1502.

Professor Thomas F. McIlwraith and the leadership of the Native Brotherhood of British Columbia, who advocated full citizenship for Canadian Indians without the necessity of relinquishing Indian status, treaty rights and cultural heritage.<sup>101</sup> Given this spectrum of Indian and non-Indian opinion, the consensus of the committee was to review further the provisions of Section 110 to determine their continued utility in a revised Indian Act.

If Indian people were to become full citizens then two related issues of wardship had to be resolved: the questions of Indian people obtaining the federal vote, and acquiring liquor privileges. To 1947, the practice had been that Indian war veterans who served overseas in the two great wars automatically received the federal franchise without losing status. Others could obtain it by signing a waiver agreeing to pay income tax and other property taxes. In the vanguard of those demanding both voting and liquor privileges for all Canadian Indians were returning Indian war veterans who had obtained them as a result of overseas war service. Again, however, Indian opinion was divided and cautious fearing a "government trap" that would lead to compulsory enfranchisement, the loss of treaty rights, and the imposition of taxation.

A number of Indian organizations had other ideas. The Union of Saskatchewan Indians, as well as the Serpent River, Spanish River, and Sucker Creek bands, for example, felt that treaty Indians should have their own representatives in the House of Commons and

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101. The views of the Native Brotherhood of British Columbia can be found at page 767, SJC, Minutes of Proceedings and Evidence (No. 16, 1 May 1947); Professor McIlwraith's opinion is at pages 1527-1528, SJC, Minutes of Proceedings and Evidence (No. 29, 3 June 1947).

pointed to the example of the New Zealand Maoris.<sup>102</sup> Indian spokesmen would defend “Indian rights” and ensure that social programs available to other Canadians were extended to reserve Indians.

The preponderant opinion of the non-Indian policy community members was that taxation and voting privileges went hand-in-hand with the attainment of Canadian citizenship. There should be no tax exemptions or special status for Indian people. However, a brief from Chairman Hunter Lewis of the Canadian Civil Liberties Union, Vancouver Branch,<sup>103</sup> and another from Brigadier Oliver Martin, magistrate for the County of York,<sup>104</sup> recommended that Indians, both male and female, be permitted to vote in provincial as well as federal elections without signing a special tax waiver. This was a portent of future events.

#### *Access to liquor*

On the issue of Indian people acquiring liquor privileges, the major churches and the Indian Affairs branch were reluctant to take the initiative. They recognized the historic and devastating impact that uncontrolled consumption of alcohol had had on traditional community life, health and social organizations. Since Indian opinion was divided on this sensitive issue - many groups favouring continued prohibition, unless authorized by local

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102. The submission of the “Aboriginal Natives of the Fraser Valley and Interior Tribes of British Columbia” urged that the New Zealand model of Maori administration be adopted in Canada as well as representation in Parliament, see SJC, Minutes of Proceedings and Evidence (No. 2, 11 March 1947), Appendix BD, 52. The Canadian Legion of the British Empire Service League, University Branch No. 72, B.C., urged a similar scheme, see SJC, Minutes of Proceedings and Evidence (No. 5, 20 March 1947), 162. It should be noted that under the Maoris Representation Act (1867) four seats (out of 93) were set aside for Maori MPs.

103. SJC, Minutes of Proceedings and Evidence (No. 41, 9 July 1947), Appendix GO, 2015-2032.

104. SJC, Minutes of Proceedings and Evidence (No. 19, 6 August 1946), 744-766.

reserve plebiscite - government action in 1947 could be once again safely deferred.<sup>105</sup>

### *Trespass*

The penultimate policy question before the special joint committee, the matter of non-Indian encroachment on Indian reserve lands, was as old as the nineteenth century Indian civilization program itself. Among nineteenth century civilizers philosophical discussions focused on whether reserves should be established in proximity to non-Native settlements (thus encouraging social and biological interaction), or whether reserves should be situated in isolated areas (the 1836 Manitoulin Island experiment of Sir Francis Bond Head).

As it was, more than 50% of reserves were located in either remote northern or rural areas. This meant that effective supervision of reserve population was difficult, particularly when communication links were poor and the Indian Department underfunded and understaffed. Economic depression in the 1930s, wartime conditions which severely limited housing construction, and a rising Métis population adjacent to the reserves, encouraged an influx of unofficial and often unwelcomed residents. This situation was compounded by the regular excursions of local liquor salesmen and unsavoury individuals seeking both male and female Indian customers. Indian people demanded action from both the Indian Affairs Branch and the RCMP to expel unwanted reserve inhabitants.

While the churches and other members of the Indian policy community were generally silent on the encroachment issue during their testimony, members of the special joint committee, as well as the royal commission appointed to look into reserve conditions in

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105. The situation of returned Indian war veterans, often with European brides, underlined the discriminatory nature of Indian Act liquor provisions. In Europe both could obtain and consume alcohol, in Canada the veterans faced criminal prosecution and their "Indian status" wives faced a similar situation.

eastern Quebec and the Maritimes, noted considerable Indian unrest.<sup>106</sup>

In the back of the minds of government officials were two considerations. First, the definition of "Indian" had to be clarified to avoid administrative nightmares as had recently been experienced during the 1944 Macdonald inquiry into Lesser Slave Lake Agency band membership<sup>107</sup>. Second, since most members of the non-Indian policy community favoured the extension of social welfare benefits to Indian reserve residents, a careful inventory had to be made to determine who was eligible to receive government entitlements. Official government concern with potential Indian welfare program and administrative costs, coupled with the necessity of determining and limiting the number of prospective recipients, propelled the special joint committee's internal sub-committee on Indian Act revisions to carefully consider a tighter, "legal" definition of Indian status than had been in previous Indian Act legislation since 1880. Legislative fine-tuning, it was hoped, would streamline the process of Indian assimilation by eliminating "phoney" Indians and focusing government programs on a smaller client group.

### *Education*

The final policy item for consideration by the special joint committee was the continued operation of the literally hundreds of denominational Indian day and residential schools. All members of the Indian policy community recognized Indian education as the

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106. "Report of Commission on Indian Affairs, 1946", P.C. 2707, 8 July 1947. DIAND File 6-15-1, Vol. 1.

107. J. Godard, Last Stand of the Lubicon Cree (Toronto: Douglas and McIntyre, 1991).

key to improving reserve conditions and advancing Indian assimilation.<sup>108</sup> From the earliest days of the Indian civilization experiment both government and church officials had recognized the critical linkage between Indian education and Indian assimilation.<sup>109</sup> Thus it was around the funding and operation of Indian schools, whether day, residential or industrial, that a crucial church-Indian Affairs nexus formed which dominated many fundamental Indian educational arrangements until April 1969, when Indian Affairs assumed management responsibility for the residences.<sup>110</sup>

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108. The importance of education for Indian advancement has been analysed and evaluated by many non-Native and Native authors. See for example: J.R. Miller, Shingwauk's Vision. A History of Native Residential Schools (Toronto: University of Toronto Press, 1996). Richard Allen, The Social Passion: Religion and Social Reform in Canada 1914-1928 (Toronto: University of Toronto Press, 1971); Jean Barman et al (eds.), Indian Education in Canada Volume 1: The Legacy (Vancouver: University of British Columbia Press, 1986); Harold Cardinal, The Unjust Society. The Tragedy of Canada's Indians (Edmonton: M.G. Hurtig, 1969); John W. Grant, Moon of Wintertime. Missionaries and the Indians of Canada in Encounter Since 1534 (Toronto: University of Toronto Press, 1984); Basil Johnston, Indian Day Schools (Toronto: Key Porter, 1988); Stephen Neill, A History of Christian Missions (Harmondsworth: Penguin, 1984); J.R. Ponting and R. Gibbons, Out of Irrelevance: A Socio-Political Introduction to Indian Affairs in Canada (Toronto: Butterworths, 1980), and Jean Usher, William Duncan of Metlakatla: A Victorian Missionary in British Columbia (Ottawa: National Museum of Man, 1974). A fine doctoral dissertation is Eric Porter, "The Anglican Church and Native Education: Residential Schools and Assimilation", Ph.D. thesis, (University of Toronto, 1981). Finally, see The Canadian Journal of Native Education, 18 (1991), Supplement, for a thorough discussion of Indian residential schools and education from the Native perspective.
109. In 1846, tribal representatives in Canada West were summoned to regional meetings at Orillia and Munsee Town on the Thames River. There, Central Indian Department Superintendent Thomas G. Anderson, obtained permission from virtually every tribe to apply one-quarter of their treaty annuities for twenty-five years towards the construction and support of new Indian industrial schools at Alnwick, Owen Sound, and Munsee Town, NAC, RG10, Vol. 158, and Vol. 160, Part I, "Anderson's speech to Council at Orillia", 30 July 1846.
110. Norman Gull, "The 'Indian policy' of the Anglican Church of Canada from 1945 to the 1970s", M.A. thesis, (Trent University, 1992), 92.

From the very beginning the relationship among the major churches - Anglican, Presbyterian, Methodist, and Roman Catholic - and the Indian Department, was at best an uneasy alliance.<sup>111</sup> Mutual suspicion and bad-feeling often dominated policy and program implementation, with the churches critical of meagre government financial support and the government sceptical at the lack of concrete results. Thus experimental approaches to enhancing the effectiveness of Indian education varied over the decades and internal policy debates flared regularly on the merits of educating Indians in on-reserve day schools, self-sustaining industrial schools, or residential schools.<sup>112</sup>

By the time of the special joint committee hearings in 1946-1947, Indian education was in a state of crisis. Economic depression during the 1930s and wartime economies had drastically curtailed the building of new schools, the repair of the old ones, and the recruitment of qualified staff.<sup>113</sup> In addition, Indian people were critical of school curricula coercive teaching practices, and resented the family disruption occasioned by the residential school system.<sup>114</sup> A related issue was also growing in importance. Many Indian bands wanted

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111. R.J. Surtees, "Indian reserve policy in Upper Canada, 1830-1845", M.A. thesis, (Carleton University, 1966); also John W. Grant, Moon of Wintertime: Missionaries and the Indians of Canada in Encounter Since 1534 (Toronto: University of Toronto Press, 1984).

112. Jean Barman et al. (Eds.), Indian Education in Canada. Volume 1: The Legacy (Vancouver: University of British Columbia Press, 1986).

113. See the testimony of Bernard F. Neary, superintendent of welfare and training division, Indian Affairs. SJC, Minutes of Proceedings and Evidence (No. 7, 25 March 1947), 319-338.

114. For example, the brief presented by John Calihoo of the Indian Association of Alberta on 21 April 1947, demanded a commission to study Indian education. Current school facilities, curricula, and teachers were inadequate. Knowledge and skills taught in schools often were lost upon return to the reserve. SJC, Minutes of Proceedings and Evidence (No. 12, 21 April 1947), Appendix EM, 577-582.

the denominational school system terminated.

When Indian groups presented their views in 1947 for improving the educational system there was agreement on the major initiatives required. These views have been consolidated and are outlined in the following Table Five, "An Indian Program to Improve Indian Education". However, Indian people were divided on the question of the continued operation of denominational day and residential schools.<sup>115</sup> The majority view favoured government-operated day schools on reserves since the denominational residential system was failing to turn out properly-educated students.

On the other hand, those Indians who favoured the continuation of denominational residential schools (just under 50% of those presenting briefs or testifying) stated that religious instruction was needed in all phases of everyday life, particularly in education. The Protestant-dominated Indian Affairs Branch viewed many of these "inspired briefs" with a jaundiced eye.<sup>116</sup> Many were worded exactly the same although originating from reserves in various parts of the country. The generation of "inspired briefs" was viewed as no mere coincidence. It was noted, for example, that the Fort Norman Indians in their submission expressed a desire for a Catholic school, yet the band Chief had included a personal letter

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115. Twenty-nine briefs favoured continued denominational day and residential schools; thirty-three favoured non-denomination government operated facilities. Indian bands and reserves closely allied to the Oblates favoured continuation of existing arrangements.

116. Evidence uncovered at the Archives Deschâtelets in the records of the Oblate Indian and Eskimo Welfare Commission indicates that "form letters" were prepared and given to chiefs and councils for completion when the denominational schools issue came up for discussion.



**AN INDIAN PROGRAM TO IMPROVE INDIAN EDUCATION, 1947**

1. There should be an investigation of school buildings to determine their structural soundness.
2. The home conditions of Indian children should be studied by social welfare officials to ensure that the children are better housed, clothed and fed.
3. Vaccination and inoculation of school age children should be compulsory.
4. An impartial royal commission should be set up to study the educational needs of the Indians. The commission would consist of people experienced in Indian education and experts in modern educational techniques. A modern secular school system should be established with properly qualified and well-paid teachers.
5. Day schools with qualified teachers should be established on reserves if requested by reserve residents.
6. Residential schools should be maintained where Indians prefer them or need them; the per capita grant for each pupil should be increased.
7. Consideration should be given to the establishment of semi-residential schools so that parents can have their children spend week-ends, national holidays and seasonal vacations at home.
8. Part-time labour in residential schools should be done away with altogether.
9. There should be vocational training suitable to the locality of the reserve and availability of local trades.
10. There should be a program of adult education on every reserve to teach English, first aid, hygiene, canning, home-making skills, and other useful subjects.
11. A government scheme should be instituted to provide school graduates with breeding stock or appropriate fishing and trapping equipment. Girls should receive basic items of furniture so that they can make a start when they leave school.
12. A trained welfare worker should be placed on every reserve to help school graduates to establish themselves in proper conditions.
13. Indian people should be trained for positions in the Indian Affairs Branch.
14. Tuition grants and transportation be provided to enable Indian students to attend high school, vocational institutes, and colleges.
15. Books and supplies should be provided to all Indian pupils.
16. School-prepared noon meals should be available to supplement inadequate student lunches.
17. The school should be the focus of a reserve life and also act as a community centre, with community showers, laundries and workshops.
18. Each school should have a school garden. There children will learn to compete with one another in their individual plots; this in turn will be training for responsibilities around the home.
19. Local school boards with Indian people in control of educational arrangements should be established.

stating he had refused to sign the original submission because this was not the case.<sup>117</sup>

Finally, virtually all Indians regardless of religious affiliation wanted a quality of education for their children comparable to that available in provincial schools for children of non-Indians. Provincial school standards should be adopted, although some Indian parents felt that they should have control over curriculum content and the hiring of qualified teachers.<sup>118</sup>

The two major churches with their historic and vested economic and ecclesiastical interests in continuing the current education system - the Roman Catholics and the Anglicans - were reluctant to alter significantly the operations of sectarian day and residential schools despite Indian criticism. The Roman Catholic establishment noted that 52% of the Indian population were members of the Catholic Church.<sup>119</sup> They were adamant that there should be not be any change to Section 10(2) of the Indian Act (1927) on Indian schools which read:

Such schools shall be the nearest available school of the kind required, and no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school

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117. SJC, Minutes of Proceedings and Evidence (No. 11, 17-18 April 1947), Appendix EG, 522-523.

118. SJC, Minutes of Proceedings and Evidence (No. 19, 8 May 1947), "Submission of the Union of Saskatchewan Indians", 8 May 1947, 978-983.

119. SJC, Minutes of Proceedings and Evidence (No. 27, 27 May 1947), 1446. In 1937 the religious background of the Indian population was: Roman Catholic 52.45%; Anglican 25.37%; United Church 15.12%; aboriginal beliefs 3.70%; Baptist 1.17%; Presbyterian .84%; and others, 1.35%.

conducted under Protestant auspices.<sup>120</sup>

Officials of the Roman Catholic Church also rejected the charge put forward by some Indian groups, notably the Native Brotherhood of British Columbia, that denominational residential schools did not provide Indian children with a proper and relevant education.<sup>121</sup> Church officials viewed residential school discipline and training as far superior to anything available to students enrolled in day school classes.<sup>122</sup> In their view the system could be improved when increased government funds were made available. At present, according to their statistics, 42% of Indian children were unable to attend day school or residential classes because of lack of classroom space.<sup>123</sup>

Finally, the Roman Catholic Church recommended that a special system of residential schools be created for the exclusive use of Indian girls 16-18 years of age. In these schools courses in morals, home care, and "well-baby" nursing could be taught. These measures would improve future home, reserve and community life for husbands and children.<sup>124</sup>

Under close questioning by some special joint committee members, the Catholic

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120. The Catholic hierarchy were suspicious of the intentions of the Protestant-dominated Indian Affairs Branch and special joint committee. In 1943, the issue of hospital treatment for Catholic Indians became a major issue in northern Manitoba. The church insisted that Catholic Indians go to Catholic hospitals. In 1946, the Oblates assessed the religious denomination of Indian Affairs personnel and found no Catholics among senior HQ's staff. In the field staff, of 83 Inspectors and agents, 69 were Protestant and 14 Catholic. See NAC, MG26L, St. Laurent Papers, Vol. 22, J.O. Plourde, O.M.I. to Louis St. Laurent, 22 February 1946.

121. SJC, Minutes of Proceedings and Evidence (No. 27, 27 May 1947), 1446-1450.

122. *Ibid.*, See the scheme for "Special Residential Schools for girls sixteen to eighteen years of age", 1450.

123. *Ibid.*, 1449-1450.

124. *Ibid.*, 1450.

hierarchy reiterated satisfaction with the operation of existing day and residential schools. From their perspective the system was a success. The Anglicans were not as sanguine. While Anglican representatives favoured the continuation of existing arrangements in remote areas, they sought changes. First, additional government funds were required to finance the system, facilitate its expansion, and add new programs in adult education, vocational training, and in Indian history and culture.<sup>125</sup> In the long term, the Anglican church favoured the gradual development of a reserve-based government-run day school system with provincial curricula and a system of inspection by provincial officers, not Indian Affairs Branch staff. Finally, the Anglicans urged regular consultations with government officials to avoid future misunderstandings, strict enforcement of truancy measures, and the encouragement of Indian parents and bands to contribute to maintaining the school system.<sup>126</sup>

In contrast, the United Church of Canada, a minor partner in Indian education, wanted an end to denominational schools since school segregation according to religion and race were major factors inhibiting Indian assimilation.<sup>127</sup> If religion had to be taught in schools, it should be made part of the daily classroom lessons. With limited vested interests in the system, the United Church urged a comprehensive study of Indian educational needs should be

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125. The Anglicans had not as yet abandoned the assimilation doctrine. Canon Alderwood, whose "Committee on Indian Work," formed the basis for the church's presentation to the joint committee, favored assimilation. Bishop Renison and Ted Scott (later Primate) were critical. They favored a softer integration approach in which Indians would retain elements of traditional cultures and practices. By the 1960s the "integrationists" had prevailed. See N. Gull, "The 'Indian Policy' of the Anglican Church of Canada from 1945 to the 1970s," M.A. thesis, (Trent University, 1992).

126. SJC, Minutes of Proceedings and Evidence (No. 9, 28 March 1947), 390-397.

127. SJC, Minutes of Proceedings and Evidence (No. 28, 29 May 1947), 1498.

undertaken by recognized academic experts to assess curriculum requirements, teacher qualifications, and the appropriate type of schooling. They were particularly critical of the residential schools which isolated Indian children from their parents, stressed regimentation, and provided few elements of a normal "home life" in military-style dormitories. A possible solution, also suggested by the Anglicans, was to create a system of Indian hostels in towns and cities where Indian children could reside, possibly under the supervision of church officials, while attending classes with non-Native children in provincial schools.<sup>128</sup>

While the United Church realized that the system in place would have to continue for the near future, its officials declared a preference for a day school system. Government funds should thus be freed up to build new on-reserve schools and modernize old structures.<sup>129</sup> The Indian Affairs Branch was also urged to make arrangements with local provincial authorities to provide classroom space for Indian students, and to make special pension arrangements to encourage provincial teachers to take up employment in federal reserve schools.

Other professional groups in the attentive publics sector of the policy community challenged the denominational and residential schools. This was clear in briefs from the Canadian Welfare Council, the Canadian Association of Social Workers, the Vancouver Branch of the Canadian Civil Liberties Association, and by the non-Indian B.C. Indian Arts

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128. Ibid., 1499-1500.

129. Ibid., 1500. The Presbyterian Church through Dr. Robert Johnston, chairman, board of missions, made a short presentation on 15 April 1947. The Presbyterians operated only two schools: the Cecilia Jeffrey Residential school at Kenora and one at Birtle, Manitoba. The Presbyterians were most concerned with increased government funding to assist in the development of adult education programs.

and Welfare Society.<sup>130</sup> All condemned sectarian schools and urged the government to either operate a school system supervised by the Indian Affairs Branch or better still, integrate Indian children into the respective provincial school systems. There was an acknowledgement that sectarian residential schools had helped in those limited instances where Indian children came from broken homes, were orphaned, or where other educational arrangements were not available.<sup>131</sup> All agreed that partisan religious practices had no place in a modern school system since religious teaching generally dominated the curriculum, excluding instruction in practical subjects and vocational skills.

The views of these professional and volunteer groups were backed by testimony from an outside academic expert. Anthropology Professor Thomas McIlwraith called for the abolition of the denominational school system and establishment of on-reserve secular day schools.<sup>132</sup> Mr. Andrew Moore, inspector of high schools for Manitoba, backed by testimony from Dr. P.E. Moore, Indian medical services branch of the department of national health and welfare, urged that Indian education be secularized and placed under the management of the Indian Affairs Branch.<sup>133</sup> A revised curriculum should be established, one which would inculcate in Indian people pride in their history and culture. Wherever possible, however, Indian and non-Native children should attend the same school since this intermingling of the

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130. SJC, Minutes of Proceedings and Evidence (No. 5, 20 March 1947), Appendix BO, 154-161, and Appendix CB, 175-198.

131. Ibid.

132. SJC, Minutes of Proceedings and Evidence (No. 19, 3 June 1947), 1533, and SJC, Minutes of Proceedings and Evidence (No. 19, 6 August 1946), 744-766.

133. SJC, Minutes of Proceedings and Evidence (No. 40, 2 July 1947), Appendix GM, "The Churches and Indian Education", by Andrew Moore, Ph.D., 1996-2000; SJC, Minutes of Proceedings and Evidence (No. 35, 17 June 1947), 1856-1859.

racism would foster mutual respect and understanding and possibly reduce incidents of racism in later life. If religious instruction was thought necessary, this should be taught on a daily basis in class and be non-denominational.<sup>134</sup>

The testimony of senior Indian Branch officials, who were predominantly Protestant, and that of some non-Catholic members of the special joint committee supported the views of Indian representatives and those of the voluntary and professional associations, and outside experts.<sup>135</sup> Residential schools should be retained only to handle dire cases of student isolation or neglect. The future lay in the day school system, located on Indian reserves. There was a consensus that the denominational school system, while serving a purpose at one time, should be phased out gradually. The future of Canadian Indians, improving reserve conditions and encouraging their assimilation, would depend on upgrading welfare services and providing nonsectarian school instruction in reserve day schools or provincial institutions.<sup>136</sup>

The Anglican and other Protestant members of the Indian policy community thus appeared to reach a consensus on the operation of day and residential schools, in effect isolating the major player, the Roman Catholic Church.<sup>137</sup> At the time, the non-Catholic

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134. Ibid., 1858-1859.

135. SJC, Minutes of Proceedings and Evidence (No. 38, 24 June 1947), see in particular the testimony of R.A. Hoey, director, Indian Affairs Branch, 1940-1954; and the earlier presentation by Bernard F. Neary, "The Improvement of Indian Education", 330-338, SJC, Minutes of Proceedings and Evidence (No. 7, 25 March 1947).

136. Ibid.

137. Protestant and Anglican members of the special joint committee outnumbered the Roman Catholics almost two to one. The heavily Protestant representation was reflected in the special joint committee's recommendations regarding Indian schools.

special joint committee members and government officials regretted the degree to which Catholic Church officials had been alienated.<sup>138</sup> This would soon become apparent once serious discussions pertaining to the revision of the education provisions in the Indian Act began in earnest in 1948 and 1949. These religious matters will be dealt with in detail in Chapter Four.

### *Second report*

The final session of the 1947 committee hearings was held on 2 July. R.A. Hoey, Indian Affairs Branch director, and Colonel George Patrick, officer-in-charge of administering the Veterans' Land Settlement Act were summoned to deal with problems arising from the Branch's delinquent collection of Indian rental monies, and charges from Indian war veterans that they were not receiving land and loans equal to non-Indian veterans. Both bureaucrats provided information that satisfied the special joint committee. In the first instance, the Indian branch had to follow cumbersome procedures set down by the department of finance regarding accounting for Consolidated Revenue Funds; in the latter, an expensive remedy was to purchase non-reserve land for land veterans at market prices.<sup>139</sup>

On 9 July, the special joint committee issued twenty-six recommendations for

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138. On 8 May 1948, James Cardinal McGuigan, R.C. archbishop of Toronto, wrote to Louis St. Laurent, minister of external affairs, informing him that Mr. L. Raymond (Lib.-Wright) had been working with other Roman Catholics on the special joint committee to preserve Indian parents' choice to send their children to denominational schools. McGuigan asked St. Laurent if a delay in revising the Indian Act was possible until the issue of denominational schools was resolved. NAC, MG26L, Vol. 22.

139. SJC, Minutes of Proceedings and Evidence (No. 40, 2 July 1947), 1985-1996. Additional testimony by Col. Patrick on the Indian veterans issue can be found in the SJC, Minutes (No. 6, 21 March 1947).



modifying Indian policy and administrative practices.<sup>140</sup> These have been consolidated and are highlighted in the following Table Six. In sensitive policy areas such as denominational Indian education and compulsory Indian enfranchisement, action was deferred until 1948.

*Committee's mandate renewed (1948)*

On Thursday, 19 February 1948, the special joint committee resumed hearings, the final sessions before a revised Indian Act would be drawn up for parliamentary consideration. Four internal sub-committees on agenda and procedure, treaty rights and obligations, Indian Act revision, and Indian education were re-established. Proceedings got off to a volatile start.

Douglas Harkness (PC - Calgary East) charged that the Indian Branch had been dragging its feet with regard to implementing the recommendations contained in the special joint committee's second report in 1947. Senior branch officials were summoned to account for their lack of action.<sup>141</sup> M.P. Thomas Reid (Lib. - New Westminster) added more fuel to the fire by quoting Senator T.A. Crerar, former minister of mines and resources, that: "As a matter of fact, most of the recommendations (of the SJC's 1947 report) have no more value than wind that blows around the corner, so far as their implementation at the present time is concerned."<sup>142</sup>

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140. For an outsider's view of the hearings see The Royal Bank of Canada Newsletter, July 1949, "The Canadian Indians" (4 pages). The Royal Bank endorsed a social welfare program to improve Indian conditions on reserves and training to promote citizenship.

141. SJC, Minutes of Proceedings and Evidence (No. 1, 19 February 1948), 10-13.

142. *Ibid.*, 12.

**RECOMMENDATIONS OF THE SPECIAL JOINT COMMITTEE, JULY 1947**

1. Improve administrative arrangements to ensure prompt collection of monies owing to Indian lessors.
2. Establish a Claims Commission to inquire into the terms of the Indian treaties; to appraise and settle in a just and equitable manner any claims and grievances arising thereunder.
3. Questions involving band membership to be left for definition and determination during the 1948 session.
4. Measure be taken by the Indian Affairs Branch to end encroachment on reserve lands.
5. Issue of Indian enfranchisement be set aside for consideration when the Indian Act is revised.
6. Issue of Indian taxation (particularly of certain Quebec bands) be referred to the courts.
7. All educational matters, including the selection and appointment of teachers, be placed under control of the Indian Affairs Branch. The issue of Indian education to be set aside for further consideration.
8. All government operations relating to Indian Affairs should come under the jurisdiction of one minister. The Director of the Indian Affairs Branch should have the rank of Deputy Minister (an alternative would be to appoint a Commissioner, with two Assistant Commissioners, of whom one to be an Indian).
9. Preference appointment of qualified Indian Affairs Branch positions.
10. Appointment of Indian agents be undertaken immediately when vacancies occur. Lump sum settlement payments be made in lieu of retaining them on the payroll for six months.
11. Greater decentralization of Indian administration, with regional directors, to deal with the diversity of local issues.
12. Hire more Indian agents and agent-at-large; encourage internal promotion of junior staff. End the practice of hiring Indian agents solely from those men resident within the particular political constituency of the agency office.
13. Promotion of field staff should be in accordance with appropriate Civil Service Commission examinations conducted in the region. Qualified and experienced staff should be recruited; Veterans' preference to apply. Incompetent officials to be superannuated.
14. A central government hospital be established to serve northern agencies with a system of nursing stations to deal with local crises.
15. Statutory provision be made for the care of aged, inferior or blind Indians; more rations be given to needy Indians.

\*There were 26; these have been consolidated to 15

### ***Government testimony***

The public sessions through February, March and early April 1948, heard testimony from Dr. H.L. Keenleyside,<sup>143</sup> recently appointed deputy minister, mines and resources; C.H. Bland, chair, civil service commission; R.A. Hoey, Indian Branch director, and C.W. Jackson, director of administration and personnel.

From the standpoint of Indian policy development and administrative reform the most important testimony came from Dr. Hugh Keenleyside. He was asked to account for branch action, or the lack of it, since 1946. At the time, Keenleyside was engaged in an extensive functional reorganization of the mines and resources department. His testimony shied away from commitments to comprehensive policy and administrative change since the final recommendations of the special joint committee had yet to be tabled.<sup>144</sup>

In his opening remarks the deputy minister noted statistically that of the 35 recommendations made by the special joint committee in the years 1946 and 1947, 11 involved general government policy and cabinet direction over which the Indian Affairs

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143. Hugh Keenleyside, Ph.D., was deputy minister of mines and resources from 15 March 1947 to 17 January 1950. He replaced Dr. Charles Camsell (1876-1958), who retired in 1946. He was born at Toronto in 1898 and was educated in Canada and the U.S.A. He joined External Affairs in 1928 and from 1944-47 was Canadian Ambassador to Mexico. He was a member of the YMCA, the Canadian Youth Commission (1939-45), the Social Welfare Council, and the Canadian Institute of Public Affairs (CIPA). As President of the CIPA he organized several Couchiching Conferences to discuss political, economic, and social problems of national importance. Despite his progressive social views, he considered the Indian political leaders who appeared before the special joint committee to be "venal and self-serving". Until July 1948, he took no active role in special joint committee activities. He died on 27 September 1992. See, H.L. Keenleyside, On the Bridge of Time. Vol. 2. Memoirs. (Toronto: McClelland and Stewart, 1984).

144. SJC, Minutes of Proceedings and Evidence (No. 2, 2, 4 March 1948), 33-72.

Branch had no control. That left 24 recommendations on which the mines and resources department, in cooperation with other government departments such as Health and Welfare, Finance, Justice and the Civil Service Commission, could act. Of those 24, only 2 joint committee recommendations had not been acted upon: a reference case to the Supreme Court on the issue of Indian taxation on certain reserves in Québec; and the establishment of criteria and procedures for removing incompetent or incapacitated branch staff.<sup>145</sup>

Keenleyside noted that advances had been made to improve the standard of Indian education. More qualified teachers had been hired by the Indian Affairs Branch, in accordance with civil service commission recruitment standards, and additional classrooms had been built. Branch field staff whose numbers had fallen during the Depression and Second World War, had also been augmented with the recent appointment of 13 Indian agents and farm instructors.

To encourage the decentralization of operations and flatten the branch's traditional hierarchical structure, regional supervisors had been appointed with greater control over agency staff and authority to make decisions to address local conditions. Also, beginning in 1947, regular Indian agent conferences, and frequent headquarters consultation with the regional supervisors were implemented to enhance the decentralization of branch decision-making. A field manual for agents which had been in draft since 1936 was finalized and distributed across the country. A preferential hiring system was also adopted to recruit more Indians as assistant agents and as school teachers. In cooperation with the civil service commission, the branch accelerated the replacement of retiring Indian agents and farm

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145. Ibid. It should be noted that in 1947 three regional meetings of Indian agents took place, the last in June 1947 at Québec City.

instructors to ensure that agency strength remained relatively constant and maintained continuity.<sup>146</sup>

Under close questioning from M.P. Douglas Harkness, Dr. Keenleyside noted that the work of local Indian agents had increased. Agents not only performed their traditional duties, but with the advent of the welfare state were more engaged in processing family allowances, collecting vital statistics for the Dominion Bureau of Statistics, administering Veterans Land Act disbursements, and assessing the eligibility of indigent Indians to receive an eight dollar monthly welfare bonus recently introduced by the Indian Affairs Branch. This added paper work necessitated the recruitment of additional secretarial and clerical staff.

Questioning revealed that little action had been taken in dealing with the issue of trespass on reserve lands. Wartime conditions had severely limited the amount of available housing and post-war conditions were no better. The branch was reluctant to expel people from reserve homes because many families would have nowhere to go and would become a welfare burden on the local municipalities.<sup>147</sup> The situation on the Caughnawaga Reserve on the south shore of the St. Lawrence River at Montreal where many wartime factory workers were housed was a prime example. One faction on the reserve insisted that they were not members of the band and thus should be expelled, while another group defended their right

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146. See the respective testimony of C.H. Bland, chairman, Civil Service Commission, and Clarence W. Jackson, director, administration and personnel, SJC, Minutes of Proceedings and Evidence (No. 3, 9, 11, 16, 17, 18, 19 March 1948), 79-100, and 109-140. Many changes also came about as a result of the Report of the Royal Commission on Administrative Classification in the Public Service (Gordon Report). (Ottawa: King's Printer, 1946), 13-16.

147. SJC, Minutes of Proceedings and Evidence (No. 2, 2, 4, March 1948), 56-60.

to remain.<sup>148</sup> Branch officials were caught in the middle of the dispute and, because a clear legal definition of "Indian" had not yet been formulated, remedial action was almost impossible.

It is clear from the special joint committee's minutes that committee members, in particular Douglas Harkness, were sceptical that branch officials were committed to reforming recruitment practices,<sup>149</sup> administrative and policy directions.<sup>150</sup> However, most members concurred with Dr. Keenleyside that major initiatives such as establishing an Indian claims commission, granting the federal franchise, or creating a unified Indian administrative structure required cabinet-level study and approval.<sup>151</sup> Other initiatives required co-operation from the Civil Service Commission, National Health and Welfare, Justice, Finance, and, of course, the major churches.

### ***Final report***

On 22 June 1948 the special joint committee issued a final report. Since 13 May 1946,

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- 148. Historically, non-Indian encroachment on the Caughnawaga Reserve had been a problem. In 1880, the Indian Act was amended (Section 14(2)) to permit "Half-breeds" who had inhabited the Seignior for 20 years to remain on the reserve.
  - 149. See for example the controversy concerning the appointment of W.J. Ford Pratt as Superintendent of Indian Agencies. SJC, Minutes of Proceedings and Evidence (No. 3, 9, 11, 16, 17, 18, 19, March 1948), 73-140; and Minutes (No. 4, 23 March: 6, 8, 9, April 1948), 141-161.
  - 150. To be fair the Indian Branch had undergone an internal restructuring. In 1944, Col. H.M. Jones became superintendent of welfare. In March 1947, S.J. Bailey from the Department of National Health and Welfare, completed a study to reorganize the welfare and training division (IAB). The report recommended separate welfare, education and agricultural services, more staff, and closer ties with provincial services. Bailey's report was approved by George Davidson, deputy minister of welfare, National Health and Welfare.
  - 151. *Ibid.*, 38-39. SJC, Minutes of Proceedings and Evidence (No. 2, 4 March 1978), 38-40.

128 meetings had been held, 122 witnesses heard, and 411 written briefs submitted, comprising 3211 pages of evidence.<sup>152</sup> The 1948 report noted that Indian Act contained “many anachronisms, anomalies, contradictions and divergencies...”. All sections of the present Indian Act should either be repealed or amended, and draft legislation, prepared by the committee’s sub-committee on the Indian Act should be reviewed by the special joint committee in 1949. The proposed revisions were designed to facilitate the gradual transition of Indians from “wardship to citizenship” and “to help Indians to advance themselves”.

The committee’s final report made eight recommendations with regard to a revised Indian Act including:

- that the least advanced Indians be protected from exploitation;
- Indian women, 21 years of age, be permitted to vote at band council elections;
- greater powers of “self-government” be granted to band councils;
- more financial assistance be provided to band councils to conduct improvements to reserve infrastructure;
- advanced reserves be considered for incorporation within the terms of provincial Municipal Acts;
- the offence and penalty sections of the Indian Act be made more equitable and brought in line with the Criminal Code;
- Indians be permitted to drink alcohol in licensed premises; and
- finally, that it “be the duty and responsibility of all officials dealing with Indians to assist them to obtain the full rights and to assume the responsibilities of Canadian citizenship.”

The committee’s final report also made suggestions that impacted on other aspects of general policy and administration. For simplicity and clarity these are listed in Table Seven following

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152. SJC, Minutes of Proceedings and Evidence (No. 5, April-June 1948), Appendix, 186-190.

# **RECOMMENDATIONS OF THE SPECIAL JOINT COMMITTEE, JUNE 1948**

## Treaty Rights and Obligations:

- establish a Claims Commission to inquire into the treaties to determine the rights and obligations involved and to settle, justly and equitably, all claims and grievances arising from these instruments.

## Band Membership:

- redefine the term "Indian" that has been statutory since 1876; welfare expenditures should not go to those who are not legally members of a band. Current band lists should be revised.

## Liability to pay taxes:

- clarify relevant sections of the Indian Act;
- Indians should continue to pay taxes on off-reserve income.

## Voluntary and Compulsory Enfranchisement:

- new Indian Act should clarify the present rules and regulations.

## Eligibility of Indians to Vote at Dominion Elections:

- many Indians who live off-reserve pay taxes but do not have the vote;
- refer issue to a special committee on the Dominion Elections Act;
- encourage Indian interest in public offices.

## Encroachment of White Persons on Indian Reserves:

- clarify Indian Act to prevent Whites from trespassing on living on reserve lands.

## The Operation of Indian Schools:

- revise Indian Act to encourage integration of Indian children into White school system.

## Social and Economic Status of Indians and their Advancement:

- grant pensions to aged, blind and infirm Indians.

## Indian Administration in General:

- "administrative improvements" recommended in 1946 and 1947 can best be effected if Indian affairs administration is placed under one ministerial head;
- Branch Director should be raised to Deputy Minister.

## Parliamentary Inquiries:

- since 1867 only two parliamentary inquiries into Indian affairs; 1920 (Bill No. 14) and 1926 (Claims of the Allied Tribes of B.C.);
- a Select Standing Committee on Indian Affairs should be established to monitor Indian Act implementation and administrative change.

## Advisory Boards:

- establish Advisory Boards to advise on administration of the Indian Act.

## Other Cognate Matters:

- certain aspects of Indian administration will require Dominion and Provincial cooperation too foster "the future economic assimilation" of Indian people;
- the next Dominion/Provincial Conference should consider the following subjects: a) education b) health and social services c) fur conservation and development d) provincial fish and game laws e) provincial liquor legislation f) validity of marriage solemnized by Indians, on reserves, according to tribal custom and ritual;
- Dominion/Provincial cooperation and assistance will be necessary to make Indians into respected provincial and Canadian citizens.



this page. A second Table Eight, which follows, captures the response of the Indian Affairs Branch.

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*Committee hearings in historical perspective*

By mid-summer 1948 the special joint committee was winding down its operations. Its members had reason for personal satisfaction. Indian policy and administration had been given its most thorough review since Confederation and a revised Indian Act had been drawn up. The three historic principles underlying the traditional policy paradigm - Indian protection, amelioration and assimilation - had been re-evaluated and, in the case of the third principle, recast in terms of Indian integration.

Thus there was a change in nuance in the traditional approach. This was the emergence of the term Indian "integration" to replace Indian assimilation.<sup>153</sup> But in the late 1940s the two terms were sometimes used interchangeably. For example, in 1947 the Vancouver Civil Liberties Association described "assimilation" as a process through which Indian people would receive services and programs from all levels of government while retaining aspects of their traditional cultures such as arts, crafts, family links and community life. This corresponded with the meaning of "integration" as used by policy-makers: Indian people would be encouraged to enter the social, economic and political mainstream of Canadian society as Indians, the timing and pace to be determined through a degree of Indian consultation and not be immediately imposed. Thus Indian cultural and service integration,

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153. SJC, Minutes of Proceedings and Evidence (No. 41, 9 July 1947), Appendix GO, "Brief of the Vancouver Civil Liberties Association," 1025-2032. The brief suggested Indians could obtain the federal vote without giving up special rights and traditional practices.

**RECOMMENDATIONS OF THE SPECIAL JOINT COMMITTEE: RESPONSE OF INDIAN AFFAIRS  
BRANCH**

Indian Act - General question one of Government policy.

(d) Use of Band funds for projects being carried out wherever possible.

(h) Departmental policy is to assist Indians to attain full citizenship and officials are instructed accordingly.

1. Treaty Rights and Obligations - Creation of a Commission a matter of Government policy. Departmental action taken to provide additional reserves to fulfill treaty obligations.
2. Band Membership - Revision of band membership lists being carried out by Department.
3. Liability of Indians to Pay taxes - Requires Indian Act amendment; no Departmental action at present.
4. Enfranchisement of Indians, etc. - Requires amendment to Indian Act; no Departmental action at present.
5. Eligibility of Indians to Vote at Dominion Elections - Requires amendment to Dominion Elections Act; matter of Government policy, no Departmental action required.
6. Encroachment of White Persons on Indian Reserves - Present trespass sections of the Indian Act being rigorously enforced.
7. The Operation of Indian Schools - Indian children being educated in association with others wherever possible. An extensive building program is being proceeded with to increase accommodation.
8. Social and Economic Status of Indians and their Advancement - Indigent aged Indians receiving \$8.00 a month since September 1948; provisions also has been made for allowances to blind Indians and assistance to inform Indians. Assistance given to dependents of tubercular patients.
9. Indian Administration in General - Extensive field re-organization being continued.
10. Parliamentary Inquiries - Question affecting rules of House of Commons; no Departmental action required.
11. Advisory Boards - Receiving consideration pending revision of Indian Act.
12. Other Cognate Matters - Information being assembled. The placing of subjects on agenda of Dominion-Provincial Conference a matter of Government policy.

From RG26, Vol. 70, file 43.

not Indian termination (as in the United States), were themes underlying formulation of the the 1951 Indian Act. Left unstated was what traditional ways and rights Indians would be permitted to retain by the dominant society when Indian people became full citizens.<sup>154</sup> The only thing that was certain was that these cultural traits and rights should not disrupt the integration process. Presumably, arts, crafts, languages, and some traditional dress would qualify. The multiculturalism of later post-war decades was certainly not orthodox in 1948.

The Indian leadership could also feel satisfaction associated with rising expectations of meaningful involvement in the policy process. For the first time since the Indian civilization program had begun in 1830, policy-makers had sat down with them collectively and listened to Indian views and complaints about existing arrangements. In the process of Indian consultation, Indian leaders met their counterparts from other regions of the country, exchanged views and ideas, and realized they shared common experiences in their dealings with the Indian Affairs bureaucracy and the churches.<sup>155</sup> A political consciousness was being forged, but it would be wrong to say that a collective Indian awareness had emerged. There

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154. SJC, Minutes of Proceedings and Evidence (No. 5, 20 March 1947), Appendix BO, "Joint Submissions of the Canadian Welfare Council and the Canadian Association of Social Workers." This brief contained recommendations for transferring Indian Affairs to National Health and Welfare and involving the provinces more fully in the provision of services. It contained elements that would be restated in the 1969 White Paper. Their submission attributed traditional Indian "shiftlessness, indolence, improvidence, and inertia" not to hereditary traits but to malnutrition and poor health. Thus the "Indian problem" could be remedied by extending benefits of the welfare state to urban and reserve Indians.
  155. In May 1948, 60 delegates from the North American Indian Brotherhood met at Ottawa. They drew up a petition to the special joint committee requesting the opportunity to study draft Indian legislation. They also presented Prime Minister Mackenzie King with a Plains headdress. In 1936, Saskatchewan Crees had given King the title "Chief Wise Counsellor", see, The Indian Missionary Record, June 1948.

were too many cultural, linguistic, economic, and religious cleavages for this to take place. Indeed, politicians and bureaucrats were confused and confounded when Indian representatives from rights associations and bands expressed conflicting views on matters of administration and policy.<sup>156</sup>

Despite a lack of material resources Indian leaders managed to disseminate their views to a wider audience outside the reserve communities. The non-Native press periodically carried articles that dealt with Native issues when these became part of the nation's business. But these news items did little to mobilize public opinion in support of sustained action to aid Native people. In the late 1940s there was a small Aboriginal press, but it was regional, and mainly confined to British Columbia. The Thunderbird (Andrew Paull's paper) and the Native Voice (the house journal of the NBBC), were the most influential newspapers. The Oblate's Indian Missionary Record was devoted to reporting Indian activities and Indian Branch policies only so far as these impacted on missionary operations. In actual fact the most effective vehicle for disseminating Indian views was the minutes of proceedings and evidence published by the joint committee and distributed to Indian bands, Native rights associations, and non-Native interest groups across Canada. Inadvertently, this government initiative contributed to Native activism and the growth of nationalist sentiment.

Still disturbing for the aspirations of Indian people was the fact that, despite consultation by government officials, they were peripheral to the policy-making process and

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156. For example, Andrew Paull and Rev. Peter Kelly expressed opposing views on Indian assimilation when their respective organizations briefly amalgamated in 1946. Andrew Paull and Henry Jackson, president and secretary respectively of the NAIB, expressed different opinions on denominational schools. Paull was for their continuation and Jackson against. Many reserves were deeply split over questions of sectarian schools, enfranchisement, liquor, and acquisition of the federal vote.

remained "policy-takers." Indians had no effective role in determining "problem definition", policy formulation and implementation. The historic sub-government actors comprising the Indian Affairs Branch, church authorities, Finance, and the Department of Justice - reluctant to give up power and criticize their own policies - controlled and manipulated policy deliberations, legislation and enforcement mechanisms. Thus, only those elements of the Indian political agendas that coincided with what the non-Native policy-makers had in mind for Indian people had a chance of success. Reserve conditions would be improved as costs permitted. Social services, welfare benefits, education and health care facilities would also be extended to reserve residents. However, recognition of Aboriginal rights and settlement of land claims and treaty rights issues were disregarded by government officials. Political action was deferred.

## **CHAPTER FOUR**

### **The Development of the 1951 Indian Act: Patterns from the Past**

The special joint committee of the Senate and the House of Commons submitted its final report on Indian Act revision to Parliament on 22 June 1948.<sup>1</sup> Two weeks earlier a draft Indian Bill, prepared jointly by Indian Affairs Branch officials and the committee's Indian Act sub-committee had been forwarded to the department of justice for final review.<sup>2</sup> J.A. Glen's intention was to introduce legislation in the House of Commons before the House recessed for the summer and the impending Liberal Party leadership convention took place. However, political events extraneous to the legislative review process - ministerial changes, opposition to changes in Indian education by the Roman Catholic Church, and a departmental reorganization - delayed the introduction of new Indian legislation until June 1950. Clearly Indian policy issues were of peripheral importance to government officials particularly when opposed by a powerful religious body.

The proposed Indian Act, introduced as Bill 267, caused a political furore in Parliament and adverse press coverage. Former members of the special joint committee said it did not meet their expectations, Indian leaders charged their views had been ignored. And influential non-Indian organizations, particularly civil liberties groups, characterized the legislation as draconian. Minister Walter Harris withdrew Bill 267, promising further

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1. SJC, Minutes of Proceedings and Evidence (No. 5, April-June 1948), Appendix, 186-190.
  2. DIAND, File 6-15-1, Vol. 2. C.W. Jackson, a/deputy minister, to F.P. Varcoe, deputy minister, Department of Justice, 8 June 1948.

government review and consultation with Indian leaders. Perfunctory Indian consultations began in August 1950 and culminated in a three-day conference in late February 1951 at Ottawa where Bill 79, the draft Indian Act, was discussed with nineteen Indian leaders. In April 1951, Bill 79, was reviewed by a special committee of the House of Commons and approved for third and final reading. Bill 79 was passed by the House of Commons in early June 1951 and given Royal Assent on 20 June. The measure came into force on 4 September 1951, as 15 George VI, c.29, "An Act respecting Indians".<sup>3</sup>

Hailed by the press and outside observers as a new "Magna Carta" for Indian people, the act once again reflected the philosophical assumptions, values, and paternalistic administrative practices that had guided Indian policy since the nineteenth century. Despite the best of political intentions and government optimism, it was unlikely that Indian marginalization and dependency would cease so long as Indian people were excluded from the decision-making process.

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Before examining the evolution and development of the 1951 Indian Act, it is important to take note of certain political and administrative changes which occurred in 1948. These events determined the pace of policy reform. On 10 June Prime Minister Mackenzie King shuffled his cabinet. The minister responsible for Indian Affairs, J.A. Glen, retired, and was appointed to the U.S.A. - Canada International Joint Commission. Fisheries Minister J.A. MacKinnon of Alberta was named minister of mines and resources, a post he held until 31

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3. It should be noted that the new Indian Act is also cited as "An Act respecting Indians," R.S.C. (1952) c. 149.

March 1949, when he was replaced by Secretary of State Colin Gibson.

Shortly after the June cabinet shuffle, R.A. Hoey, Indian Affairs Branch director resigned to take up a position with the United Nations. Hoey was replaced by Major D.M. Mackay, branch superintendent of Indian welfare.<sup>4</sup> The changes in political leadership and in senior branch management, the parliamentary recess, and the Liberal Party leadership convention in August, all conspired to produce a hiatus in Indian policy deliberations. The fact that Mackenzie King retained the position of prime minister until 15 November 1948 reinforced legislative delay. This allowed both MacKinnon and Mackay to review and familiarize themselves with the proposed Indian bill (hereafter the "committee's bill"). During September and October 1948, a memorandum to cabinet was drafted outlining the significance of the proposed changes, which one branch official termed the most "innovative" in half a century.<sup>5</sup> Was he correct?

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4. Major Donald M. Mackay was born at Goderich, Ontario, on 9 October 1889. He began his career as a land surveyor in British Columbia where he first encountered Indian people. From 1933-36 he sat in the B.C. Legislative Assembly as Liberal member for Cariboo. He resigned his seat to take up the position of Inspector of B.C. Indian agencies. On 31 March 1937, he was named Indian Commissioner for British Columbia. Following a branch reorganization in November 1947 that divided the welfare and training division into separate education and welfare branches, Mackay was appointed superintendent of Indian welfare. When R.A. Hoey, branch director, retired in the summer of 1948, Mackay replaced him. Mackay died suddenly on 19 May 1953, at the age of 63. See RG32, Public Service Commission Records, C2, Vol. 159, 128, File: Donald M. Mackay.
  5. DIAND, File 6-15-1, Vol. 2, Memorandum to the Cabinet. "An Act to Amend the Indian Act," 12 November, 1948. Also, File 1/1-8-3, Vol. 1, T.R.L. MacInnes, secretary, Indian Affairs Branch, to R.A. Hoey, director, 21 January 1947.



### ***The Committee's Bill***

The memorandum to cabinet of 12 November 1948, outlined that the purpose of the new Indian Act. From government's perspective it was to "provide for a progressive administration of Indian Affairs" and to grant "Indians more rights and greater privileges in order that they may become more self-sustaining and have greater power of governing themselves and the reserves upon which they reside."<sup>6</sup> The following discussion highlights the major features of the bill and the political crisis that arose concerning Indian education.

### ***New Definition of "Indian"***

As a first step the committee's bill proposed a more precise definition of "Indian" than had existed since 1880. The accompanying Table Nine provides a comparison of the proposed 1948 definition with that in force since 1880. The revised definition of "Indian" was tied directly to an administrative initiative. An Indian Membership Register was to be established at headquarters. An Indian registrar would ensure government band lists were

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6. DIAND, File 6-15-1, Vol. 2, memorandum to cabinet, 12 November 1948.

## Proposed definition of "Indian", 1948.

<u>1948</u>	<u>1880</u>
<p data-bbox="299 485 632 517">"Sec. 2(c) "Indian means</p> <p data-bbox="299 559 859 708">(1) Everyone who or whose ancestors in the male line has not lost Indian status by process of law, who can trace descent through the male line,</p> <p data-bbox="299 751 850 900">a) to an aboriginal native of the North American Continent who had the legal status of an Indian in Indian in Canada on the 1st day of July 1867; or</p> <p data-bbox="299 942 850 1134">b) to a person who, at the date of the respective Indian Treaties or Adherences thereto, was recognized as a member of the band or group subscribing or adhering to said treaties; or</p> <p data-bbox="299 1176 850 1357">c) to a person whose name appears on any band membership list or general list established and confirmed in accordance with the procedure provided in Section 5 of this Act; and</p> <p data-bbox="299 1400 797 1464">Any woman lawfully married to such person; and</p> <p data-bbox="299 1506 850 1761">(2) Any child or an unmarried Indian woman, except where it can be proven or reasonably assumed from evidence satisfactory to the Minister, whose decision shall be final, that the father of such child is of non-Indian status.<sup>7</sup></p>	<p data-bbox="897 453 1310 485">"3. The term "Indian" means -</p> <p data-bbox="897 527 1420 602">First. Any male person of Indian blood reputed to belong to a particular band;</p> <p data-bbox="897 644 1384 676">Secondly. Any child of such person;</p> <p data-bbox="897 719 1371 825">Thirdly. Any woman who is or was lawfully married to such person."</p>

7. DIAND, Claims and Historical Research Centre, File J-4, "First Draft of Indian Bill," 2.

maintained and updated regularly.<sup>8</sup> Specifically excluded from official Indian lists were the descendants of those who had received half-breed scrip.<sup>9</sup> The reforms were intended to clear up administrative confusion concerning who was an Indian and thus entitled to reside on reserves and receive government welfare benefits and services.<sup>10</sup> Measures to restrict the number of Indians also reduced government expenditures at a time when the Indian population was increasing and in need of greater social services.

### *Indian enfranchisement*

Linked to the redefinition of Indian and the creation of an Indian register were initiatives to streamline the process of Indian enfranchisement. Voluntary and compulsory Indian enfranchisement had been a feature of Indian legislation since 1857. Early legislation envisaged that Indians would seek a change in their legal status without a change in their residence or way of life.<sup>11</sup> Enactments after Confederation provided that, with the consent of the band, an Indian living on a reserve could be enfranchised and be given temporary title to his reserve location. After a probationary period, this temporary title could be converted

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8. Ibid., Section 5, 4-5. The position of Indian Registrar was strikingly similar to the Registrar of Canadian Citizenship, Citizenship Branch, established after proclamation of the Canadian Citizenship Act in 1947.

9. Ibid., Section 6, 5.

10. As noted in Chapter Two, headquarters and field staffs in the 1930s and 1940s had trouble determining who was an "Indian". By obtaining a precise legal definition they could contain costs and specifically target government programs to qualified recipients.

11. See John F. Leslie, "Commissions of Inquiry into Indian affairs in the Canadas, 1828-1858," M.A. research essay, (Carleton University, 1984).

to full title.<sup>12</sup> With minor modifications this remained administrative practice until after World War One.

In 1918, a new legislative provision enabled Indians who resided off reserves and were not following the Indian way-of-life to apply for enfranchisement.<sup>13</sup> From that date, the Indian Act provided for Indian enfranchisement under two sets of circumstances: one, in which an Indian was living on a reserve and wished to enfranchise and receive title to his land; the other, in which an Indian lived off the reserve and wanted to enfranchise and receive his share of band funds. Despite intense Indian criticism of these measures during the 1930s and before the special joint committee, both voluntary and compulsory Indian enfranchisement provisions were retained in the committee's draft legislation.<sup>14</sup> Policy-makers reviewed the enfranchisement process as a safety valve to control the growing Indian population, decrease pressure on the reserve land base, and control administrative costs.

A change in traditional practice was also suggested concerning Indian women who married non-Indian men.<sup>15</sup> Legislative provisions since 1869 stipulated that an Indian woman lost official Indian status when she married a non-Indian; however, she retained her right to receive treaty money and any distribution of band fund revenues. She could even remain on reserve as a "Red Ticket" Indian. In 1948, the concept of dual rights for Indian women was

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12. See Section 87, "An Act to amend and consolidate laws respecting Indians," c. 18, Statutes of Canada (1876).

13. See Section 122A, "An Act to amend the Indian Act," c.26, Statutes of Canada (1918).

14. "First Draft of Indian Bill," Sections 110-124, 67-72.

15. *Ibid.*, Section 7, 6.

eliminated. Indian women who “married out” lost their Indian status, received a one-time payment of band funds, and were forced to leave the reserve. Thus official connections with her kin and band were terminated for all time. This, too, was an effective measure to reduce administrative and program costs.

The extant Indian Act also contained a provision for entire Indian bands to enfranchise if this was supported by a majority of male members over twenty-one years.<sup>16</sup> Over the years only one band, the Wyandottes of Anderdon, Ontario, had taken advantage of the scheme (1884-1914). The committee’s bill proposed that a band could apply for enfranchisement if 85% of all band members over twenty-one supported the initiative.<sup>17</sup> It was hoped that this amendment would encourage Indian bands to enfranchise since male and female members could participate in the decision. Section 114(2) proposed that when the minister approved the enfranchisement of a band, he could enter into arrangements with local municipalities to defray the costs of welfare and pensions for infirm Indians.<sup>18</sup>

#### *Band Constitutions and band incorporation*

Sections 118, 119, and 120 of the committee’s bill contained innovative proposals that would have dramatically altered the traditional legal status of Indian reserves.<sup>19</sup> The suggestion was that advanced Indian bands be permitted to develop their own band

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16. See Section 110, “An Act Respecting Indians,” c.98, Revised Statutes of Canada, (1927).

17. “First Draft of Indian Bill,” 69.

18. Ibid., Section 114(2), 69.

19. Ibid., 71-72.

constitutions and community by-laws. Qualified bands would be permitted to incorporate under Part 2, Dominion Companies Act, hold, manage, lease and sell reserve lands and assets on behalf of its members.<sup>20</sup> Section 120 proposed that when an Indian band had been chartered for at least ten years, application for incorporation as a provincial municipality could proceed if band members approved and the respective province concurred.<sup>21</sup> A provision was added that reserve lands would remain federal Crown lands unless alienated with the approval of cabinet.<sup>22</sup>

For advanced Indian bands that neither enfranchised nor sought municipal incorporation, the committee's bill suggested measures for enhancing band council powers and for providing practical training in running municipal-style operations. Reserve lands would be sub-divided into individual holdings and, in turn, the reserves would be divided into "wards" for band elections.<sup>23</sup> For the first time Indian women would be permitted to vote in band council elections.<sup>24</sup> Section 74 enumerated eighteen subjects over which band councils, with ministerial sanction, could pass by-laws.<sup>25</sup> Many were similar to municipal powers: control of pests, weeds, and dogs, maintenance of roads and bridges, trespass, and public

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20. Ibid., Section 119(2), 71.

21. Ibid., Section 120, 71-72.

22. Ibid.

23. Ibid., Section 70(4), 45.

24. Ibid., Section 70(11), 46.

25. Ibid., 50-51.

health measures.<sup>26</sup> Local Indian agents were instructed to act only as advisors and limit their participation in band council meetings.<sup>27</sup> When, in the opinion of the local Indian agent, an Indian band reached an advanced stage of development, the minister could authorize the band to raise its own revenue through taxation, licence fees, and property assessment. The band would determine how the funds should be spent in accordance with band council powers enumerated in Section 74.<sup>28</sup>

### *Indian estates*

Another area of friction was the branch's administration of Indian estates. Administering the estates of non-Indians was a provincial responsibility, but the branch refused to give up its authority in this sphere. As L.L. Brown had testified, there was a considerable backlog and Indian people resented delays in probating the wills of deceased relatives. In many cases the absence of a will derailed the administrative process.

The committee's bill gave the minister power to settle the estates of Indians dying intestate.<sup>29</sup> For example, if an Indian died intestate, with an estate less than \$2000, the money would devolve to "the spouse of good moral character."<sup>30</sup> A related provision confirmed that the "Minister shall be the sole and final judge as to the moral character of the spouse..."<sup>31</sup>

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26. Ibid.

27. Ibid., Section 73, 49-50.

28. Ibid., 50-51.

29. "First Draft of Indian Bill," Sections 34-40, 21-26.

30. Ibid., Section 39(1)(a), 25.

31. Ibid., Section 39(2), 26.

This authority reeked of paternalism but it did not seem to bother officials.

### *Powers of Indian agents*

As noted in Chapter Two, during the 1930s field agents had expressed unease regarding the extent of their powers to supervise and regulate reserve morality. Accordingly, when the special committee reformulated the Indian Act, Sections 101-108 clarified the powers of Indian agents when acting as justices of the peace.<sup>32</sup> Section 106 brought these powers in line with Criminal Code sanctions.<sup>33</sup> The "intoxicants" Sections of the committee's bill were also modified.<sup>34</sup> Now Indians were permitted to consume alcohol in licensed premises. Consumption of liquor on reserves was still prohibited.

### *Continued prohibitions*

During the special joint committee hearings, Indian organizations had protested the operation of permit systems which controlled the sale of reserve resources and produce in Manitoba, Saskatchewan, Alberta, and the Northwest Territories. Despite Indian criticism, government policy-makers decided to continue the permit system as a measure for Indian protection.<sup>35</sup> In other areas the restrictions on traditional dances and ceremonies were retained (Section 99). The bill also maintained the prohibition on individuals who sought to raise money from Indians to pursue land claims.<sup>36</sup> Finally, Sections 21-24 enhanced the

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32. Ibid., 64-67.

33. Ibid., 66.

34. Ibid., Sections 87-97, 59-63.

35. Ibid., Sections 24-25, 12-13.

36. Ibid., Section 100, 64.



powers of local field staff to enforce reserve trespass regulations.<sup>37</sup>

### *Indian advisory boards*

The members of the special joint committee, although in agreement with the Indian Affairs Branch concerning the philosophy and goals of postwar Indian administration, were reluctant to leave responsibility for implementing the revised program to branch administrators. To augment branch supervision, Section 122 of the committee's bill proposed the creation of regional Indian advisory boards composed of knowledgeable non-Natives and Indians who would adjudicate disputes and help manage government programs.<sup>38</sup> This suggestion, that would have given Indians a say in policy matters, was not popular with branch officials who feared the loss of authority and power.

### *Education*

From a government perspective the education provisions of the committee's bill (Sections 125-131) were reasonable. But arrangements for Indian education soon blossomed into an intense political controversy involving the Prime Minister, Louis St. Laurent, the Indian Affairs branch, and the Roman Catholic church.<sup>39</sup>

To gain historical perspective on this controversy it should be remembered that there were three types of Indian schools: industrial, day, or residential. In most instances the churches staffed these institutions, the federal government supplied the buildings, equipment, teaching materials, and salaries. In addition, Section 10(2) of the Indian Act stipulated that:

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37. Ibid., 11-12.

38. Ibid., 72.

39. Ibid., 73-78.

Every Indian child between the ages of seven and fifteen years... shall attend such day, industrial or boarding schools...

2. Such school shall be the nearest available school of the kind required, and no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.<sup>40</sup>

The new Indian legislation proposed significant changes to existing school arrangements. Section 125(1)(d) stated:

The Governor in Council may...

(d) notwithstanding anything in the Act enter into agreements with any province, the Northwest Territories Council, Council of the Yukon, any public or separate school board or religious body or charitable organization for the education of Indian children.<sup>41</sup>

And although Section 127(a) appeared to reiterate the intent of Section 10(2), there was a significant departure in part (b) regarding adjudication of religious disputes:

(a) Indian children shall attend the nearest available school, provided that no child of Protestant parents shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no child of Roman Catholic parents shall be assigned to a Protestant school or a school conducted under Protestant auspices.

(b) Where a dispute arises in respect to the religious status of a pupil enrolled at or applying for admission to a residential school the Minister may from time to time upon the report of an officer or other person especially appointed by him to make an enquiry designate the school at which the pupil shall receive instruction.<sup>42</sup>

Section 128 introduced, for the first time, band council choice concerning whether local Indian schools should have a religious affiliation. Section 128 stated:

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40. "An Act Respecting Indians," c.98, Revised Statutes of Canada (1927), 144.

41. "First Draft of Indian Bill," 73.

42. *Ibid.*, 74-75.

The members of any band by majority vote of the electors of the band as defined in Section 70 indicate whether the day school on their reserve should be conducted as a non-denominational school or as a denominational school.<sup>43</sup>

During the special joint committee's hearings, Indian opinion was divided on the continued operation of denominational schools. Branch officials and the Protestant-dominated committee favoured non-denominational Indian schools and, where feasible, the integration of Indian children into the provincial school systems. The Roman Catholic hierarchy was distressed at the tone and content of committee hearings and early in the proceedings collaborated with Liberal committee members, Senator Stanley McKeen and M.P. Louis Raymond, to head off a perceived Protestant conspiracy.<sup>44</sup> The resulting political intrigue stalled Parliamentary consideration of a revised Indian Act until the spring of 1950.

#### *Confrontation with the Roman Catholic Church*

Roman Catholic fears in regard to Protestant intentions had their origin in recent government initiatives. Conventional practice held that Roman Catholic Indians who required hospitalization were sent to the nearest Roman Catholic facility. This undertaking often involved considerable transportation costs. In the late 1930s, in an effort to reduce expenses, the Indian Affairs Branch embarked on establishing a chain of secular hospitals for all Indian patients. In 1939 the Indian Affairs Branch purchased the Dynevor tuberculosis hospital near Selkirk, Manitoba, from the Anglican Church. Officials of the Roman Catholic Church protested this transaction and the move to establish government-operated Indian hospitals.

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43. Ibid., 75.

44. AD, HR8502, C73Z, 46. W.M. Duke, archbishop of Vancouver, to Rev. J.O. Plourde, O.M.I., Oblate Indian Welfare and Training Commission, 5 June 1948.

Six years later, in October 1945, Prime Minister Mackenzie King received a petition from the Roman Catholic hierarchy demanding that the government- built Indian hospitals which would be run and staffed by Roman Catholic doctors.<sup>45</sup> Even after November 1945, when Indian Medical Services was transferred to National Health and Welfare, the religious issue continued to fester. On 26 February 1946, J.-O. Plourde, director of the Oblate Indian and Eskimo Welfare Commission wrote Justice Minister Louis St. Laurent complaining that the Indian Affairs Branch was staffed by too many Protestants. According to Plourde's calculations, of 83 Inspectors and agents, 69 were Protestant.<sup>46</sup>

The section of the committee's bill that particularly upset the Roman Catholic hierarchy in 1948 was 125(1)(d). Dr. Hugh Keenleyside, deputy minister, wrote a memorandum to Minister J.A. MacKinnon on 15 October 1948, in which he assessed the situation and proposed a strategy for dealing with the political ramifications. It is worth quoting at length:

The Parliamentary Committee that worked on this Act for three years has been in general agreement on the principles embodied in the new Act. This is true even of the clause dealing with education.

On the other hand the Roman Catholic Church has already made known its objection to the provision in the Act which authorizes the Federal Government to enter into agreements with Provincial Governments which would fit Indian education into the established educational

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- 45. AD, HR8501, C73R, 11, Ex. 2, "Memorandum to the Prime Minister of Canada, the Right Honourable William Lyon Mackenzie King, C.M.G., on the Problem of the Hospitalization of the Catholic Indians."
  - 46. AD, HR8502, C73L, 30. In his letter Father Plourde noted that more than 50% of Canadian Indians were Roman Catholic. He suggested that Philip Phelan, a graduate of the University of Ottawa, with 35 years of service be selected as director of the welfare and training (Education) division.

system of the Provinces that are prepared to cooperate. (British Columbia has already expressed its desire to participate in this scheme).

This educational clause was placed in the Act after it had been approved by the Prime Minister and by Mr. St. Laurent. On the other hand the political situation in Quebec has deteriorated badly since that time (early spring 1948) and with the Church already in opposition and a federal election in the offing, Mr. St. Laurent might now be less willing to accept the battle that such a clause will entail.

If the clause is omitted, however, the Protestant members of the Committee will almost certainly rebel. Some of them consider that it does not go nearly far enough; they want the complete secularization of the school system.

My suggestion would be that when the House meets, the Indian Affairs Committee should be slowly reconstituted and the newly drafted Act be referred to it. Then by various expedients its consideration by Parliament could be delayed until it can be reasonably postponed to the following session.

I don't like this procedure but in the long run it will probably take us further than an effort to push the bill through this session.<sup>47</sup>

MacKinnon appreciated the political fall-out of the Indian education question. He provided Prime Minister designate St. Laurent, with a copy of Keenleyside's memorandum, who, in turn, minuted MacKinnon:

I agree we should endeavour to avoid any quarrel that would raise religious issues. I would like to see a copy of the newly drafted Act.<sup>48</sup>

On 15 November J.A. MacKinnon wrote to Prime Minister Louis St. Laurent, concerning protection of Roman Catholic education rights. MacKinnon pointed out that Roman Catholic fears concerning Section 125(1) (d) were dealt with in other sections of the

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47. DIAND, File 6-15-1, Vol. 2, H.L. Keenleyside, Memorandum for the Minister (Secret and Personal), 15 October 1948.

48. Ibid.

bill. As he (mistakenly) understood the situation, statutory provision for separate school systems existed in every province except Manitoba and British Columbia.<sup>49</sup> Presumably, it would only be in these two provinces where “an arrangement might be made for the absorption of the Indian children into the Provincial system without regard to the rights under the present Act”. MacKinnon suggested that Roman Catholic officials misunderstood Indian school arrangements. The residential schools were operated by the churches; the day schools, although staffed by missionaries, were financed and managed by the Indian Affairs Branch. Thus any right contained in existing Section 10(2) had application only to the residential school system.

Keenleyside’s memorandum and MacKinnon’s brief had considerable political impact. On 17 November 1948, the federal cabinet met and postponed further consideration of the committee’s bill until ministers had had an opportunity to review the bill’s “education and schools” provisions.<sup>50</sup> This decision killed any chance that a new Indian Act would be passed into law in 1949. What a damning revelation: in the mid-twentieth century Indian policy was still subject to the religious jealousies of Euro-Canadian society!

Nineteen forty-nine was an election year. On 31 March 1949, St. Laurent shuffled his cabinet in preparation for the forthcoming electoral struggle and appointed Secretary of State

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49. MacKinnon was wrong concerning statutory provision for provincial separate schools. In addition to B.C. and Manitoba, New Brunswick, Nova Scotia, and PEI had no separate school systems. See F.G. Cunningham, departmental solicitor, to Mr. Jackson, 9 December 1948. DIAND, File 6-15-1, Vol. 2.

50. DIAND, File 6-15-1, Vol. 2, A.D.P. Heeney, secretary to the cabinet, to the Hon. J.A. MacKinnon, 18 November 1948.

Colin Gibson (a Presbyterian) as minister of mines and resources.<sup>51</sup> Gibson, although new to the post of superintendent general of Indian affairs, was familiar with the on-going Indian education dispute. He proceeded with caution. Once the federal election of June 1949 was over he prepared a memorandum to cabinet in August outlining his approach to Indian Act revision. Appended to this document was a report on revisions to the denominational school sections of the committee's bill.<sup>52</sup>

The denominational schools issue refused to go away despite face-to-face meetings and correspondence between government officials and senior church representatives. On 9-10 November 1949, Bishops of the Canadian Catholic Conference met in Ottawa. A petition was drawn up for presentation to Prime Minister St. Laurent. In part it read:

They insist in the most absolute way upon a Catholic education being assured for Catholic Indian children, respecting in all things the rights of parents and children in matters of education.

Should some change be introduced in paragraph 2 of Article 10, Chapter 98, of the present Indian Act, the members of the Conference are unanimously opposed to any clause which would oblige Catholic children to attend a school other than a Catholic school. This paragraph 2,

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51. The Hon. Colin Gibson was born at Hamilton, Ontario, on 16 February 1891. A lawyer and land surveyor, he was first elected to the House of Commons in 1940 for Hamilton West. In succession he was minister of national revenue (1940-1945), minister of national defence (Air) (1945-1946), and secretary of state (1946-1949). He was appointed minister of mines and resources on April 1, 1949. On January 18, 1950 he was appointed a Puisne Judge, Supreme Court of Ontario, from which he retired on 1 September 1965.

52. DIAND, File 6-15-1, Vol. 2.

supported by a secular practice, assures Catholic education for Catholic Indian children.<sup>53</sup>

The political sniping of the Roman Catholic church encouraged senior government officials to delay plans for revising the Indian Act. In addition, by late fall 1949, advisors to Norman Robertson, clerk of the privy council, were involved in the reorganization of several government departments, including mines and resources. Thus it was politically astute and prudent for the minister of mines and resources not to proceed with Indian reforms.

By 1949 various groups in the attentive publics sector of the Indian policy community were impatient with the lack of progress in Indian Act reform. A revised act had been promised by officials for 1948, and when 1949 unfolded without the special joint committee being reconstituted, or new Indian legislation introduced, letters and petitions flowed.

For example, in June 1948, the Canadian Legion held its twelfth Dominion Conference at Saskatoon. The Canadian Legion was a champion of Indian causes given the distinguished war-time service of Indian veterans. Resolutions were passed demanding that Indian people secure the federal franchise, be given greater band council powers, and access to improved health care facilities. A resolution urging speedy passage of a new Indian Act was also passed.<sup>54</sup>

On 4 October 1949, Reta G. Rowan, secretary, "Edmonton Committee of Friends of the Indians", and an early advocate of Indian Act reform in 1945, wrote St. Laurent urging

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53. DIAND, File 6-15-1, Vol. 2. (Signed). Archbishop of the Administrative Committee of the Canadian Catholic Conference to Rt. Hon. Louis St. Laurent, 14 November 1949.

54. DIAND, File 6-15-2, Vol. 1.



the special joint committee be reconstituted and a revised Indian Act be passed immediately.<sup>55</sup>

This was followed on 27 October 1949, by a petition from the Canadian Federation of Home and School (claiming to represent 137,000 people) supporting better facilities for Indian education and expeditious introduction of a revised Indian Act.<sup>56</sup>

Soon other petitions arrived on St. Laurent's doorstep urging a "new deal" for Indian veterans. This correspondence was in part fuelled by newspaper accounts describing poor health among James Bay Indians in Ontario and editorial complaints that long-promised government revision of the Indian Act had been deferred for electoral and religious considerations.<sup>57</sup> The press had activated key elements in the attentive publics sector of the Indian policy community. A new minister would have to respond to their criticisms.

*Walter Harris puts his stamp on Indian policy*

Walter Harris (L-Grey Bruce), minister of citizenship and immigration, assumed official responsibility for two political hot potatoes - immigration and Indian affairs - on 18 January 1950. The new government department, which linked Indian and immigration administration, was not an accidental construction. In the view of senior Canadian political elites, displaced European immigrants and dispossessed Indians were in the process of "becoming Canadians." It made administrative sense to focus government policies and programs, associated with remedying the perceived deficiencies attending "ethnic" groups,

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55. Ibid.

56. Ibid.

57. Ibid. See petitions from Canadian Legion Branch No. 168 (Matheson, Ont.), 30 November 1949 and Canadian Legion Branch No. 70 (Iroquois Falls), 30 November 1949.

in one department.<sup>58</sup>

In January, Harris set about his ministerial duties.<sup>59</sup> When he arrived on the scene Harris had a dim view of Indian Branch operations. On 29 June 1950, in a confidential note to Norman Robertson, clerk of the privy council, he observed that the branch had only two policies: to build schools and to enfranchise bands and turn the reserves into municipalities.<sup>60</sup> The branch appeared adrift and was having difficulty in converting the recommendations of the special joint committee into legislation for House consideration. Would Harris be able to provide the necessary political direction that would eradicate branch paternalism? Or would he, too, be captured by the system?

A priority was to put the committee's Indian bill into proper order so that it could be presented to Parliament. As part of the review, Harris investigated the historical rationale for various Indian Act provisions and made his own personal drafting suggestions. He also examined a number of government reports and the special joint committee's recommendations concerning: Indian education, an Indian claims commission, the federal franchise, local Indian

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58. See statement by Rt. Hon. L. St. Laurent concerning the establishment of new government departments. Canada. House of Commons, Debates, 26 November 1949. 2284-2287.

59. Walter Harris was born at Kimberly, Ontario on 14 January 1904. He served overseas during the Second World War and later became president of Victoria and Grey Trust. He was first elected to the House of Commons for Grey-Bruce in 1940. On 30 October 1947, he was named parliamentary assistant to the secretary of state for external affairs, a position he held until assuming a similar position with the Prime Minister on 15 November 1948. He became minister of citizenship and immigration on 18 January 1950. On 30 June 1954 he was appointed minister of finance but was defeated in June 1957. He died at Markdale, Ontario, in January 1999.

60. NAC, MG32, B24, Vol. 25, File 1-A-12E.

advisory boards, and eliminating penalties for performing traditional dances and ceremonies.

Harris put his personal stamp on the new Indian legislation (later known as Bill 267) by tackling the issue of denominational Indian education. He had been advised by officials that competition among the established churches for Indian souls had become so fierce in recent years that many Indian band councils protested the deleterious side-effects these quarrels had on community relations. At the same time, Harris was aware that the special joint committee had recommended greater Indian integration into the existing provincial school systems. Satisfied that the special committee's draft bill was fair, and that it safeguarded Roman Catholic interests, officials incorporated Sections 125 1)d, 127 a) and b), and 128 of the previous committee bill into Bill 267, "An Act respecting Indians", as Sections 114, 118 and 121, respectively.<sup>61</sup>

Harris then turned his attention to four major policy issues: continuing Indian income tax exemptions; extending the federal franchise to Indian people; establishing an Indian claims commission; and creating local Indian advisory boards. It will be recalled that during the 1947 joint committee hearings non-Native elites in the Indian policy community viewed payment of taxes and voting in federal elections as the responsibilities and attributes attending full Canadian citizenship. The special joint committee, however, recognized that most Indian income was below that which would be eligible for taxation. As well, the Indian Act had historically stipulated (since 1850) that reserve-generated income and property on reserves should not be taxed nor seized for debt. In 1950, Harris decided that this historic tax

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61. Canada. House of Commons, Minister of Citizenship and Immigration, Bill 267, "An Act respecting Indians," First Reading, 7 June 1950, 3329-3334.

exemption should remain in place to foster Indian economic development.

The question of the Indian franchise was another matter, since it meant sharing of political power. Harris polled his cabinet colleagues on the matter. Indian people themselves were divided on this issue and the federal cabinet was concerned about the electoral impact of the "Indian vote" in certain constituencies. A voting analysis of the more vulnerable ridings was undertaken and distributed to senior ministers.<sup>62</sup> C.D. Howe, minister of trade and commerce, effectively killed the initiative noting that the local Indian vote "could be easily bought by the CCF" and he might lose his Lakehead seat.<sup>63</sup> It is clear that, while politicians wanted Indians to integrate into society, the process had to be non-threatening and not involve a significant degree of power-sharing.

Establishing an Indian claims commission was another issue. The United States had established such a body in 1946. Uncertain about the cost and nature of prospective Indian claims, Harris reviewed an Indian Affairs Branch report prepared in 1949 that categorized the

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62. NAC, MG32, Papers of the Hon. J.W. Pickersgill, B34, Vol. 24, File 1A, 12A, "Indian voting and Taxation," Part I, 1950. Harris consulted his cabinet colleagues on 11 and 15 May 1950 by circulating a memorandum showing the "Indian population in the various Ridings in their Provinces, and also showing the number over twenty-one". The following ridings contained "substantial concentrations of Indians": Skeena, Kamloops, Athabaska, Meadow Lake, Churchill, Norquay, Algoma East, Brant-Wentworth, Kenora-Rainy River, Port Arthur, and Chateauguay-Huntingdon-Laprairie. Harris suggested that a judicious "redistribution" could shift some Indian votes to other constituencies.

63. Ibid. On 16 May 1950, C.D. Howe wrote to Harris: "I shudder at having to deal with 2142 Indian voters in Port Arthur constituency. These votes will be up for sale and there are sufficient to turn any election. I continue to be opposed to Indians having a vote."

nature and types of claims that might be expected.<sup>64</sup> The lengthy study described specific claim situations relating to fulfillment of treaty provisions, trust fund disbursements, and questionable reserve land transactions. Another section of the study recognized that unextinguished Indian title claims existed in British Columbia, and a land dispute remained unresolved at Oka (Kanesatake). Settling these land claim issues would be costly, but no figures were put forward in 1949.

Harris was not in favour of a claims commission. Nonetheless, he prepared a cabinet document which outlined the recommendation of the special joint committee that a claims commission be established.<sup>65</sup> When cabinet considered the measure on 4 May 1950, a decision was deferred without comment.<sup>66</sup> In the meantime, the prohibition on claims set down in Section 141 of the Indian Act was maintained in Bill 267 (Section 100).

The committee's suggestion to establish Indian advisory boards had been included in the committee's bill (Section 122). This provision was not included in Bill 267 because Harris felt that such outside review mechanisms, including a proposed Standing Committee on Indian Affairs, would derogate from the minister's authority under the Indian Act.<sup>67</sup> Indian agents were also opposed to advisory boards and a permanent Parliamentary committee, believing these institutions would attract Indian extremists and "White do-gooders".

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64. DIAND, Claims and Historical Research Centre, File on "Indian Bill", J-4.

65. DIAND, 6-15-1, Vol. 2, Memorandum to the Cabinet, "Revision of the Indian Act. Indian Claims Commission." (n.d.).

66. NAC, RG2, Records of the Privy Council Office, Series 16, Vol. 20, Item 22(f), 4 June 1950.

67. Ibid., Item 22(a).

In keeping with the view that traditional Indian dances such as the Sun Dance and related practices, such as the Potlatch, should be curtailed, branch officials convinced Harris to retain existing prohibitions in the new legislation.<sup>68</sup> A sceptical note was sounded by RCMP, who confirmed privately that they were unable to prevent many traditional rituals since these were conducted in remote areas, or even in public under the guise of Christian religious practices.<sup>69</sup> The RCMP view prevailed and Section 150 of the 1927 Indian Act that prohibited dances and ceremonies was deleted.

In support of the committee's recommendation that the least "advanced" Indians be protected, Harris's legislative team determined that it would be advisable to strengthen sections of the Indian Act prohibiting non-Indian trespass on reserves. As well it was necessary to clarify the Indian agents' powers under the Criminal Code to prevent immoral practices on or near Indian reserves. Finally, as an added measure of protection, the permit system prohibiting the unauthorized sale of reserve resources and reserve produce to local buyers was continued.<sup>70</sup>

Despite the emphasis on Indian protection, two far-reaching proposals previously contained in the committee's bill were put forward to the department of justice for

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68. Bill 267, "An Act respecting Indians," Section 99, 35. The Potlatch ceremony (in which personal property was given away) and the Sun Dance (involving body mutilation) were viewed as detrimental to the advancement and well-being of Indian people.

69. Douglas Cole and Ira Chaikin, An Iron Hand upon the People. The Law against the Potlatch on the Northwest Coast (Vancouver: Douglas and McIntyre, 1990), 175.

70. Bill 267, Sections 32-33, 11.

consideration. These were proposals that advanced Indian bands be permitted to incorporate as municipal entities and gain title to reserve lands from the Dominion government.<sup>71</sup> Individual Indians could then obtain title to their holdings from the band and manage all property transactions on the same basis as non-Indians.

A second suggestion was to permit “advanced” bands to draw up their own band constitutions and by-laws. The Crown would then turn over all its rights, powers and liabilities in a reserve to the band council.<sup>72</sup> In this scheme the band council would stand in the same legal position as the Crown in all matters pertaining to the reserve and band members. The land would not lose its legal identity as a reserve and the prohibition of its disposal to non-Indians would be continued as provided for in the Indian Act.

These legislative proposals immediately raised concerns about constitutional considerations within the department of justice. Justice officials noted that Section 91 (24) of the British North America Act (1867) permitted the federal government to legislate for “Indians and lands reserved for Indians”. This historic arrangement dated back to the 1763 Royal Proclamation. If Indian bands were permitted to incorporate as municipalities they would fall within provincial jurisdiction. How could the federal government create a municipal corporation and retain any authority or legislative jurisdiction over it?<sup>73</sup>

The second scheme for devising individual band constitutions was also questioned.

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71. DIAND, Claims & Historical Research Centre, File J-4, “First Draft of Indian Bill,” Section 119, 71.

72. Ibid., Section 118, 71.

73. RG13, Vol. 2655, File 154075, Deputy Minister of Justice, to Deputy Minister of Mines and Resources, 29 April 1948.

In this instance, the department of justice's concern was determining how an Indian band council would accept title to reserve lands. The band council was not a legal entity so reserve lands would have to be held as "tenants in common" or as joint agents.<sup>74</sup> Section 4 of the existing Indian Act granted the minister control and management of the lands and property of Indian people. Section 185 set down the powers of band councils to make specific by-laws which then had to be approved by the minister<sup>75</sup>. A conveyance of reserve land title to band councils would frustrate the purpose of the Indian Act. The Indian Affairs Branch would also find it difficult to control band councils that abused their powers.<sup>76</sup>

While constitutional constraints and philosophical arguments were barriers to policy change, practical considerations came into play when legislative innovation was contemplated in other areas. For example, in 1939 the Supreme Court of Canada had ruled that Eskimos were Indians for administrative purposes under the Indian Act.<sup>77</sup> The question in early 1950 was whether to officially include Eskimos (Inuit) under the new Indian Act. However, since 1928 the Northwest Territories and Yukon Branch of the Department of the Interior had been responsible for Eskimo administration. Eskimo conditions and administration were far

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74. Ibid.

75. "An Act respecting Indians", Revised Statutes of Canada, c. 98 (1927), Section 185, "Powers of Council."

76. RG13, Vol. 2655, File 154075, Deputy Minister of Justice, to Deputy Minister of Mines and Resources, 19 April 1948.

77. R.J. Diubaldo, "The Absurd Little Mouse: when Eskimos became Indians," Journal of Canadian Studies, 16(2) (Summer 1981): 34-40. Section 7, Bill 79, February 1951, excluded Eskimos from the ambit of the proposed act.



different than those of the more southerly Indians, and politicians were not interested in duplicating north of 60° a costly and unwieldy administrative apparatus similar to the Indian Affairs Branch. In 1950, responsibility for Eskimo administration was given to the Department of Resources and Development.

### ***Bill 267***

For all intents and purposes Walter Harris's Bill 267 paralleled the philosophical outlook and provisions contained in the committee's bill.<sup>78</sup> The drafters of Bill 267 were the same policy actors who had monitored and participated in the special joint committee's Indian Act deliberations. Harris, being an inexperienced minister, was captured by his policy and legal advisors and by the superstructure of legislation, administrative practices, and constitutional arrangements that had guided Indian affairs since the nineteenth century. These arrangements constituted a Gordian knot, escape from which, even for the most innovative of policy makers, was a potentially futile exercise.

Harris introduced Bill 267, "An Act respecting Indians" in the House of Commons on 7 June 1950. It is worthwhile to take note of his remarks during debate on 21 June for they reveal philosophical continuity with the early Indian civilization program:

The underlying principles of Indian legislation through the years have been protection and advancement of the Indian population. In the earlier period the main emphasis was on protection. But as the Indians became more self-reliant and capable of successfully adapting themselves to modern conditions, more emphasis is being placed on greater participation and responsibility by Indians in the conduct of their own affairs. Indeed, it may be said that ever since Confederation the underlying purpose of Indian administration has been to prepare the Indians for citizenship with the same rights and responsibilities

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78. An annotated version of the "First Draft of Indian Bill" comparing it to Bill 267 (1950) reveals that 21 sections in whole or in part were not carried forward.

as enjoyed and accepted by other members of the community...

The ultimate goal of our Indian policy is the integration of the Indians into the general life and economy of the country. It is recognized, however, that during a temporary transition period of varying length, depending upon the circumstances and stage of development of different bands, special treatment and legislation are necessary...<sup>79</sup>

Bill 267 encountered immediate political opposition. Indian bands and Native rights associations, and their non-Native advisors - in particular the Indian Association of Alberta and John Laurie - criticized Bill 267 for retaining many odious sections of the existing Indian Act.<sup>80</sup> In particular, the minister's extensive powers to act unilaterally or to delegate his authority to branch officials were castigated. Continued compulsory enfranchisement was also a major bone of contention.

Philanthropic groups and civil libertarians also rose to the attack, supporting Indian criticisms, and adding some of their own.<sup>81</sup> The following Table Ten, as an example, outlines the submission of the Canadian Civil Liberties Union, Vancouver Branch. To compound matters, the hierarchy of the Roman Catholic church weighed in complaining that Sections 52, 114, 118, 122, and 123 did not protect their interests in denominational school

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79. Canada. House of Commons, Debates, 21 June 1950, 3938.

80. DIAND, File 1/1-8-3, Vol. 2. John L. Laurie, secretary, Indian Association of Alberta, to Hon. Walter E. Harris, 15 June 1950, and to Major D.M. Mackay, 8 July 1950. For an extensive critique of Bill 267 see DIAND, File 1/1-8-3, Vol. 3, John L. Laurie to W.E. Harris, 18 September 1950.

81. See for example DIAND, File 1/1-8-3, Vol. 2, Albert Millar, president, Okanagan Society for the Revival of Indian Arts and Crafts, to the Hon. D.M. Mackay, Minister of Citizenship & Immigration (sic), 19 June 1950; also DIAND, File 1/1-8-3, Vol. 3, M. Gilmour Clark, president, Public Affairs Institute, Vancouver YMCA., to Hon. Walter E. Harris, 13 November 1950.

**SUMMARY - CANADIAN CIVIL LIBERTIES UNION SUBMISSION, VANCOUVER BRANCH (1950)****Basic principles and program:**

- cultural pluralism of Canadian society favours Indian integration not assimilation;
- successful Indian integration will depend on retention of certain traditional cultural, Linguistic, and organizational skills;
- Indian people must be accorded citizenship on terms equal to other Canadians;
- Indian bands must be granted self-government;
- Indian act to be replaced by "an act providing citizenship and systematic advancement into Citizenship for Indians";
- new act to establish 5 stages of progressive Indian band status; provincial Indian Commissions to authorize appropriate level and hear appeals;
- standing committee of parliament to be established to monitor administration of new act; Parliamentary review in 10 years.

**Hereditary Indian rights and treaties:**

- Indians can retain their tax exempt status and obtain the right to vote;
- Indian people are full Canadian citizens under sec. 4, Canadian Citizenship Act, 1947;
- Indian treaty rights should be valued, then terminated with cash compensation.

**Indian self-government:**

- Indian band councils should be on same basis as municipal councils: levy taxes, authorize Expenditures, operate courts/police, determine band membership, set local liquor laws;
- election of chiefs and councillors should follow traditional patterns.

**Indian education:**

- discontinue denominational school system; end residential schools where feasible;
- Indian schools should come under provincial jurisdiction;
- federal government should fund all levels of Indian education;
- further research to establish an effective Indian education program.

**Indian social and economic development:**

- Indian women who marry whites should retain their Indian status and remain on reserves;
- establish community centres; clubs, and voluntary associations on reserves;
- extend pension benefits to Indians on reserves;
- improve health care facilities and improve welfare service delivery to reserve residents;
- establish a special fund to develop an Indian credit system, expand loans system, create an Indian crafts bureau.

arrangements.<sup>82</sup>

On 21 June, Bill 267 came up for second reading in the House. By then opposition to the proposed legislation had grown considerably. On 19 and 20 June, for example, Harris had received over 25 telegrams from Indian bands, Native rights associations, Indian agents, and regional supervisors, complaining about the lack of time set aside for consultation.<sup>83</sup> In the House, Donald F. Brown, former special joint committee co-chair, and John A. Charlton, a committee member whose constituency (Brant-Wentworth) included the populous Six Nations Reserve, criticized Bill 267 as an inadequate response to the special joint committee's major theme: "to help the Indian to help himself".<sup>84</sup> Specifically, Brown and Charlton's criticisms focused on the absence of an Indian claims commission, the withholding of the federal vote, and the absence of a provision for Indian advisory boards.<sup>85</sup> These shortcomings were also noted by John Diefenbaker (PC-Lake Centre) who characterized the wide-ranging

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82. DIAND, File 6-15-1, Vol. 2. Bishops Cody (London), Berry (Peterborough) and Garant (Quebec), to Hon. Walter E. Harris, 18 December 1950.

83. DIAND, File 1/1-8-3, Vol. 2. Of particular interest were complaints from field officials that the time allowed for consultation with local Indian bands and leaders was too short.

84. Canada. House of Commons, Debates, 21 June 1950, 3962-3967. See also the Windsor Daily Star, 22 June 1950, "Indian Rights Bill Hoisted for Session. Move Designed to Allow Wider Study of Measure."

85. *Ibid.*, Debates, 3966-3967.

powers of the minister as a serious infringement of Indian civil liberties.<sup>86</sup>

The print media also were also critical, not only of government tactics, but also of the content of Bill 267. The Globe and Mail, London Free Press, Vancouver News-Herald, Vancouver Sun, The North Shore Review, Ottawa Journal, Calgary Herald, Windsor Daily Star, and Brantford Expositor, all ran editorials or special features criticizing the Bill with lead items such as a "Betrayal of the Indians", "Not Good Enough", and "Is Government 'Indian Giver' in New Bill?".<sup>87</sup> At this stage in the proceedings public opinion in support of Indian policy reform was out in front of the politicians. This was a dangerous situation, particularly for government officials bent on containing Native activism and controlling the pace of the policy review process.

In the face of parliamentary and public criticism, Harris withdrew Bill 267 on 22 June, vowing to reintroduce it at the next session of Parliament.<sup>88</sup> In the meantime, he promised further branch review and consultation with Indian bands and associations. To this end on 15 August, Harris sent a circular letter to regional supervisors and field staff instructing them to canvas the views of Indian leaders by 1 October 1950.<sup>89</sup>

In the fall of 1950, Walter Harris began a public review of Bill 267. On 15 November

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86. Ibid., 3973-3976. On 2 August 1950, William Zimmerman, Jr., assistant director, bureau of land management, U.S. Department of the Interior, wrote to T.R.L. MacInnes, secretary, Indian Affairs Branch, to thank him for sending copies of Bill 267. Zimmerman commented that Congress would not grant such extensive powers to the commissioner of Indian affairs. See DIAND, File 1/1-8-3, Vol. 2.

87. DIAND, File 1/1-8-3, Vol. 2.

88. Canada. House of Commons, Debates, 21 June 1950, 3936-3938.

89. Ibid. DIAND, File 1/1-8-3, Vol. 2.

1950, Harris and his advisors met in Regina with 24 chiefs representing the Union of Saskatchewan Indians and other western Indian organizations.<sup>90</sup> In attendance was Morris Shumiatcher who had been instrumental in setting up the Union in 1946. The chiefs had their own agenda and wanted to discuss protection of treaty rights and land claim issues. Harris attempted to head them off by stating firmly that discussions should focus on the contents of Bill 267. Shumiatcher challenged Harris as to whether Bill 267 followed the recommendations of the special joint committee. Harris replied "for the most part". The ensuing debate, as recorded by Saskatchewan Regional Indian Supervisor J.P.B. Ostrander, digressed to the treaty issues and the concerns of Indian leaders.

He (Harris) went on to say (part of the time quoting from the Brief presented to the Joint Committee by the Union of Saskatchewan Indians): First you spoke of the re-instatement of treaty rights necessary (sic). That, of course, is a thoroughly legal problem under which no one has produced the right to say treaty rights have been abrogated. I am quite prepared to hear somebody argue the point. So far no judge has ruled that your treaty rights have been broken. It may be a matter of opinion, but the majority rules, and we have to acknowledge the law accordingly. Second, you affirm your loyalty to the Crown, and I am sure we are all pleased to hear that is so. Third, you say Indian agents have, in many cases, acted arbitrarily. We can only control that part of our administration in so far as we have an Indian Agent on your reserve, and do our best to see that he does the right thing. Next you mention that during treaty negotiations Indian Chiefs and Councillors were recognized as capable of handling the affairs of the tribes. Section 64 (Expenditure of Indian monies) takes care of this providing we strike our subsection (2) (Cabinet authority to overrule a band council's wishes). Clause nine states: "Indian Chiefs and Councillors should be able to revert to the status enjoyed at the signing of the treaties". This is the same thing that we have been discussing here. Clause ten - Larger remuneration should be paid to the Chiefs and Councillors. To do this, would the extra money to be paid them come out of the taxpayers money, or out of your own money?<sup>91</sup>

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90. NAC, RG10, Vol. 8569, File 601/1-2-2-2. "Minutes of Meeting between the Hon. W.E. Harris and Indians of the southern part of Saskatchewan."

91. Ibid., See J.P.B. Ostrander's report, 25 November 1950.

Harris's audience remained unconvinced by his responses. An unidentified Indian leader argued that the treaties defined their relationship with the Crown and that the Indian Act should be an instrument to implement historic treaty promises. Others argued that the education, hunting, fishing, and trapping provisions of the numbered treaties had been violated and there was no avenue for redress since a claims commission had not been established. Finally, the Saskatchewan contingent reiterated an old fear expressed by many Indians: if they accepted the federal franchise they would lose their tax-exempt status.

While Harris's encounters with Native leaders were politically manageable, he was not as sanguine that renewed opposition to Bill 267 from the hierarchy of the Roman Catholic church could be easily deflected. The clerics' offensive had started early. On 28 September 1950 the "Jesuit Missionaries to the Indians of Ontario" (Martyrs' Shrine, Midland, Ontario) complained that Section 114, subsection 2 (Agreements with Provincial Authorities), in effect "put religious minorities at the mercy of the majority and cancels all guarantees of religious freedom in the education of their children... contained in sections 118, 121, 122, 123".<sup>92</sup> On November 6, W.M. Duke, archbishop of Vancouver, wrote to Harris, concerning British Columbia press reports that the Native Brotherhood of B.C. was pressing for non-denominational education of Indian children.<sup>93</sup> Citing a 14:11 ratio of Catholic Indians to non-Catholic Indians in B.C., Duke demanded assurances that "protestant dominated" agencies such as the Native Brotherhood, the provincial B.C. Indian Advisory Committee, and the B.C. Indian Arts and Welfare Society, would not dictate government education

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92. DIAND, File 1/1-8-3, Vol. 3.

93. Ibid.



policy. He noted that the Catholic Bishops would be meeting on 5-6 December, and the Indian education issue would come up for discussion.

Archbishop Duke's letter caused considerable consternation within the Indian Affairs Branch. It threatened to revive the religious controversy that had delayed introduction of revised Indian legislation in 1948. Harris ordered an internal review of all legal opinions on Indian education dating back to 1922.<sup>94</sup> On 19 November 1950, Harris replied to Archbishop Duke assuring him that the intent of Section 114 and others was to implement the recommendation of the special joint committee to have Indian children educated "in association with other children". Harris noted:

In accordance with the policy, during the past year approximately 700 children in British Columbia attended provincial and non-Indian schools under various financial arrangements with the Department. A provision was included in the Indian Bill introduced at the last Session to give statutory authority for the present practice and policy of entering into agreements with the provinces, local school boards and religious or charitable organizations for the education of Indian children.

Harris concluded his letter in a conciliatory manner:

There is certainly no intention of departing from the policy of cooperation between the churches and the Government in the education of Indian children, and for my part, I may assure you that there is no intention of setting aside the protection which Parliament has given to the religious bodies engaged in Indian education as provided for in the present Indian Act.

The Indian Bill is now being reviewed in the light of representations received and it is hoped that a new Bill, when it is presented to Parliament at the forthcoming Session, will be, as nearly as possible, acceptable to the many responsible interests that are concerned with Indian education and the problems of Indians generally.<sup>95</sup>

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94. Ibid.

95. Ibid.

Meanwhile the Indian Affairs Branch review of ill-fated Bill 267 moved forward. On 5, 13, and 19 December, three cabinet submissions were prepared outlining changes to Bill 267.<sup>96</sup> Included in the 5 December document was a short preamble which explained the purpose of the review.

A general principle that has been kept in mind in reviewing the Bill is that of giving Indians more control over the management of their affairs and band councils more power, consistent with efficient and sound administration.<sup>97</sup>

The 5 December document, among other matters, proposed that the minister's power to authorize expenditures from a band's capital (Section 64(2)) and revenue accounts (Section 66(2)) be removed.<sup>98</sup> As well, it proposed that Section 42 (the "Oliver Clause") authorizing the minister to unilaterally relocate reserves from within villages and cities be scrapped.<sup>99</sup> Finally, Harris proposed that the prohibition on soliciting contributions from bands to pursue claims be withdrawn (Section 141).<sup>100</sup> If Indian people wanted to settle these grievances, like other Canadians, they could resort to the courts. In Harris's view this would give Indian people training in matters relating to citizenship.

A second cabinet submission on 13 December, dealt with the wording of eleven

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96. DIAND, File 6-15-1, Vol. 2.

97. Ibid., Memorandum to the Cabinet, "Proposed changes in Bill 267," 5 December 1950.

98. Ibid.

99. Ibid.

100. Ibid.

sections of Bill 267, to clarify their purpose and administrative application.<sup>101</sup> A final cabinet submission on 19 December altered the wording of Section 111(2), so that when an Indian enfranchised, his reserve holdings would not be disposed of for a period of ten years.<sup>102</sup> Presumably, in the interim, the band council or reserve residents would raise funds to purchase the property thus preventing its disposal to non-Indians.

*The Indian Act conference of 1951*

In early January 1951, modifications to Bill 267 were forwarded to the legislative drafters in the department of justice. By February, a new Indian Bill, No. 79, was ready for introduction in Parliament. By then, Minister Walter Harris, Deputy Minister of Citizenship and Immigration Laval Fortier, and D.M. Mackay, branch director, had made plans for an Indian conference in Ottawa to discuss provisions of Bill 79. The way in which the conference was organized and run clearly showed that paternalism flourished in government circles.

The Indian consultation process was well organized, nothing was left to chance. Indian delegates were carefully selected by the Indian Affairs Branch in a conscious effort to control spreading Native political consciousness and activism. The criteria were previous "provincial representation" and "known activity on behalf of Indians".<sup>103</sup> Vocal spokesmen

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101. Ibid., Memorandum to the Cabinet, "Proposed changes in Bill 267," 13 December 1950.

102. Ibid., Memorandum to the Cabinet, "Proposed changes in Bill 267," 19 December 1950.

103. Special House of Commons Committee appointed to consider Bill 79, "An Act respecting Indians," Minutes of Proceedings and Evidence (No. 1, 12 and 16 April 1951), 6-8.

from the Iroquois confederacy who, during the 1946-48 hearings had denied both the legitimacy of the Indian Act and the administration of the Indian Affairs Branch, were excluded. Officials also maintained a religious balance between Roman Catholic and Protestant delegates. This latter factor also determined the selection of certain individuals.

The conference agenda and seating arrangements were determined in advance by branch officials. The following Diagram One illustrates the arrangements and notes the delegates and observers.<sup>104</sup> On 27 February, Harris introduced Bill 79 in the House. On 28 February, the first day of the conference, Indian delegates received a copy of the Bill and were asked not to discuss it publicly. The formal sessions from 1-3 March were gruelling - lengthy morning, afternoon, and evening sessions were scheduled. Only the official nineteen Indian delegates - including IAA Secretary John Laurie - were permitted to speak. Each Indian delegate was assigned a specific location at the conference table; the more vocal seated a good distance from the minister and his advisors, who chaired the sessions. Discussion was controlled and limited in duration.

Beginning with the veteran delegates from B.C., comment and discussion proceeded in an orderly fashion from west to east, ending with Micmac Stephen Knockwood who represented the Maritime Indians.<sup>105</sup> This procedure supposedly was to ensure that each spokesman had a chance to air his views. In practical terms it effectively limited the unscheduled intervention of loquacious and articulate critics from B.C., Alberta, and

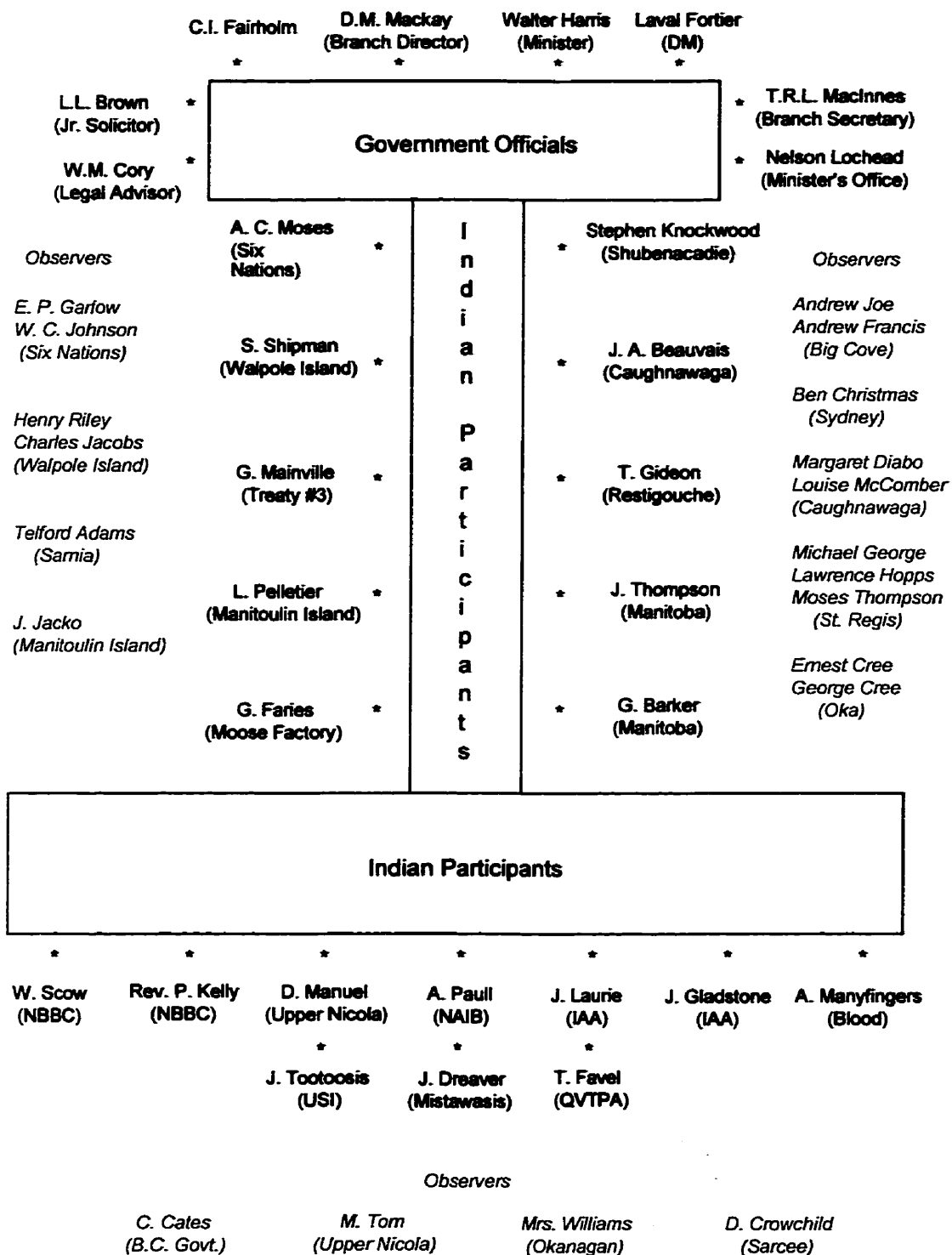
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104. DIAND, Claims and Historical Research Centre, File on Bill 79 and Indian Conference, Section 8, "Agenda".

105. Ibid.

Diagram One

# INDIAN ACT CONFERENCE 1951



Saskatchewan, such as Andrew Paull, Rev. Peter Kelly, James Gladstone, John Laurie, and John Tootoosis.

A conference summary, not official minutes, was prepared by Indian Affairs officials. To control events the document was not printed until the conference closed.<sup>106</sup> The official conference record is cryptic and in some instances when pensions, Indian education, and a claims commission were discussed, no record was kept. Indeed, the minister's press release at the conclusion of the conference was crafted to minimize any suggestion of Indian discontent and criticism: 2 provisions of Bill 79 had been unanimously opposed, only 6 had been opposed by a majority; a full 118 had been supported by a majority, and 103 unanimously.<sup>107</sup> At the close of the conference on Saturday, 3 March, delegates were permitted to meet briefly with branch officials to discuss other items of concern. In a brazen move to cut-off lengthy discussions of policy, Indian leaders were cautioned by officials to leave town that day or their accommodation and travel expenses would not be paid. Paternalism and coercion were certainly hallmarks of the government's relationship with Indian people.

The nineteen Indian delegates did not advocate the dismantling of Indian administration. Instead they sought its reform to make it more compatible with, and responsive to, diverse Indian conditions and cultures. While it is instructive to examine Indian opposition to certain legislative provisions, it must be borne in mind that the Minister

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106. DIAND, Claims and Historical Research Centre, File on Bill 79 and Indian Act Conference, Section 8, "Summary of Proceedings."

107. Ibid.

and his advisors had promised only to consult. Negotiation of substantive changes was not part of the government's tight political agenda.

From the extant record of the Indian Act conference it is clear that Indian spokesmen Andrew Paull, Peter Kelly, John Laurie, and John Tootoosis were able to make their views known in spite of government attempts to stifle criticism. If we accept the government summary, Indian criticism focused on Indian taxation (Section 86(2)), boards of inquiry for enfranchisement (Section 112) and liquor provisions (Sections 93-96).<sup>108</sup> The Indian delegates objected to Section 86(2) because it stipulated that Indians had to sign a waiver form in order to vote federally. The delegates did not want to give up their tax exempt status, and cited treaty rights and Article 13 of the B.C. Terms of Union (1871) as the sources for their argument.<sup>109</sup>

The issue of boards of inquiry for Indian enfranchisement (Section 112) and the membership sections of Bill 79, Sections 11(e), 12 1)a)iv), 110(2) and 111(2) drew considerable criticism. John Laurie was upset that Section 11(e) could result in the removal of Indians from existing band lists.<sup>110</sup> He wanted these lists frozen and not subject to government review. Laurie's concerns also focused on Section 12 1)a)iv), the "double mother" principle, that persons of one-quarter Indian blood would not be eligible for

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108. See, "Conference Summary" and "Sections Opposed by the majority of delegates but approved by one or more" (93-96) and "Sections opposed by all delegates" (86(2), 112).

109. Ibid., "Sections opposed by all delegates," 5.

110. Ibid., "Sections opposed by one or more delegates but approved by a majority of the delegates," 1-4.

enrolment on official government band lists. He reminded the conference of the Macdonald inquiry into the Lesser Slave Lake Agency band lists in the 1940s and warned, prophetically as it turned out, that a similar controversy could repeat itself in other regions.<sup>111</sup>

Section 112 of Bill 79 retained measures for enfranchising an Indian or an entire band if approved by a government board of inquiry. John Tootoosis and other leaders saw this as a threat to Indian survival and an abuse of ministerial authority. Sections 110(2) and 111(2) compounded the danger. Section 110(2) provided for the sale of reserve land holdings when an Indian enfranchised. Section 111(2) stated that enfranchisement of an entire Indian band required only a majority of eligible voters. Delegates wanted this percentage increased to seventy-five percent.<sup>112</sup>

Indian leaders were also upset at the extent of the minister's authority to manage Indian monies. Delegates wanted a guaranteed 5% return on monies held in trust under Section 61(2).<sup>113</sup> They questioned the minister's authority to spend capital funds to improve reserve roads and other infrastructure arguing that this should come out of Indian Affairs Branch revenues.

While Section 80, which enumerated eighteen subjects for which a band council could pass bylaws, met with approval, Sections 73(2), 77(1) and 77 2) b) dealing with the election of Chiefs and Councillors were closely scrutinized. Spokesmen wanted the limit on the

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111. Ibid.

112. Ibid., 4.

113. Ibid., 4.



number of band councillors raised.<sup>114</sup> As well, Prairie delegates wanted the office terms for elected Chiefs and Councillors (Section 77(1)) increased to 3-5 years from the current two years.<sup>115</sup> The minister's personal authority to remove a Chief and Council from office (Section 77(2)) was also questioned.<sup>116</sup>

Indian opinion was divided on the retention of the permit system governing the sale or barter of reserve produce (Section 32). Chief Joseph Dreaver of the Mistawasis Band wanted it removed, while John Tootoosis, from the Poundmaker Reserve in northern Saskatchewan, wished to have the section retained as a protective mechanism.<sup>117</sup>

James Gladstone noted that Indian bands in central and northern Alberta objected to Section 19, that permitted the minister to survey reserves in order to subdivide the land into individual allotments.<sup>118</sup> Some Indian delegates, including John Laurie, regarded this process a step towards dissolving the reserves and enabling enfranchised Indians to sell off their reserve holdings.

Section 34 required Indian bands to use their band funds to maintain roads and bridge located in reserves. Some delegates felt this was unfair and demanded a portion of provincial gasoline taxes to defray costs.<sup>119</sup> Section 35 was viewed with suspicion for it empowered the

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114. Ibid., 2.

115. Ibid., 3.

116. Ibid., 3.

117. Ibid., 2.

118. Ibid., 1.

119. "Sections discussed at length but accepted after clarification," 2.

minister to expropriate reserve lands for public purposes.<sup>120</sup>

A constant theme of the four day conference was Indian unease in regard to extensive ministerial powers and the eleven penalty clauses included in Bill 79.<sup>121</sup> However, lacking legal counsel and political support outside the review process, Indian leaders were compelled to accept these arrangements. The only concession they were able to extract was a vague government commitment to review the new arrangements once they had been in operation for a period of time.

When the Indian conference ended on March 3, government officials were satisfied with both the proceedings and results. In their view, the Indian leadership had been consulted about the contents of the new Indian Act. They had been given a tour of the Centre Block and treated to a formal dinner in the parliamentary restaurant. The prime minister himself had appeared and agreed to have a ceremonial picture taken to record the event (which follows). The contrived, artificial nature of the consultative process did not seem to bother officialdom. The next step was to convince Members of Parliament that Bill 79 was in the best interests of Indian people and met the recommendations of the special joint committee.

#### ***The Special Commons Committee on Bill 79***

On 2 April, after second reading, the House of Commons agreed that a special commons committee should be struck to consider Bill 79 before it was given third reading and

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120. "Sections opposed by one or more delegates but approved by a majority of the delegates," 2.

121. Bill 79, "An Act respecting Indians," Sections 92-107, 33-36. The extant Indian Act contained 33 penalty clauses.

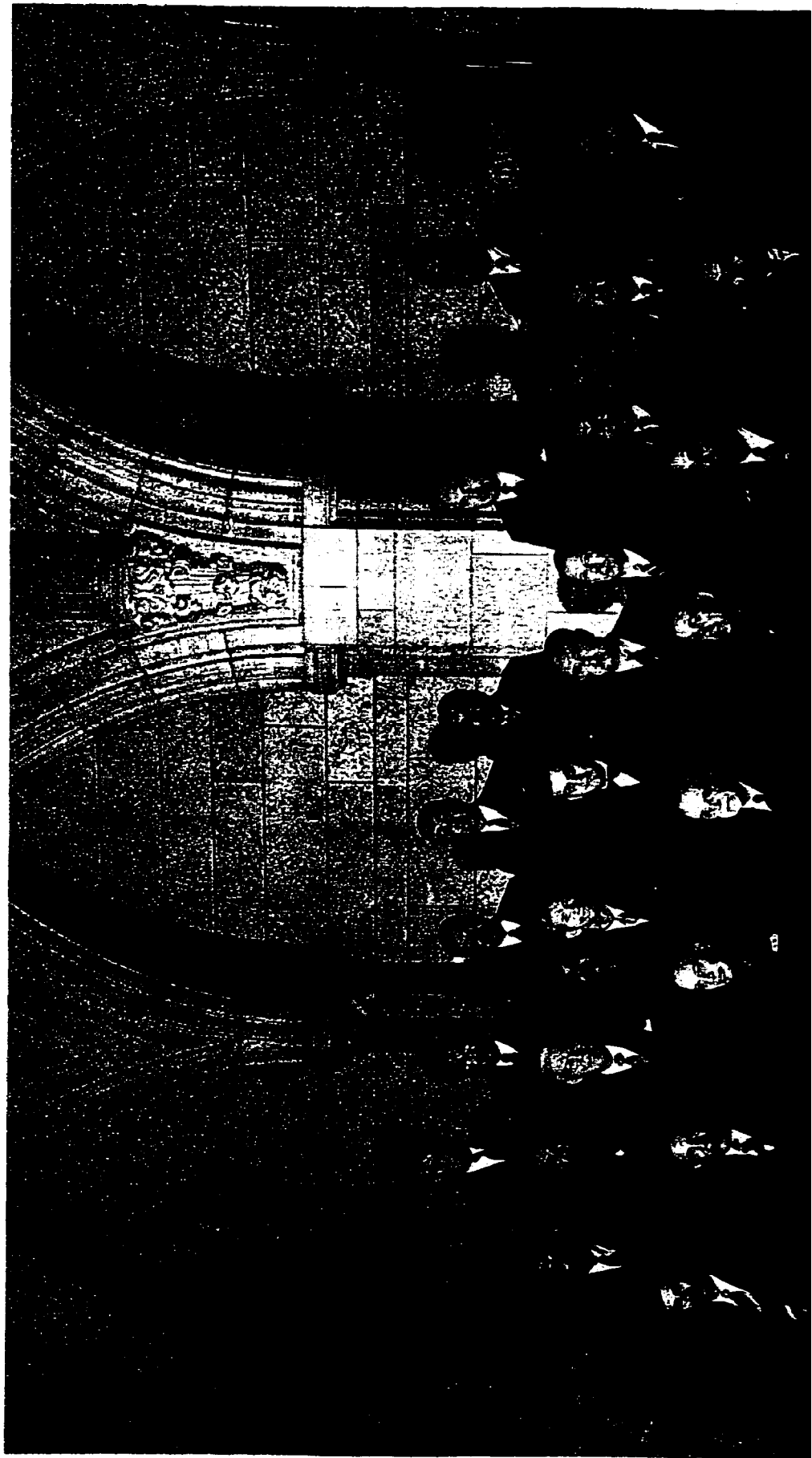
## Photograph One

Delegates to historic Indian Act Conference, Ottawa  
28 Feb. - 3 Mar. 1951  
NAC - 184376

First Row: (left to right): S. Knockwood, Chief, Shubenacadie Band, N.S.; Gus Mainville, President, Grand Council Treaty No. 3, Ont.; A.C. Moses, Secretary, Six Nations Band Council, Ohsweken, Ont.; Rt. Hon. L. St. Laurent, Prime Minister; Jos. Beauvais, Councillor, Caughnawaga Band, Que.; T. Gideon, Chief, Restigouche Band, Que.; G. Faries, Chief, Moose Factory Band, Ont.

Second Row: (left to right): T. Favel, Chief, Poundmaker Band and Representative of QVTPA; J. Dreaver, Chief, Mistawasis Band, Sask.; J. Tootoosis, President, Union of Saskatchewan Indians; Rev. F.P. Kelly, Chairman, Legislative Committee, NBBC; Dan Manual, Chief, Upper Nicola Band, B.C.; J. Gladstone, President, Indian Association of Alberta; A. Paull, President, North American Indian Brotherhood; W. Scow, President, NBBC; W. Cory, Legal Advisor, C. and I.; J. Thompson, President, Indian Association of Manitoba; G. Barker, Chief, Hollow Water Band; L. Pelletier, Manitoulin Island Unceded Band, Ont.

Third Row: (left to right): Hon. W. Harris, Minister, C. and I.; D. Mackay, Director, IAB; Hon. Paul Martin, Minister, NHW; L. Fortier, Deputy Minister, C. and I.; Albert Manyfingers, Blood Reserve, Alta.; L.L. Brown, Solicitor, IAB; T.R.L. MacInnes, Secretary, IAB.



passed into law. Donald Brown, former co-chairman of the special joint committee was selected to manage the sessions. Six former joint committee members were named to the committee: J.H. Blackmore, "Scottie" Bryce, J.A. Charlton, Douglas Harkness, J.A. Gibson and Matthew MacLean. Also on the committee were two Conservative Party critics of Indian administration, John Diefenbaker and E. Davie Fulton.<sup>122</sup> Formal hearings began on 12 April 1951 and ended on 30 April.

At the first session, Davie Fulton moved that Indian people be granted the privilege of appearing before the committee. Don Brown and Walter Harris were not receptive, noting that Indians had presented briefs to the special joint committee, had commented on Bill 267, and been formally "consulted" on the contents of Bill 79.<sup>123</sup> There had been enough Indian input now it was time to get on with the government's agenda.

This business put aside, Harris turned to the task of selling Bill 79 to the Parliamentarians as government's fulfillment of the recommendations of the special joint committee. As Harris remarked, "[T]he purpose of Bill 79 was 'to make possible the gradual transition of Indians from wardship to citizenship'".<sup>124</sup> Contrary to Indian and non-Native criticisms, the minister's discretionary powers had been reduced from 39 to 16 items.<sup>125</sup>

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122. The Committee had 27 members, 18 were Liberals. The religious balance of the Committee was predominantly protestant (19) with 2 Anglicans.

123. Special Commons Committee (hereafter SCC) appointed to consider Bill 79, "An Act respecting Indians", Minutes of Proceedings and Evidence (No. 1, 12 April 1951), 3.

124. Ibid., 14.

125. Ibid., 9.

Harris noted that such ministerial authority permitted a degree of administrative flexibility to accommodate the diverse needs and conditions of Indian bands. The least advanced Indians could be afforded continued protection while demands for greater autonomy from more advanced bands could be accommodated via order-in-council.

In Harris's view, Bill 79 offered Indian people the opportunity to gain experience in self-government. In this regard, band council authority had been augmented by Sections 64, 66, 80, and 82.<sup>126</sup> Indian women could now vote at council elections. And a revolving loan fund of \$350,000 was available for Indian entrepreneurs.

Finally, the penalties sections of the previous Indian Act had been reduced substantially, while others brought more in line with the Criminal Code. The powers of agents to act as local justices of the peace (JPs) had been circumscribed.<sup>127</sup> In Harris's view, Bill 79 offered Indian people the opportunity to gain experience in running local municipal-style governments.

The special joint committee had recommended that a claims commission be established to investigate treaty rights and related land claims. Harris noted that cabinet did not favour this initiative. Instead, Section 141 had been removed and Indian people were permitted to take government to court (using their own band funds) to correct alleged breaches of lawful obligations. The experience, said Harris, would be a lesson in civics for Indians. Knowledge

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126. Sections 64 respectively dealt with band expenditure of capital and revenue Account funds. Section 80 listed 18 areas of band council jurisdiction. Section 82 empowered advanced bands to pass money by-laws such as local reserve taxation.

127. SCC, Minutes of Proceedings and Evidence (No. 1, 12 April 1951), 14-15.

and practical use of the legal system would advance the process of Indian integration into mainstream society.<sup>128</sup>

Harris noted that a tightened definition of "Indian" was included in Bill 79.<sup>129</sup> The special joint committee had recommended this step as there was confusion under the old regime. Complementing the new definition of an Indian were ministerial powers governing compulsory Indian enfranchisement. Sections of the Indian Act dealing with enfranchisement of individuals, bands, and Indian women who married non-Indians, had been redrafted to streamline and clarify procedures. While Indian people objected to these measures, Harris insisted on their retention in Bill 79 to accommodate those "advanced Indians" who chose to relinquish Indian status. Compulsory enfranchisement was in effect a safety valve to control the growth of a burgeoning Indian population.<sup>130</sup>

Indian taxation provisions in the old act had been clarified in Section 86 of Bill 79. Tax exemption on reserve property and income was retained as was the tax waiver form which Indian people had to sign before voting in federal elections.<sup>131</sup>

Briefly addressing Indian education, Harris stated that more money would be available to the churches to operate denominational schools. The special joint committee had

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128. Ibid.

129. Ibid., 16-17. Section 2 1)g) "Indian" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;" see also Sections 5-7, "Definition and Registration of Indians". In effect, the 1951 definition reverted back to the more restrictive 1874 definition of "Indian".

130. Ibid., 17.

131. Ibid., 17.

recommended that Indian children be integrated into the existing provincial systems. Harris agreed but this initiative required the support and good will of the provinces and municipalities. In many instances, the local municipalities were reluctant to participate due to lack of classroom space and budgetary constraints.<sup>132</sup>

Harris did not support the special joint committee's recommendation that a permanent Standing Committee on Indian Affairs should be established. This committee might challenge his authority and make it more difficult to manage Indian issues. He felt that the proper course was to give speedy passage to Bill 79. The new Indian Act and administration arrangements should be given a trial period; then, if necessary, another investigative committee could be struck.<sup>133</sup>

The special joint committee had also suggested the creation of Indian advisory boards. Harris did not like the proposal. Their role and composition had not been fleshed out, although it was thought that they would include Indians and "public spirited citizens". In Harris's view, these mechanisms could become redoubts for "busy-bodies"; threaten "to impair the authority of the Minister", and interfere in the activities of Indian agents. The scrutiny of the House of Commons, in Harris's opinion, remained the best check on the minister and the functionaries in his department.<sup>134</sup>

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132. Ibid., 18.

133. Ibid., 20.

134. Ibid., 20. Harris told committee members that he had consulted various groups asking what the advisory boards would do. Apparently most replies characterized their activities as similar to outside "inspectors". This prospect was not appealing to Harris nor Indian Branch field staff.



Finally, Harris noted that the joint committee had called for a Dominion-Provincial conference to discuss such matters as: Indian education, health and social services, fur conservation, enforcement of fish and game laws, and liquor legislation. A Dominion-Provincial conference had not been organized because in government's view, the most productive avenue was to initiate discussions with the provinces as administrative or program issues of mutual concern arose.<sup>135</sup> In subsequent sessions of the special commons committee, Harris defended and explained in detail sections of Bill 79 which committee members found antiquated, incomprehensible, or coercive. Much of this was old ground that had been covered previously during Parliamentary review of Bill 267 and the Indian conference on Bill 79. However, the hearings offered Members the opportunity to restate Indian concerns and to grind their own political axes.

Harris and his officials soldiered on through the April sessions. Whenever possible he reiterated that the purpose of Bill 79 was to facilitate the transition of Indians from wards to citizens. When questioned, he squared sections of Bill 79 with this underlying philosophy. The issue of Indian education, of course, remained a political hot potato, but Harris skilfully used the committee hearings to head-off Catholic opposition to Bill 79's provisions.

Harris noted that Section 113(b) had drawn the ire of Catholic Bishops. However, the provision (Section 113) which authorized the minister to enter into education agreements with provinces and territories as well as religious and charitable organizations, had been inserted to meet a recommendation of the special joint committee. The remaining Sections 114-122 contained safeguards that the religious rights of Roman Catholic students would not

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135. Ibid., 21.

be violated, including a provision (Section 117) to ensure that in cases where a child's religion differed from that of his parents or guardians, the child would be sent to a Roman Catholic facility.<sup>136</sup> Committee members took careful note of these assurances and there was little adverse comment.

At the special committee's final session on 30 April, Indian taxation was discussed. The issue arose when Davie Fulton (PC-Kamloops) questioned why Indians who wished to vote at Dominion elections were required to sign a tax exemption waiver (Section 86 (2)). A debate ensued concerning the current and future legal status of Indians as citizens. This discussion resurrected two contrary notions of Indian citizenship that had been present from the beginning of the policy review process: one espousing equal rights; the other contemplating collective rights. Minister Harris explained the prevailing liberal-democratic view of equality:

We want to make him [the Indian] equal in every respect. We want to assist him economically. We protect him for that purpose. We are trying to raise his standard of living. But having said that, we have never gone further and said: "We won't include something the whiteman (sic) has not got. We do therefore want to include the equality of the White man. We are not going to give him something the white man does not have."<sup>137</sup>

In response to Harris, J.W. Noseworthy (CCF-York South) suggested a more generous approach: allowing Indians to be Canadian citizens while retaining Indian status, treaty rights, and other Aboriginal privileges:

...I think we could be sufficiently generous, in view of all the past, to encourage them to vote, to accept citizenship, and to still retain some

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136. SCC, Minutes of Proceedings and Evidence (No. 6, 24 April 1950), 196-199.

137. SCC, Minutes of Proceedings and Evidence (No. 8, 30 April 1950), 272.

rights as Indians by virtue of the fact that they were here before we were. I think that would be the generous and correct method to follow if we really wanted to encourage them to become citizens. I see no reason why an Indian becoming a full citizen should not, by virtue of the fact that he is an Indian, be entitled to some special privileges. I think he is morally entitled to them?<sup>138</sup>

The special House of Commons committee concluded its hearings on 30 April 1951. A final effort by Fulton and Noseworthy to hear Indian witnesses was rejected on the grounds that the special committee had been struck solely to review the contents of Bill 79. This task had been accomplished. All sections had been approved by a voice or recorded vote. The Bill was now ready for referral back to the House for final reading and vote.

### ***The Indian Act of 1951***

Bill 79 was passed by the House of Commons on 20 June 1951. The need to update branch field manuals and directives delayed proclamation until 4 September 1951. The new Indian Act was heralded by government officials as the most significant development in Indian affairs since 1880. Some outside non-Native media observers referred to the Act as the Canadian Indian's "Bill of Rights", while other enthusiasts equated it with Magna Carta. However characterized by outsiders, government press releases cited its enactment as marking a new beginning for Canadian Indian administration. In retrospect, however, an analysis of the legislation reveals a familiar continuity with the past.

The Indian Act of 1951 incorporated many patterns of thought, provisions, and administrative arrangements which had attended the nineteenth century Indian policy paradigm. The three historic principles of Indian protection, amelioration, and assimilation

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138. Ibid., 275.

(recast as integration) still formed the core values for policy and legislative deliberations. As well, the nine basic propositions that had formed the basis for all Indian legislation since 1876 remained in place. These were:

1. That Indian status and Band Membership are restricted to certain persons.
2. That Indians who wish to give up their status and membership may do so if they meet certain conditions. These conditions have varied from time to time.
3. That the resources on the reserves are to be managed by the government and that sales of land can only be made with the consent of the Indians affected.
4. That the revenue derived from the resources shall be held by the government and used for the benefit of the Indian people.
5. That bands shall be represented by councils, which shall have the right to pass bylaws on matters affecting the welfare of the Indians on reserves.
6. That the use of intoxicants by Indians shall be restricted.
7. That the administration of Indians shall be the responsibility of the federal government.
8. That jurisdiction over the estates of deceased Indians shall be vested in the Federal Government rather than in the provincial courts.
9. That Indians may acquire property rights within their reserve.<sup>139</sup>

In terms of administrative practice much remained as before. A modicum of administrative decentralization had occurred, but headquarters' officials still determined policy and the minister's discretionary powers, including those delegated to field agents, were subject to limited appeal. As well, the powers of Indian agents to act as JPs had been clarified, some Indian Act violations had been brought within the Criminal Code, and the fines and penalties sections were consolidated and given teeth. Restrictions on traditional Indian dances and ceremonies were lifted; however, this came about because the RCMP found their enforcement difficult. Indian people could now take the government to court to pursue treaty and land claims and other grievances, however, such procedures had to be financed by the

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139. Department of Citizenship & Immigration, Indian Affairs Branch, "A Commentary on the Indian Act." 1960.

bands.

There were a number of positive program developments. The most significant was a reinforcement of the branch's commitment to improving both the accessibility and quality of Indian education.<sup>140</sup> More schools were under construction and qualified teachers hired. The lack of funds and facilities, however, slowed the integration of Indian children into the provincial systems.

In a related area - social and welfare services - the first tentative steps were taken to extend benefits to reserve residents. Monthly pensions to destitute Indians had been increased and pensions for blind Indians were being investigated. Health care services had been assessed and more funds had been allocated to alleviate scandalous reserve conditions, particularly in the remote northern areas of the provinces and territories.

In terms of Indian "self-government", Indian attempts to gain control of band membership and end compulsory enfranchisement were denied. Also discounted was the legitimacy of Indian land claims and treaty grievances. Claims by Six Nations "traditionalists" that their reserves should be accorded the political status of sovereign nations were ignored. Instead, band council powers were expanded, Indian bands were accorded more authority to spend capital and revenue moneys, and qualified women could vote at band council elections. Indians were still denied the federal vote, however, as long as they insisted upon a continued tax exempt status.

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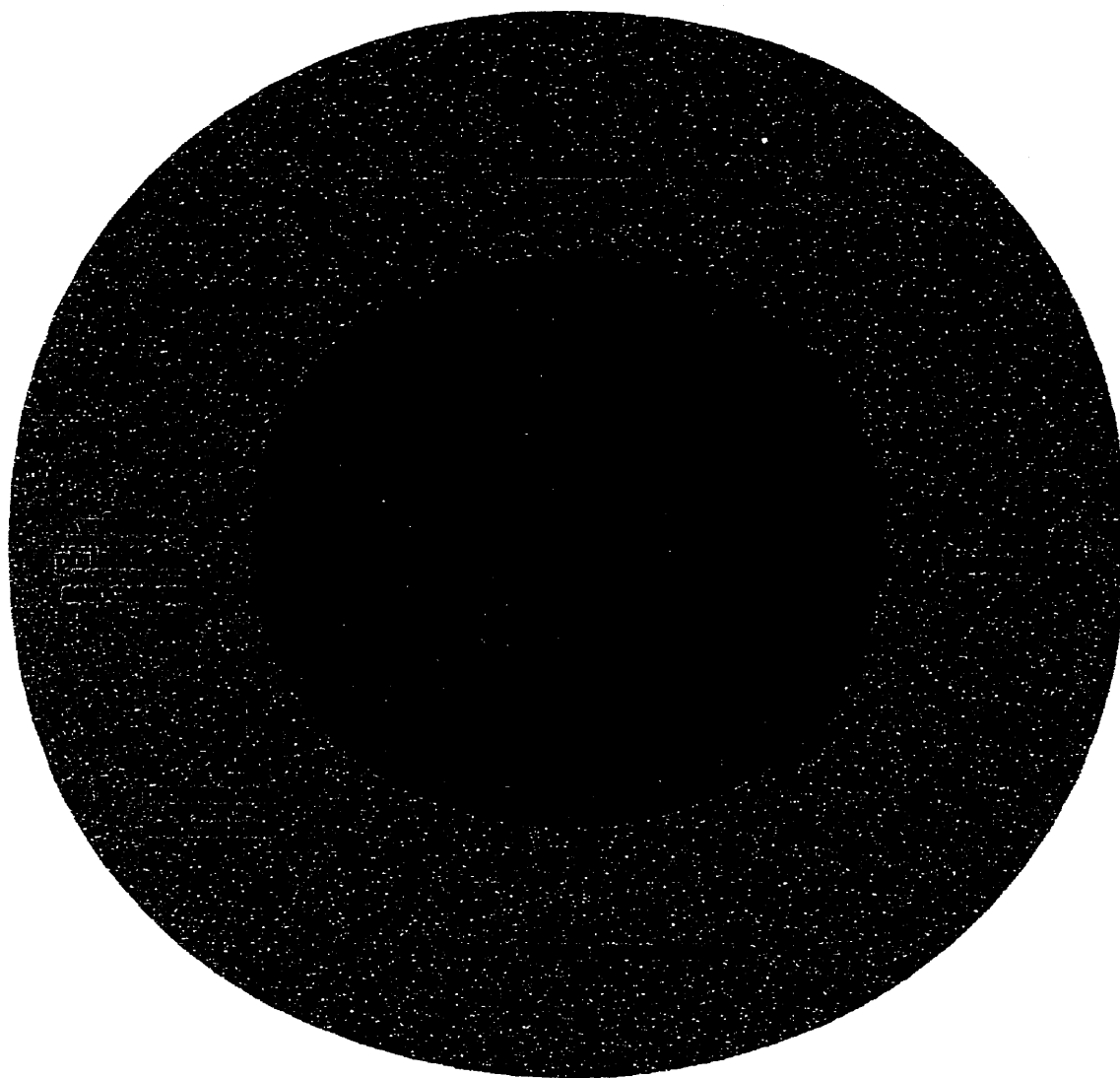
140. See "Five Year Plan - Indian Education, B.F. Neary, superintendent of education to director," 31 October 1949. DIAND, File 1-1-5 (E).

What factors account for the persistence of so many government policies and administrative practices? In the period from 1943 to 1951, the traditional Indian policy actors in the sub-government sector - Indian Affairs Branch officials, Justice department lawyers, and church authorities - dominated policy deliberations, excluding groups who called for a change in thinking and practice: this perpetuated "systemic stasis" (see following Figure Five). This feature of the policy community was compounded by the fact that the 196 year-old Indian Department, guided by its long-standing corporate memory, had evolved a standard approach and point of view for dealing with Indian people and Indian issues. The centre-piece of the administrative superstructure was the Indian Act whose complex and intricate sections could only be deciphered and fathomed by long-serving bureaucrats and lawyers. Bureaucrats and Indians might wish to pursue new avenues - such as creating band constitutions and encouraging band incorporation - such measures, and many of a more modest nature, could not be entertained within existing legislative and constitutional structures, and a philosophical approach that still placed a premium on Indian protection. Legislative and policy incrementalism was the most tangible result.

Structural considerations such as the constitutional assignment under Section 91(24), British North American Act (1867) of federal legislative responsibility for "Indians and lands reserved for Indians" contributed to the exclusion of Indians from receipt of provincial services. The reluctance of the provinces to acknowledge a modicum of responsibility for Indian people meant that the Indian Affairs Branch had to assume the role of a mini-government, a role which historically had been beyond its administrative, manpower, and financial resources. The diversity of Indian cultures, conditions, and demands, further

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## INDIAN ASSIMILATION RECAST



NATIVE PEOPLE ON RESERVES

confounded government officials in their efforts to ameliorate conditions.

The sociol-economic conditions of Indian people did not help matters. Poorly educated, destitute, often isolated on remote reserves, they resembled in most respects the poorest element of rural non-Native Canadians. Divided by culture, language, and religion, effective articulation of an Indian agenda to a distant and aloof bureaucracy was virtually impossible. Besides, Indian people did not have the federal vote, thus they did not constitute a significant political threat nor form a constituency that required regular political attention.

The existing Native rights associations were poor vehicles for influencing policy. Government officials questioned their representivity and political legitimacy particularly when Native leaders opposed government plans. In many cases Indian leadership was questioned and scorned by non-Indians in control of policy. Adequate organizational funding was non-existent. Native organizations, as in the earlier years, tended to be local or provincial, and sustained activity generally occurred in response to a crisis or to short notice demands from government to formulate a set of views on complex pieces of Indian legislation. Government bureaucrats and officials thus effectively controlled both the political and policy environments and manipulated periodic "consultations" to sustain prevailing views.

The attentive publics sector comprising the media, professional and voluntary organizations, philanthropic foundations, and concerned citizens, were intermittent players in Indian policy development. When, on occasion, these actors awakened from their somnolent state, government officials took notice and carefully massaged feelings and assuaged concerns through face-to-face meetings or ministerial letters of comfort. The majority of these interested groups favoured government efforts to make Indians full citizens,



without special rights, which was in accordance with their own prevailing liberal-democratic values. Their agenda was an enlightened and reformed government administration which would instruct Indian people in the values of Canadian citizenship and provide reserve residents enhanced access to health, social and welfare benefits. This, of course, was to be accomplished at no additional cost to taxpayers nor reliance on treaty and aboriginal rights which might provide Indians with some significant advantages over non-Indians. There were, of course, individuals such as J.W. Noseworthy (CCF-York South) who, along with Indian leaders, saw an alternate vision of special Indian rights as an element of full Canadian citizenship. But these visionaries were few. Only when Indian political demands coincided with the goals set for them by the dominant society could a modicum of public support and attention be expected.

## **CHAPTER FIVE**

### **Efforts to forge a renewed Indian-Government relationship, 1951-1957: Advancing the Integration Agenda**

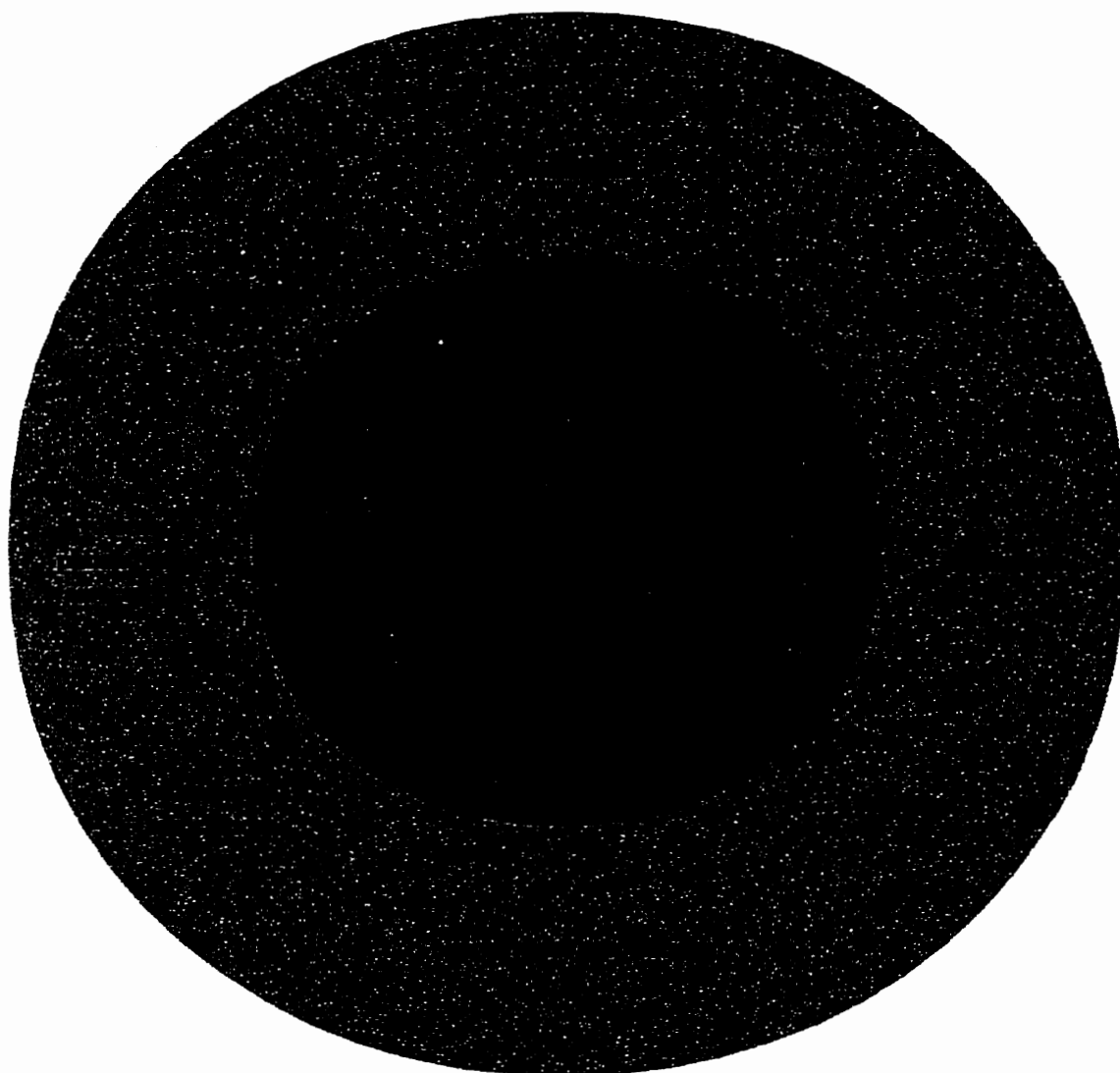
The proclamation of the new Indian Act in 1951 fostered optimism among non-Natives that a more productive era had dawned in Indian-government relations. This optimism had a foundation. The hearings of the special joint committee had involved new actors in the deliberations of traditional policy-makers. This permitted the infusion of some new thinking into Indian administration. A consensus emerged that defined the “Indian problem” in welfare state terms: a disadvantaged minority in need of enhanced educational opportunities and social services. The solution was framed in administrative activism: increase the government supervision of Indian people, devise community development projects to enhance the delivery of social services, and provide economic development opportunities.

In these endeavours government officials cautiously sought support from within the expanded Indian policy community. Social welfare specialists, adult educators, anthropologists, sociologists, civil libertarians – even provincial government agencies – were contacted to provide expertise and advise to advance the progress of Indian integration (see following Figure Six). Fortunately for the Indian Affairs Branch, none of the new policy participants seriously questioned the legitimacy of the integration policy, the lack of Indian input, or the continued existence of the Indian Affairs Branch itself.

As the 1950s unfolded there were positive administrative developments. Indian branch operations, in keeping with an expanding welfare state, received an infusion of human

*The Indian Policy Community: 1951-1957*

INDIAN-GOVERNMENT RELATIONS RENEWED



NATIVE PEOPLE ON AND OFF RESERVES

and financial resources. Pension and welfare benefits, available to Canadian citizens, were extended to Indian people. And branch officials held a series of conferences with Indian leaders to deal with the intrinsic weaknesses of the new act. Finally, the status of Indians as Canadian citizens, a thorny issue, was resolved to government's satisfaction in 1956 when the Citizenship Act was amended to specifically include Indian people.

The activities of the expanded policy community also bore fruit. Branch officials initiated regular meetings with adult educators and specialists in social adjustment in the early 1950s and these encounters resulted in the formation of the National Commission on the Indian Canadian in 1957 (the forerunner of the Indian-Eskimo Association). In an effort to improve branch administration and integration programs Dr. Harry Hawthorn, an anthropologist from UBC, was contracted to prepare a study of B.C. Indian conditions, administration, and acculturation. On the international scene, there was also a significant development. The director of the Indian Affairs Branch was included in the Canadian delegation at Geneva to participate in International Labour Office (ILO) discussions concerning the conditions of indigenous peoples. In this international forum Canadian Indian administration and policy came under critical scrutiny in respect to civil liberties and land claim issues.

But initial government optimism soon faded. Tensions arose between Indian people and the Indian Affairs Branch. Ministerial speeches hinting that Indian termination was a hidden policy objective; band membership disputes arising from a provision in the new Indian Act; and expropriation of Mohawk reserves to make way for the St. Lawrence Seaway drew unfavourable public attention to authoritarian Indian administration. By the end of the decade

Native policy review was back on the agenda of the Indian policy community.

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As noted in the previous chapter, reform of Indian Branch operations and improvements to Indian welfare had anticipated the findings of the special joint committee in 1948. The reason for this action is that the measures were part of the federal government's plans for post-war social reconstruction.<sup>1</sup> To briefly recapitulate, in 1944 Indian families became eligible to receive Family Allowances.<sup>2</sup> In 1945, the Indian Health Services Division was transferred to the newly-formed Department of National Health and Welfare.<sup>3</sup> In 1947, the welfare and training division of the Indian Branch was divided into separate units: one to administer the new government benefits; the other to look after education and manage the initial stage of a program for provincial school integration.<sup>4</sup>

In the 1950s, modifications to federal-provincial funding arrangements permitted the extension of pension and other benefits to Native people: Blind Persons' Allowances (1951),

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1. Alvin Finkel, "Paradise Postponed: A Re-examination of the Green Book Proposals of 1945," Journal of the Canadian Historical Association, Vol. 4 (New Series), Ottawa 1993, 120-142.
  2. Canada. Citizenship and Immigration, Indian Affairs branch, Annual Report (1946), 210-213; also Dennis Guest, The Emergence of Social Security in Canada, 2 ed. (Vancouver: University of British Columbia Press, 1985), 128-133.
  3. Canada. Citizenship and Immigration, Indian Affairs Branch, Annual Report (1946), 202.
  4. The reorganization occurred after S.J. Bailey, regional director, family allowances division, Department of National Health and Welfare, had conducted a study of the Indian Affairs Branch's welfare and training division in 1946. See Department of Indian Affairs and Northern Development, Claims and Historical Research Centre, File A-46.

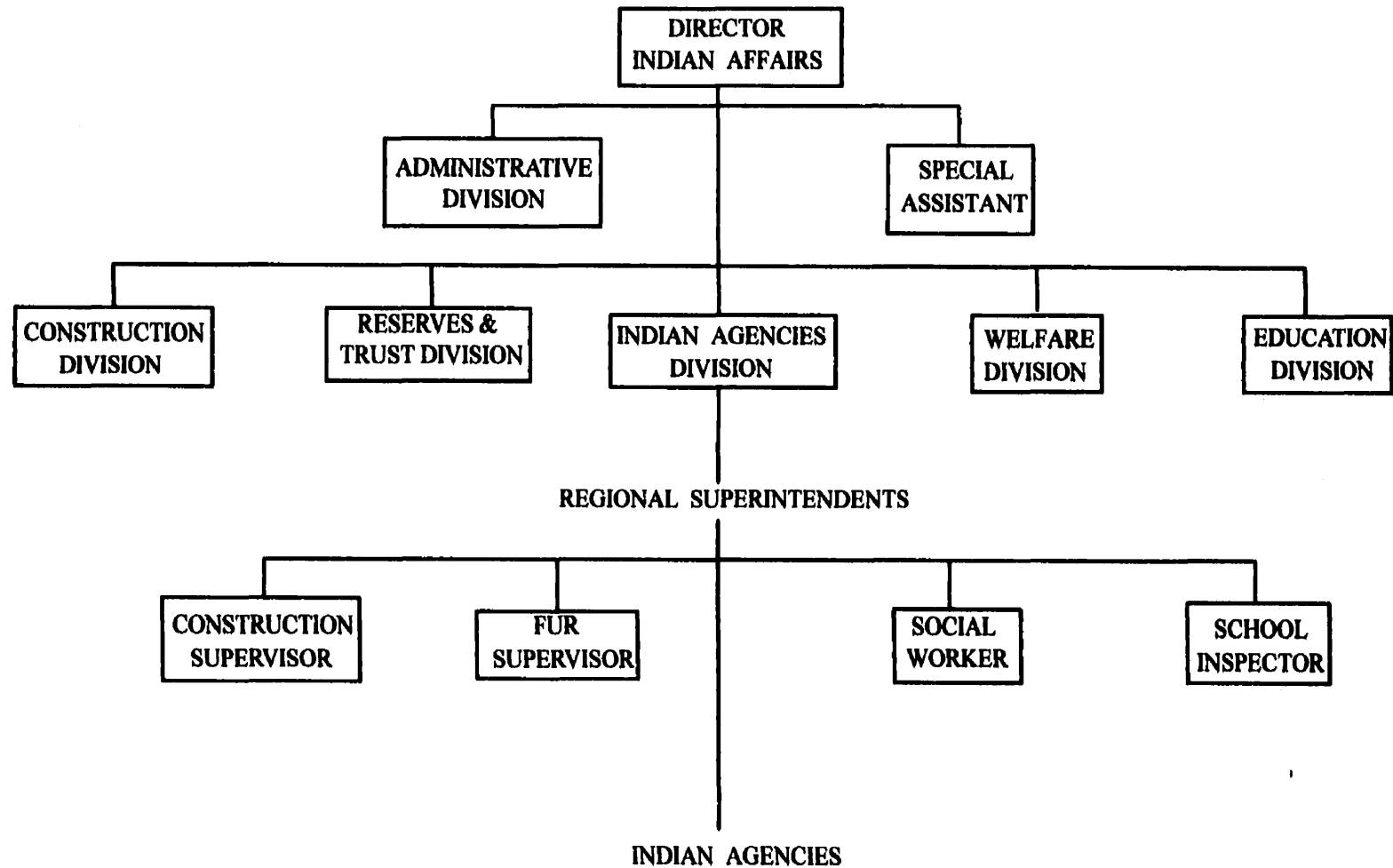
Old Age Assistance (1952), Disabled Persons' Benefits (1954), and Unemployment Assistance (1956).<sup>5</sup> The end of the Korean War in 1953 enhanced the flow of government money to improve basic reserve infrastructure. For the first time in a generation new houses, buildings and roads were under construction. The branch was proud of these activities and when a second parliamentary committee was struck in 1959, officials prepared a detailed booklet "A Review of Activities, 1948-1958" to illustrate their achievements.<sup>6</sup> Organization charts which immediately follows in this chapter, prepared by the Indian Branch in 1952 and 1954, demonstrate that a foundation was being laid for the emergence of a mini-government that would provide a spectrum of services to reserve communities.

The extension of welfare and social services to Indian reserves and the increase in branch administrative responsibilities had unforeseen consequences. The delivery of social services directly to reserve residents discouraged people from leaving the reserves and

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5. See J.R. Miller, Shingwauk's Vision. A History of Native Residential Schools (Toronto: University of Toronto Press, 1996); Helen Buckley, From Wooden Ploughs to Welfare. Why Indian Policy Failed in the Prairie Provinces (Montreal: McGill-Queen's Press, 1992); Dennis Guest, The Emergence of Social Security in Canada (2 ed.) (Vancouver: University of British Columbia Press, 1985); Hugh Shewell, "Social policy and the liberal state: A case study of the authority to provide social assistance on Indian reserves in Canada", Faculty of Social Work, University of Toronto (1991); Andrew Webster, "Social Administration and Aboriginal Social Welfare in the Territorial Norths, 1927-1993," Research Report to the Royal Commission on Aboriginal Peoples (May 1993); and J.E. Crossley, "The Making of Canadian Indian Policy to 1946," Ph.D. thesis, (University of Toronto 1987). In 1964, R.F. Battle, director, Indian Affairs Branch, prepared a lengthy "History of Indian Administration" which provided historical data on Indian population, administration, and programs. This document was prepared for the Dominion-Provincial Conference on Indian Affairs in 1964.
  6. Canada. Citizenship and Immigration, Indian Affairs Branch, "A Review of Activities 1948-1958," see chart, "Indian Affairs Branch. Total Expenditures. Fiscal years ending 31 March 1949 to 1958."



## ORGANIZATION CHART, Indian Affairs Branch 1954





retarded the integration process. As reserve conditions improved, Indians chose to remain at home placing an increased strain on a limited land base and scarce band financial resources.<sup>7</sup> In addition, Indian superintendents (formerly termed "agents"), band chiefs and councillors became frustrated with the increased paper burden associated with the requisition of new equipment, basis supplies, and social services. The delegation of limited financial authority to Indian superintendents increased the friction. The intrusive, cumbersome branch administration became a subject for discussion during the Indian consultation meetings which resumed in 1953.

The design and implementation of post-war education and social welfare programs remained firmly in non-Native hands, although Indian representatives generally supported the initiatives to ameliorate reserve living conditions. During the hearings of the special joint committee in 1946-48, government officials had encountered Native rights activists whose respective political agendas ran counter to government expectations and plans. These initial encounters had been unsettling for both bureaucrats and politicians. But officials learned quickly. Indian consultation, if properly orchestrated, could legitimize existing arrangements, or obtain Indian compliance for new projects, or fine tune legislation and administrative

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7. Population pressure on reserve lands prompted many Indians to seek food and extra income by hunting off reserve on provincial Crown lands. This activity brought them into increasing conflict with provincial conservation officers and Game Wardens. See for example, Jean Manore, "Indian Reserves vs. Indian Lands: Contrasting Views of Reserves, Crown Lands and natural resource use in northeastern Ontario, 1906-1990," Paper presented to the Annual Meeting of the Canadian Historical Association, (1996); and, David Calverly, "The Right to Hunt and Trap: First Nations, Indian Agents, and Ontario Game Wardens, 1898-1940." Paper presented to the Annual Meeting of the Canadian Historical Association, (1996).

practices. The political and public relations value of consulting Indians had been learned in the late winter of 1951 when branch officials met with select Indian leaders to discuss Bill 79. The manoeuvre facilitated passage of the new Indian Act and garnered public support for the revised government program.

***Indian Act consultations during the 1950s***

When the Indian Act came into force in 1951 Minister Walter Harris promised Native leaders that meetings would be held at a later date to explain the new legislation and iron out any intrinsic weaknesses. In the spring of 1953, the Indian Act consultation process got underway. Government plans for a meeting with Indians at Ottawa to discuss the new Indian Act proceeded despite the untimely death of Branch Director Donald M. Mackay in May 1953.<sup>8</sup> In early fall, official invitations were sent to seventeen delegates and eleven observers (all Indians except for the Alberta delegate John Laurie) to meet with the minister in October 1953. Eleven of the Indian delegates had participated in the 1951 hearings on Bill 79.<sup>9</sup>

Discussion got underway on October 26 with a brief welcoming speech by Minister Harris (see following photograph). Officials then assumed control and reviewed the Indian Act a section at a time. Seventeen sections came under particularly close scrutiny. Indian concern focused on three sections: 86(1) and (2) concerning off-reserve taxation of income and the requirement to sign a taxation waiver to vote in federal elections; Section 110(2)(3)(4) dealing with the sale of reserve lands of an enfranchised Indian; and Section 112,

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8. NAC, RG10, Vol. 8570, File 1/1-2-2-3, Pt. 1, Memorandum from C.I. Fairholm, 1 October 1953.

9. See Table Twenty-nine, "Indian Delegates to Indian Conferences, Ottawa."

**Photograph Two**

**Indian delegates and Indian Affairs Branch officials, Indian Act consultation meeting,  
Ottawa, Oct. 1953.  
NAC-114831**



compulsory enfranchisement.<sup>10</sup> Detailed minutes of the meeting are not extant, only a summary document carefully edited by senior branch officials.<sup>11</sup> From this summary it is clear that Indian objections to the Indian Act in 1953 were similar to those raised in 1951. This likely reflected the continuity in delegates. Even the proposal that an Indian senator be appointed to represent Indian people in Parliament had been broached in the earlier discussions.

After the conference finished on 28 October, Indian Affairs officials went to considerable length to control what information was to be made public, even altering the minister's own conference notes. The sensitive material appeared in paragraph 16 and read:

16...there was a renewed expression of the belief that Conferences of this kind should be continued, not only because of their direct worth to the administration of the Indian Act but because of the undoubted fact that the Indians coming here discover that there are wholly different views held by Indians in different parts of Canada. This presupposes variations in the Act or administration of it, and it is desirable that Indians should understand that a complaint or recommendation by an Indian may very well be one of a local nature and peculiar to that Band and has no general application.<sup>12</sup>

Deputy Minister Laval Fortier sent a memorandum to the minister on 26 November 1953, which sounded a cautionary note regarding paragraph 16:

As worded, I have no doubt that a person like Andy Paull would use the wording to encourage Indians to join his association. I am afraid that this paragraph could be used to have a reason to have a National Indian

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10. These three issues were historic Indian grievances that had not been addressed in the 1951 Indian Act and would fester throughout the 1950s.
  11. NAC, RG10, Vol. 8570, File 1/1-2-2-3, Pt. 1, "A Summary of the Proceedings of a Conference with Representative Indians held in Ottawa, October 26, 27, 28, 1953."
  12. Ibid.

Association. I would welcome such association if it were not that our experience has shown that in certain cases it has not been of benefit to the Indians, but has been used to exploit Indians.<sup>13</sup>

The paragraph was subsequently redrafted and, from the branch's perspective, replaced by a more positive and less suggestive version:

It was again evident from the discussion that the problems of Indian communities varied from reserve to reserve and region to region and these differences accounted for the variety of viewpoints expressed towards particular sections of the Act. It was the unanimous view of those present, however, that the present Act had been beneficial to all Indians.<sup>14</sup>

Given this determination to control the Indian policy agenda and political environment, it is not surprising that the branch's strategy for Indian Act consultation in 1955 and 1956 was rethought. New emphasis was given to cultivating regional Indian representation and convening meetings with band chiefs and councillors. These representatives, it was thought, would be less inclined to raise "rights" issues, and focus instead on local conditions and Indian administration. In the event, the revised approach was supported by J.W. Pickersgill who became minister of citizenship and immigration on 1 July

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13. Ibid., Memorandum, Laval Fortier, deputy minister, to minister, 26 November 1953.

14. Ibid.

1954, when Walter Harris was shifted to the finance portfolio.<sup>15</sup>

The Indian Branch set an ambitious schedule of Indian consultations for 1955. The schedule included regional meetings in every province and a formal Ottawa conference on proposed Indian Act amendments in December. Unfortunately, few departmental files have survived to provide a detailed account of the regional sessions, many of which were attended by both the new minister and Laval Fortier, deputy minister.<sup>16</sup> All sessions were held *in camera* and were of short duration. One has the impression that these regional encounters were designed to familiarize Minister Pickersgill with Indian conditions, administrative concerns and to meet local chiefs.<sup>17</sup> If the approach proved successful from the government's standpoint then it would be repeated in future years. However, for Indian people and government officials alike, the major event of the year was a second Indian conference on the Indian Act scheduled for Ottawa, on 12-14 December 1955.

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15. John Whitney Pickersgill was born at Whycombe, Ontario, 23 June 1905; in 1907 he moved to Manitoba. Pickersgill was educated at the University of Manitoba, Oxford (on an IODE scholarship), and Paris. From 1929-1937, he was Lecturer in History at United College (later the University of Winnipeg). In 1937, Pickersgill joined External Affairs and was seconded to the Office of Prime Minister Mackenzie King. From 1937-52 he served in the Prime Minister's Office in various capacities. In 1952, he became clerk of the privy council and secretary to the cabinet. In 1953, he sought elective office and was successful as M.P. for Bonavista-Twillingate (Nfld.), a riding he held in the general elections of 1957, 1958, 1962, 1963, and 1965. From 1953-1954, Pickersgill held the post of secretary of state, and from 1954-1957, minister of citizenship and immigration. He died at Ottawa in November 1997.
  16. For example, see NAC, RG10, Vol. 8569, File 501/1-2-2-2, and 401/1-2-2-2, Vol. 1. More information is available for the 1956 regional Indian consultations.
  17. NAC, MG32, B34, Papers of the Rt. Hon. J.W. Pickersgill, Vol. 24, File 2410, "Opening address by Hon. J.W. Pickersgill, Superintendent General of Indian Affairs."

The December meetings were held in the main boardroom of the Dominion Bureau of Statistics building, Tunney's Pasture, in Ottawa's west end. Indian delegates were housed downtown at the Windsor Hotel and bussed daily to and from the meetings.<sup>18</sup> In a departure from practice, Indian delegates were selected by the Indian branch on a provincial and regional basis. As a result, new faces were present in December.<sup>19</sup> They were soon introduced to the sophisticated machinery of government consultations.

As in 1951, Indian delegates were assigned specific seats in advance of the meeting.<sup>20</sup> The following Diagram Two illustrates how the delegates were seated. The veteran British Columbia delegation of Andy Paull, William Scow, Frank Calder, and Dan Manuel sat on the minister's immediate right. The less vocal Indian delegates sat to the minister's left. Discussion of the government's proposed Indian Act amendments began on the left side of the table and proceeded in an orderly fashion around the table.

The format of the official conference summary was similar to that of the conferences of 1951 and 1953. Delegates' opinions were characterized and differences in viewpoint expressed in terms of numbers for, or against, a suggested legislative amendment.<sup>21</sup> As in 1953, Indian representatives condemned compulsory enfranchisement, the payment of income

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18. NAC, MG32, B34, Vol. 24, File 24-9, "Information for delegates to the 1955 Ottawa Indian Conference."

19. See Table Twenty-nine, "Indian Delegates to Indian Conferences. Ottawa."

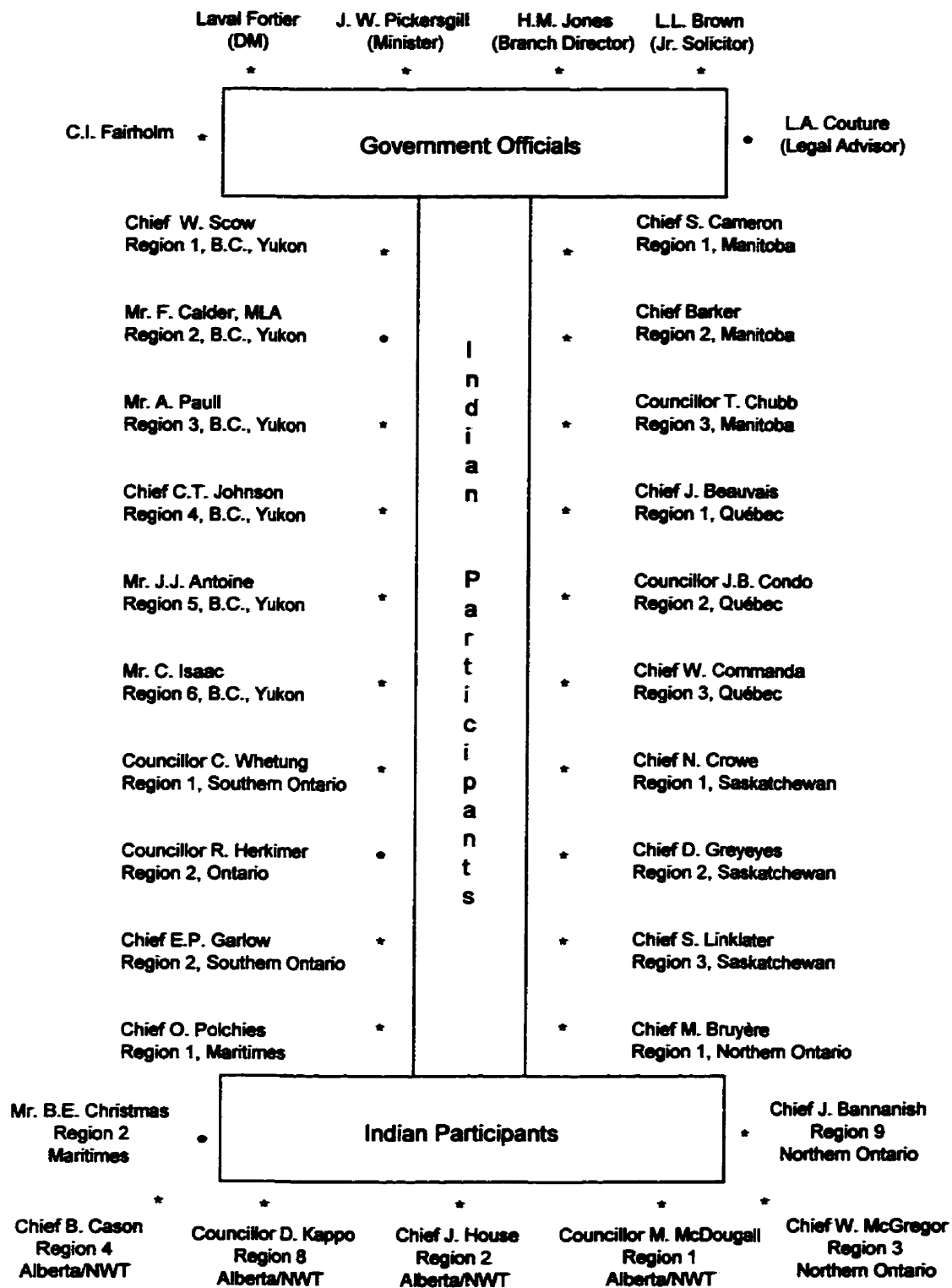
20. NAC, MG32, B34, Vol. 24, File 24-9, "Seating Plan. Ottawa Indian Conference. 1955."

21. NAC, MG32, B34, Vol. 24, File 2410, "Summary of the Proceedings of a conference held by the Hon. J.W. Pickersgill, Superintendent General of Indian Affairs, with representative Indians in Ottawa, December 12, 13, and 14, 1955."



Diagram Two

# OTTAWA INDIAN CONFERENCE 1955



tax on revenue earned off reserve, and expropriations and leases which resulted in the alienation of reserve land. For their part, government officials encouraged discussion of measures to streamline Indian administration and to stimulate economic development.<sup>22</sup> Many government suggestions were supported by Indian representatives. The conference closed on 14 December, with a ministerial banquet at Lansdowne Park and a departmental commitment to resume regional Indian consultations in 1956.<sup>23</sup>

As it turned out, the regional Indian meetings in the summer of 1956 were the last to be held before the June 1957 federal election. These meetings had a four-fold purpose: to canvass local Indian opinion and assess reserve conditions; to explain administrative procedures and recent amendments to the Indian Act; to discuss band council powers; and to calm Indian fears that the reserve and treaty systems were to be terminated.<sup>24</sup> The underlying theme of the encounters was "helping Indians to help themselves". As the Deputy Minister Laval Fortier explained to Indian leaders at Portage la Prairie, Manitoba, on September 12:

There was a time when everything was thought out for you. Everyone

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22. Ibid.

23. See, The Indian Missionary Record, 19(1), January 1956, "Ottawa Indian Conference Prepares Indian Act Revision."

24. Chief Nicotine (Red Pheasant Reserve, Sask.) Referred to a recent statement by J.W. Pickersgill that the aim of Indian Affairs policy was to do away with the reserves and have Indians live self-sufficiently amongst the Whites. Col. Fortier replied that he hoped the day would come when Indian people would be independent citizens of Canada, but when this came about Indian people would still retain their "nationality". NAC RG10, Vol. 8569, File 601/1-2-2-2, Record of North Battleford Indian Conference, 18 September 1956. See also, The Indian News, May 1956.

went to the agent for explanations, but this does not exist any longer - the responsibility of the reserve is yours and you will have to provide proper administration. We are trying to be your advisor when you ask for advice.<sup>25</sup>

The Canada-wide consultations revealed a wide range of Indian concerns and issues relating to reserve conditions, administration, band membership and local government powers, and the recognition of Indian treaty provisions concerning the harvesting of game.<sup>26</sup> While most Indian concerns and grievances were known to regional staff, encounters with local band representatives and on-site inspection of reserves underscored for headquarters' managers the need for remedial attention and cooperative action with the provinces. If anything, the 1955 and 1956 consultations convinced senior branch management at Ottawa that provincial support and expertise was essential to improve reserve conditions and to advance the process of Indian integration.

### ***Provincial interest in Indian affairs***

After the Second World War the provinces began to take an interest in the conditions of Indian people. The provincial view was that Indian people and Indian reserves were an exclusive federal responsibility under Section 91(24), British North America Act (1867). While this provincial outlook persisted, a number of new factors prompted provincial interest and concern: the growth in Indian population and urban migration, and the rise in cost of social services to off-reserve residents. As well, the revised Indian Act contained a new

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25. NAC, RG10, Vol. 8569, File 501/1-2-2-2, Record of Indian Conference, Portage la Prairie, Man., 12 September 1956.

26. A major bone of contention in western Canada, and elsewhere, was the restrictions imposed on harvesting of game by provincial regulations and the Migratory Birds Convention Act (1916).

provision, Section 87,<sup>27</sup> that confirmed provincial laws of general application were applicable to Indian people on or off the reserve. This meant that Indians were provincial citizens, not simply federal wards.

About the same time there was also a shift in federal philosophy. The policy of Indian integration meant the provinces would have to be involved as partners in community development and social service schemes. The historic perception that Indian people were exclusive "federal wards" required revision.<sup>28</sup> Provincial attitudes proved hard to alter, and despite considerable federal effort to get Indian issues on Dominion-Provincial conferences in the 1950s, success was not achieved until 1963-64.

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27. Section 87, Indian Act (1951), read: "Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act."

28. On 28 April 1953, Indian Affairs Branch Director D.M. Mackay appeared before a Select Committee of the Provincial Legislature and urged the Province of Ontario to get directly involved in Indian affairs. He dispelled the notion that Indians were federal "wards": "An Indian is not a ward in the true legal sense; he is a ward inasmuch as he is a free agent. He can sign contracts. He does not have to stay on the reserve. The reserve is set up for him to live on if he wishes, but he does not have to stay on it. He is just as free to take up residence anywhere in Canada as you or I...." Archives of Ontario (AO), RG18, Series D-1-53, Box 1, Vol. 2, "Proceedings of the Select Committee...to enquire into civil liberties and rights with respect to the Indian population of Ontario," 28 April 1953, 11-12.

Initially, the provinces of British Columbia and Ontario showed guarded interest.<sup>29</sup> British Columbia, with its large Indian population (17,936) and some 1500 Indian reserves had extensive contacts with Indian people, particularly those employed in fishing, canning and forestry ventures. In the late 1940s, to further Indian economic self-reliance, the province signed a number of local school agreements with the Indian Affairs Branch and, in early 1950s, extended provincial hospital care facilities to Indian patients.

In March 1950, the British Columbia legislature passed An Act authorizing an Inquiry into the Status and Rights of Indians in the Province.<sup>30</sup> The origin of this measure can be linked to the activities of the B.C. Indian Arts and Welfare Society, an influential philanthropic group that lobbied government on behalf of Indians. As a result of this act, a six-member Provincial Advisory Committee on Indian Affairs was formed and placed, appropriately, within the Department of Labour. The Indian advisory committee, headed by Thomas R. Kelly, the Rev. Peter Kelly's son, was charged with gathering statistics and

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29. The Provinces of Manitoba, Saskatchewan, and Alberta were interested in Indian people because of a growing urban migration. Manitoba launched an inquiry headed by Jean Lagasse into people of Indian ancestry and the Welfare Council of Greater Winnipeg sponsored a series of conferences beginning in 1954 on the problems of urban Indian people. These conferences spawned the idea of establishing Indian Friendship Centres in cities. Saskatchewan was concerned with costs and jurisdictional issues involved in serving off-reserve Indians in the southern portion of the province. In the northern tier, the Province encouraged socio-economic development studies such as Vic Valentine's "The Fort Black Co-operative Store. A Social Experiment among the Ile à La Crosse Métis." Alberta's concerns were similar to those of Saskatchewan; but more focus was placed on Métis issues.

30. British Columbia. Statutes, 1950, 14 George VI, c. 32.

preparing reports on the civil rights and conditions of Indian people.<sup>31</sup> Throughout the 1950s the Indian advisory committee submitted annual reports containing considerable data on Indian health, education, welfare, and cultural matters. The Indian advisory committee carefully avoided addressing the Aboriginal title issue that raised the spectre of recognizing collective rights.

Not to be outdone by British Columbia, on 2 April 1953 Ontario struck a special select committee to investigate Indian civil liberties and rights and determine ways and means to "improve standards of living and equality of opportunity... keeping in mind the limitations of responsibility under the Constitution".<sup>32</sup> The select committee travelled across the Province, hearing Indian witnesses and visiting Indian reserves.<sup>33</sup> Indian Affairs Branch officials were called to testify and used the occasion to encourage greater provincial participation in the delivery of social services. As a result, in 1955 Ontario passed the Indian Welfare Services Act and, in 1956, the Province negotiated a Child Welfare Agreement with the Indian Affairs Branch. Concurrently, Ontario selectively extended provincial school facilities - "on invitation and with compensation" - to Indian students. Progress was also

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- 31. When the B.C. Indian Advisory Committee was struck the federal Department of Justice was concerned that the Committee's activities might trench on federal jurisdiction. Likewise, Hon. W.A. Goodfellow, who headed up Ontario's Select Committee assured Walter Harris that Ontario's intention was neither to criticize nor usurp Ottawa's exclusive jurisdiction in regard to Indians.
  - 32. Archives of Ontario (hereafter AO), RG 18, Series D-1-53, Box/Vol. 1, "Select Committee appointed by the Legislative Assembly of the Province of Ontario, to enquire into civil liberties and rights with respect to the Indian population of Ontario, and matters relevant thereto."
  - 33. The Select Committee visited 16 of 27 agencies and received 37 submissions from Indians bands.

made in developing co-operative fish and wildlife protection schemes and in developing a program to train and equip Indian guides for the tourist industry.<sup>34</sup>

The select committee made three major recommendations that were adopted by Premier Leslie Frost's Conservative government. Indian people were permitted to consume alcoholic beverages in licensed premises and the provincial franchise was extended to Indians on or off reserve in 1954. Finally, a prominent Indian leader, Elliott Moses, from the Six Nations Reserve, was appointed to act as a liaison officer within the ministry of public welfare to coordinate Indian-related information and government programs. In the conclusion to its final report on 30 March 1954, the select committee sounded a note that, no doubt, would have found support with any contemporary provincial government:

...the time is not far off when the Indian will take his right place alongside his non-Indian neighbour with full equality - neither maintaining his present exceptional benefits, nor his almost imaginary disadvantages. But the length of time before this happens will depend largely on how successful the educational program is, and how willing the Indians are to leave protective shelter under the provisions of the Indian Act. The Committee considers it would be a great loss to Canada, however, if, in the process, the Indians did not maintain their picturesque and interesting customs - links with the past of this land before the coming of the white man.<sup>35</sup>

### *Formation of the National Commission on the Indian Canadian*

While the provinces expressed reservations about involvement in Indian programs,

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- 34. James Struthers, The Limits of Affluence: Welfare in Ontario, 1920-1970 (Toronto: Ontario Historical Studies Series, University of Toronto Press, 1994). In particular see Chapter Five, "Poverty in Progress: Welfare in Ontario, 1950-58."
  - 35. AO, RG18, Series D-1-53, Box/Vol. 1, "Report of the Select Committee...", 24 March 1954. 36.

outside specialists were enthusiastic and they expressed support for the revised policy. Federal bureaucrats, on the other hand, were hesitant in seeking their alliance although the growing complexity of the "Indian problem" indicated outside advice and assistance was imperative.

The first cautious steps in seeking outside advice and cooperation had begun in 1947 when various experts testified before the special joint committee. Among witnesses was Professor T.F. McIlwraith, an anthropologist from the University of Toronto. At the time Professor McIlwraith was chair of the Canadian Social Science Research Council (CSSRC) which, among other investigative endeavours, funded research projects on Indian social adjustment issues through its Committee on Indian Research. Early Indian Affairs Branch contact with members of the CSSRC was made by the Deputy Minister of Mines and Resources Hugh Keenleyside and Branch Education Director Colonel Bernard F. Neary.<sup>36</sup> Dr. John Robbins of the Dominion Bureau of Statistics was also a founding member.

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36. Paul Pross argues that bureaucracy has a basic instinct for organizational survival. Under critical examination from external groups, bureaucrats will seek allies and supporters outside its confines. In some instances, critics will be co-opted. A particular agency's treatment of pressure group demands will be conditioned by its perceptions of its own needs as well as by external factors. See, "Input and Withinput: Pressure Group Demands and Administrative Survival," in A.P. Pross (ed.), Pressure Group Behaviour in Canadian Politics (Toronto: McGraw-Hill Ryerson Ltd., 1975), 148-171.

37. On 4 August 1949 a "Committee on Scientific Problems of Indian Affairs" (Panel on Indian Research) was set up "to deal with problems related to the adjustment of the Indian population to new conditions". Social science professors, government officials, and Indian Affairs branch staff met periodically to discuss developments and plans to advance Indian education. See Indian Affairs Branch, Annual Report (1953), 61; and NAC, RG10 Vol. 7183, File 1/24-1-1-4, Pt. 2, "Panel on Indian Research."



On 4 August 1949 a Panel on Indian Research was constituted within the Indian Affairs Branch with Major C.A.F. Clark, director of educational surveys, as secretary, and Professor T.F. McIlwraith as chair.<sup>37</sup> The panel had formal terms of reference, agendas for meetings, and specific research tasks. Initially, research focused on strategies to reform Indian education and measures to encourage the social and economic adjustment of Indian people. The panel's early research mandate sought to address the many issues of Indian social disintegration identified and reflected in the rejected, first draft of the proposed special joint committee's terms of reference in 1946.<sup>38</sup>

Regular attendees at departmental meetings well into the 1950s were prominent university academics from Laval, Western and Toronto, statisticians from the Dominion Bureau of Statistics, and social welfare specialists from federal departments and agencies.<sup>39</sup> The Indian Affairs Branch was regularly represented by Col. H.M. Jones, superintendent of welfare (to May 1953); Philip Phelan, director, education services; John Gordon, director, family allowances; and Lt. Col. Eric Acland, executive assistant to Branch Director Major Donald Mackay. These research liaison activities were encouraged by Minister Walter Harris who had a dim view of the Indian Affairs Branch's strategic plans for Indian rehabilitation.

The preponderance of the panel's Indian social and education research was conducted at the reserve community level. These projects required prior Indian Branch approval, as well

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38. DIAND, File 6-15-1, Vol. 1, Clarence W. Jackson to R.A. Hoey, 4 February 1946.

39. AD, HR6131 C73R1, Minutes of a Meeting of the Panel on Indian Research, 21 September 1951, see also NAC, RG10, Vol. 7183, File 1/25-1-1-4, Pt. 2.

as support from the Indian community in the form of a band council resolution. By February 1953, detailed plans were in the works for a project to gather statistical, economic, and social data at the reserve level which would act as benchmarks for developing and measuring the success of policy initiatives.<sup>40</sup>

In July 1953 the panel's terms of reference were reviewed to determine whether its research program would address and inform contemporary policy and administrative issues.<sup>41</sup> Laval Fortier, deputy minister, supported the investigation and he, along with Jean Boucher, director, technical services in the Citizenship branch, foresaw useful work for a reconstituted panel.<sup>42</sup> On the other hand, Col. H.M. Jones, acting branch director<sup>43</sup> was relatively cool to new research endeavours opining that the earlier studies had done no real harm.<sup>44</sup> Given Col. Jones's lukewarm support, it is not surprising that Indian policy research was taken up by organizations outside the Indian Affairs Branch: first, in 1954 by the Ottawa Study Group; then by the University of British Columbia; and finally in 1956 by the National Commission

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40. NAC, RG10, Vol. 7183, File 1/25-1-1-4, Pt. 2, Minutes of a meeting, Panel on Indian Research, 6 February 1953.

41. Ibid., J.H. Gordon, to Col. Acland, 8 July 1953.

42. Ibid., Laval Fortier, to Col. Jones, 24 November 1953.

43. Lt. Col. Hubert M. Jones, M.B.E., E.D., replaced Major Donald Mackay as director of Indian Affairs in May 1953. At the time Jones was superintendent of welfare and before that supervisor of family allowances. Prior to joining Indian Affairs he had been a life insurance salesman, and secretary-treasurer of the Patterson Construction Co. (Belleville, Ont.). In 1939, he joined the Indian service as a clerk at the Tyendenaga Indian Reserve (Deseronto, Ont.) where he eventually became Indian agent.

44. Ibid., H.M. Jones, acting director, to Col. Acland, 7 July 1953.

on the Indian Canadian (NCIC), a sub-committee of the Canadian Association for Adult Education (CAAE).<sup>45</sup>

The Ottawa Study Group on Indian Social Integration was the brain child of the Oblate Indian Welfare and Training Commission and the CAAE.<sup>46</sup> On 3 September 1954, as an outcome of a recent national conference of the CAAE, Dr. J. Roby Kidd, director of the CAAE and the Rev. André Renaud, OMI, director of the native community development bureau of the Oblate Fathers in Canada, convened a meeting with senior civil servants in Ottawa to discuss the contribution of voluntary organizations and universities in devising strategies to improve Indian education and foster social integration.<sup>47</sup> In attendance were representatives from the Indian Affairs Branch, the technical services division of the Canadian Citizenship Branch, the National Film Board, Indian Medical Services, Information Services of National Health and Welfare, and the Education division, Northern Affairs and National

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45. The CAAE took little interest in Indian education and social integration until the earlier 1950s. School integration agreements with the provinces indicated a declining role for secular activists. As well, the plight of new Canadians and strategies for their integration were seen as applicable to Indian people. See, Martha C. Randle, "Educational Problems of Canadian Indians," Food for Thought, 13(6), March 1953: 10-14.

46. The Indian Welfare and Training Commission of the Oblate Order of Mary Immaculate (COOIE) was formally established in 1936 by Rev. Father Theodore Laboure, Superior General. The purpose of the Commission was to act as a lobbying body, to make representations to the federal government (mainly the Indian Affairs Branch), and to fund initiatives in the areas of Indian education, hospitals, and missions. The Commission comprised a secretary (called a General Superintendent), and an executive body of Vicars Apostolic and Provincials of Canada. See AD, HR12, 613R20.

47. For a short history of the Ottawa Study Group see AD, HR 6144. C73R14 Ex. 2., "Historical Notes."

## Resources.

The focus of the Ottawa Study Group was off-reserve Indians who were finding it difficult to adjust to urban life. Since government services through Indian Affairs were directed to reserve communities, emphasis was placed on organizing voluntary organizations to carry the brunt of the case load.<sup>48</sup> Participants from the Canadian Welfare Council, the Canadian Council on Social Development, the Canadian Citizenship Council, and university specialists were gradually drawn into the discussions. Discussion was usually lead by Father Renaud,<sup>49</sup> a specialist in Indian education, who provided informal minutes of meetings. The Ottawa Study Group met periodically until June 1956 when, at the suggestion of study group leaders, the CAAE sponsored a conference on Indian education and social integration at Queen's University, Kingston.<sup>50</sup>

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48. For example, see article by A. Renaud, "From Oldest to Newest: Our Indian Citizen," Food for Thought, 15(7), April 1955, 4-7; and, "The Indian in Town," Working Paper (1), CAAE Conference on Indian Integration, 11 June 1956, AD, HR6144. C73R 11.

49. André Renaud was born in Montreal on 25 January 1919. Father Renaud became a member of the Oblate Fathers and was ordained in 1944. He graduated from the University of Ottawa with Masters and Ph.D. degrees. He founded the Indian Social Development Bureau for the Coordination of Educational Research. He was a founder of the Indian and Eskimo Association of Canada and in 1963 organized the Society for Indian and Northern Education. In 1974 he was appointed assistant under-secretary of state and for two years he helped support, train and develop organizations for Aborigines and new Canadians. He also served as director of the international liaison services division of Agriculture Canada and headed Canadian delegations to international food and agricultural conferences. Dr. Renaud retired from government service in 1985, but served as a consultant to Mexican authorities on education. He died at Saskatoon, 15 January 1988.

50. AD, HR 6144. C73R8. "Conference on Education and Integration of the Canadian Indian." CAAE Report, 11 June 1956. Thirty-four government, business, and voluntary associations attended.

The first CAAE conference to discuss Indian issues had been held in May 1954 at London, Ontario. Participants at this conference were, for the most part, unfamiliar with Indian social problems and as André Renaud has recorded:

...government officials availed themselves of the opportunity to pat themselves on the back and leave the impression that all Indians were very well looked after in all their needs by the Indian Affairs Branch. However, the Conference authorized the director (of the CAAE) to look further into the matter and see if non-governmental agencies could not do something to foster a wider participation of Indian descendants in Canadian life in general.<sup>51</sup>

The June 1956 Kingston conference resulted in the formation of a temporary sub-committee of the CAAE, the "National Information Centre on the Indian Canadian", chaired by Mrs. Clare E. Clark, who had recently retired as executive-secretary of the CAAE.<sup>52</sup> Her six years

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51. See article by André Renaud, "A National Commission on the Indian Canadians," in Missionary Information Bulletin, Indian and Eskimo Welfare Oblate Commission, May 1957, 13-18.

52. Ibid., 15.

with the CAAE, and earlier as secretary of the Joint Planning Commission,<sup>53</sup> left her well connected with influential groups and personalities in the fields of adult education and public relations. Funding for the CAAE sub-committee, which officially became the National Commission on the Indian Canadian, on 31 January 1957, came initially from private funds provided by Samuel Kennedy, a retired farmer from Meyronne, Saskatchewan.<sup>54</sup> As with the Ottawa Study Group, the focus of the NCIC was off-reserve Indians who were struggling to adjust to urban life. Mrs. Clare Clark, and her cohorts, J. Roby Kidd, Walter Herbert, André Renaud, and Vivienne Williams were able to organize and mobilize members of other influential bodies including the YM/YWCA, IODE, various churches, the Canadian Welfare Council, the Canadian Council on Social Development, and the Canadian Film Institute.

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53. The Joint Planning Commission (JPC) was established in 1946 to coordinate and develop the effective use of program resources in the field of adult education. The JPC drew representatives from business, labor, churches, universities, the federal government and some 50 voluntary associations. Official and semi-official government bodies such as the CBC, National Film Board, Canadian Information Service, and the Citizenship Branch of the then Secretary of State Department were present. Bodies interested in the formal education system - Canadian Education Association, Canadian Teachers Federation, and the National Federation of Home and School - joined as did voluntary associations such as the United Nations Society, Workers' Education Association, Canadian Library Council, Canadian Welfare Council, National Film Society, IODE, Canadian Arts Council, and the Canadian Jewish Congress. The Canadian Congress of Labour and the Co-operative Jewish Union of Canada, and the Canadian Chamber of Commerce were also represented. See Ron Faris, The Passionate Educators. Voluntary associations and the struggle for control of adult educational broadcasting in Canada, 1919-1952 (Toronto: Peter Martin and Associates, 1955).
54. S.C. Kennedy was a wealthy farmer from Meyronne, Saskatchewan. He owned a farm next to the Starblanket Reserve and wished to provide funds in a trust to assist the educational development of Indian people. He donated several thousand dollars which kept the NCIC functioning until its incorporation in 1960 as the Indian-Eskimo Association of Canada.

Officials from the Indian Affairs Branch periodically attended NCIC sessions as a matter of courtesy, for public relations and to disseminate information.<sup>55</sup> Because the NCIC was conceived with off-reserve Indian issues in mind, the Indian Affairs Branch did not feel threatened by the commission's activities.

Initially the NCIC did not involve itself in Indian Affairs administrative issues; it simply acted as a "clearing house" for public information on Indian people and their conditions.<sup>56</sup> The NCIC recognized that successful Indian social integration meant educating White people to appreciate the contributions of Indian people to Canadian historical and economic development and to foster an understanding of their modern-day aspirations. Composed essentially of non-Native middle class liberals, the NCIC remained an elite voluntary association that seldom experienced first-hand, actual reserve conditions, and invited only "model Indians" to address their Toronto functions and regional conferences.<sup>57</sup> The NCIC

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- 55. On 2 May 1957, Messrs. Brown and Barnes from Indian Affairs headquarters met with NCIC staff to discuss operational and legal concerns. They also provided up-to-date statistical data on population, expenditures, programs, etc. See, "National Commission on the Indian Canadian, Summary of work, Jan. - Oct. 1957." J.R. Kidd Papers, File 81/018/1, Folder 1.
  - 56. Minutes. National Commission on the Indian Canadian, Thursday, 31 January 1957. J.R. Kidd Papers, Trent University, Peterborough, Ont. File 81/018/1, Folder 1.
  - 57. The CAAE invited the NCIC to participate in a conference on "The Indian in the Community" scheduled for Calgary, 19 May 1957. Sixty delegates from government, church, labor, and community groups attended meetings held at the Calgary YWCA. Officials from the Indian Affairs Branch in Calgary attended as observers. No Indian representatives attended the Calgary conference. See J.R. Kidd Papers, Trent University, File 81/018/1, Folder 1, "Delegates attending Calgary Conference, May 19, 1957," and printed excerpts from The Calgary Herald and The Albertan, "Indian has part in community, historic conference decides."

remained on precarious voluntary funding until incorporated as the Indian-Eskimo Association in 1960.<sup>58</sup>

*The Hawthorn study of B.C. Indian administration*

Since 1954, Indian Affairs Branch officials had been monitoring a comprehensive academic study of Indian Affairs administration in British Columbia. The exact origins of the 1954 "Indian Research Project" are sketchy. W.S. Arneil, Indian commissioner for British Columbia, was an early proponent and may have had project discussions with Branch Director Donald Mackay before the latter's death in May 1953. In any event, the prime movers within the Citizenship and Immigration Department were Eugene Bussi res, director, Canadian citizenship branch; Jean Boucher, director, technical services; and Laval Fortier, deputy minister. The research project was politically supported by Minister J.W. Pickersgill.

The selection of New Zealand-born Dr. Harry Bertram Hawthorn, an anthropologist at UBC, as project co-ordinator, was not by chance. In 1946 Dr. Hawthorn was teaching at Columbia University and was invited by conference organizers to give a paper at the Canadian Learned Societies Conference in Quebec City<sup>59</sup>. There he met Professor T.F. McIlwraith, chairman of the Panel on Indian Research. Hawthorn received research grants

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58. Funding for the NCIC as of 25 October 1957 came from four sources: S.C. Kennedy (\$2000); Presbyterian Church (\$1000); Princess Alice Fund (\$1000); Education Fund - Prov. of Saskatchewan (\$200). The Hudson's Bay Co. contributions were not revealed at the Company's request.

59. Vernon C. Serl and Herbert C. Taylor (eds.), Papers in Honour of Harry Hawthorn (Western Washington State College, Bellingham, Washington, 1975). The relevant chapter is, "Harry and Audrey Hawthorn: An Appreciation," by G.B. Inglis, 1-9; and "A History of the Museum of Anthropology, University of British Columbia," by Audrey Hawthorn, Curator, 94-101.



from the Canadian Social Science Research Council to study the reserve conditions of the Squamish Indians and later, for a study of Indian fishing practices on the west coast.<sup>60</sup> In the meantime, through Larry Mackenzie, president of UBC, Hawthorn was appointed to a teaching position.<sup>61</sup> He became involved in the meetings of the B.C. Indian Arts and Welfare Society and eventually chaired and edited a report on the Society's 1948 "Conference on Native Indian Affairs."<sup>62</sup> In 1952, Dr. Hawthorn authored a study, The Doukhobors, that examined the problems and social adjustment of a social minority in B.C.<sup>63</sup> A friend of W.S. Arneil, the B.C. Indian commissioner, Dr. Hawthorn was suggested to Indian Affairs Branch officials as a responsible academic who could be entrusted to examine on an inter-disciplinary

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60. NAC, RG10, Vol. 7183, File 1/25-1-1-4 Pt. 2, 27 March 1950, Canadian Social Science Research Council, grants-in-aid for research. Another recipient of an Indian research grant was Professor Marc-Adelard Tremblay of Laval University. Hawthorn and Tremblay would later form a research team in 1964 to study the social, educational and economic situation of Canadian Indians. The two volume report appeared in 1966 and 1967, respectively.
61. N.A.M. Mackenzie, as president, University of British Columbia, had sponsored a meeting in 1948 of the B.C. Indian Arts and Welfare Society that Harry Hawthorn chaired. In 1949, Mackenzie was named a commissioner for the Royal Commission on National Development in the Arts, Letters, and Sciences (Massey Commission). As a youth he had belonged to the Student Christian Movement and became a spokesman for Christian socialism. He had an enthusiasm for meetings and believed that social issues could be solved by getting people and organizations together for discussion. He believed that universities should be concerned with human welfare and develop productive individuals. See P.B. Waite, Lord of Point Grey. Larry Mackenzie of UBC (Vancouver: University of British Columbia Press, 1987).
62. DIAND Library, "Report of Conference on Native Indian Affairs," at Acadia Camp, University of British Columbia, Vancouver, 1-3 April 1948.
63. H.B. Hawthorn, The Doukhobors (Vancouver: University of British Columbia Press, 1952). Earlier, in 1944, Hawthorn had prepared a study of Maori acculturation in New Zealand.

basis all aspects of British Columbia Indian administration.

In early 1954 the Department of Citizenship and Immigration commissioned the University of British Columbia to undertake the "Indian Research Project", to begin in May 1954 and be completed by Winter 1955-56. A decision was made that research funding and project coordination would be under the auspices of the Canadian citizenship branch, directed by Eugene Bussières. At the time the Canadian citizenship branch was involved in research and public studies dealing with the social adjustment and citizenship education of newly arrived immigrants and, unlike the Indian Affairs Branch, had extensive research and public liaison capability.<sup>64</sup> And besides, in government's view, the social situation of dispossessed Indian people and proposed program remedies closely resembled those in place or planned for immigrants.<sup>65</sup>

In the spring of 1954 Dr. Hawthorn assembled his research team of twenty academics and graduate students, including fellow anthropologist Cyril Belshaw and economist Stewart Jamieson.<sup>66</sup> Province-wide research began in May 1954 and progressed so rapidly that one year later a meeting was held with Col. Jones in Vancouver to provide a general

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64. Canada. Citizenship and Immigration, Canadian Citizenship Branch, Annual Report, 1954-55, 9-13.

65. Ibid., see sections on "Research" and "Liaison," 11-13.

66. H.B. Hawthorn, C.S. Belshaw, S.M. Jamieson, The Indians of British Columbia. A Survey of Social and Economic Conditions. Vol. 1 (The University of British Columbia, 1955), 1-5.

report on findings.<sup>67</sup> In late 1955 the completed research was published by the University of British Columbia in three volumes under the title, "The Indians of British Columbia. A Survey of Social and Economic Conditions. A report to the Minister of Citizenship and Immigration".

The Hawthorn team's research was a monumental undertaking comprising 34 chapters and 1024 pages of data dealing with all aspects of B.C. Indian community life: history; demographics; ethnic relations; natural resources; occupations; fishing, lumbering and agricultural economies; capital and credit; crime and punishment; liquor; housing; social welfare; band council government; family life; education; and government administration. In its final analysis a number of significant recommendations were made:

- Indian enfranchisement should be abandoned;
- Indians should be granted the federal and provincial votes on the same basis as Whites;
- Indians should not pay federal taxes but be liable for provincial taxation;
- Agency councils of Indians should gradually assume administration of Indian affairs;
- Indian band councils should be made local authorities, with the right to levy taxes, and receive provincial services and subsidies;
- Indian local authorities should be gradually amalgamated with local White villages;
- paternalism should be abolished;
- Indians should have the same liquor privileges as Whites; and there should be special

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67. DIAND, Claims and Historical Research Centre, File X-80, "Diary of Director's western trip, April 21- May 13, 1955." Col. Jones spent 2 days discussing the research project with Professors Hawthorn, Belshaw, Jamieson, Chapman (geography), and Dixon (social work). Jean Boucher was also in attendance representing the Minister.

policing of reserves and special Indian court systems;

- anyone, White or Indian, should be allowed to live on reserves;
- Indian reserves would remain indefinitely, but Indians should be encouraged to leave them; and finally,
- a complete inventory of reserve resources should be undertaken by all governments.<sup>68</sup>

The thrust of the Hawthorn report concluded that Indian Affairs administration in British Columbia was on the right track vis-à-vis delivery of social programs and services. Branch officials, however, were preoccupied with managing and protecting Indian reserves and property assets and had not adopted an advisory or educational role. Additional staff training was recommended, and in particular, the British model of "Devonshire Courses" which introduced practical-minded government administrators to academic social and economic development theories.<sup>69</sup>

The Hawthorn study was received cautiously in the Indian Affairs Branch since significant changes in existing policy and administrative practices had been suggested. Copies were made for internal branch distribution for review and comment.<sup>70</sup> In May 1956, the president of UBC informally approached J.W. Pickersgill to obtain permission to have the study formally published. The Indian Branch resisted, but Pickersgill approved its release for

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68. Ibid., also see an article by Paddy Sherman, "Revolution for Indians," The Province, Friday, 22 March 1957, 3-4.

69. H.B. Hawthorn, et al, The Indians of British Columbia (1955), Vol. 3, 993-994.

70. NAC, RG32, B34, Vol. 36, File 1A-279A, H.M. Jones, Memorandum to Deputy Minister, 31 May 1956.

the fall of 1956.<sup>71</sup> In the event, a hardcover version did not materialize until 1958 when The Indians of British Columbia. A Study of Contemporary Social Adjustment appeared as a joint effort of the University of California and UBC Press.<sup>72</sup>

The Hawthorn investigation had little immediate impact on Indian policy considerations but it did stimulate an internal review of programs. An internal Branch review of the research findings and recommendations concluded that many suggestions to improve the quality and availability of Indian education, employment opportunities, economic development, and community services had already been initiated. In other areas, the branch simply lacked the human and financial resources to implement suggested program improvements.<sup>73</sup> In general, senior management was satisfied with the Hawthorn report and comforted that Indian integration had been confirmed by outside experts as the legitimate goal of Indian policy.

While Harry Hawthorn and his research team had sanctioned Indian integration, his anthropological research put a new perspective on the actual integration process.

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71. Ibid., Laval Fortier, Memorandum for the Minister, 2 May 1956. Annotated by Minister, "I think we might compromise by giving approval now to publication by Oct. 1<sup>st</sup>. It wd. take that long any way. J.W.P."

72. The study was well received in academic circles for its methodology and skillful use of contemporary documentation. One reviewer, Helen Coderre, concluded that: "This study has achieved a break-through... Wherever anthropologists work or administrators confront cultural minorities they will want to make and use studies of the same approach and will feel fortunate if theirs shows the quality as well as the plan of the model". Review of The Indians of British Columbia (1958), in American Anthropologist (61) 1959; also see E. Colson, American Sociological Review (24) 1 1959, 121.

73. DIAND, Library, "Review of Hawthorn Report (1958)."

Dr. Hawthorn put a great deal of stress on maintaining Indian cultural values and he emphasized their importance in predicting the rate of acculturation and in assessing Indian responses to government measures. In his report Indian cultural traditions, values, and interests were contrasted with the social values, policy expectations, and political timetables of government administrators and those who dealt directly with Indian people. What the Hawthorn researchers did not officially acknowledge, although it may have been recognized by them, was that many B.C. Aboriginal societies, and other Aboriginal groups across Canada, saw themselves as distinct political entities with unique economies, cultures, collective goals, and citizenship. This lack of official recognition or sanction was in keeping with the times and consistent with existing liberal democratic values of postwar Canadian society which emphasized legal equality and a common citizenship.<sup>74</sup>

It should also be remembered that, since its inception in 1755, the British Indian department and successive Canadian Indian administrations operated as a microcosm of contemporary society reflecting current social values and government expectations concerning the role assigned to Indian people by the dominant society.<sup>75</sup> In the postwar years, the main elements of the government's plans for Indian integration were facsimiles of existing Canadian institutions and social values: elected band councils on a municipal model to mould a

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74. Leslie A. Pal, "Identity, citizenship and mobilization: The Nationalities Branch and World War Two," Canadian Public Administration, 32(3), Fall: 407-426; and R.K. Carty and W.P. Ward, "The Making of Canadian Political Citizenship," in R.K. Carty and W.P. Ward (eds.), National Politics and Community in Canada (Vancouver: University of British Columbia Press, 1986).

75. The various administrative and political prisms through which Indian people were viewed to the Second World War have been described in Chapter One.

responsible Indian electorate; education to foster personal improvement and instill self-reliance; economic development projects to encourage individual enterprise and self-sufficiency; and social service and community development programs to ameliorate reserve conditions and build a sense of community pride, renewal, and responsibility.<sup>76</sup>

As noted earlier in this chapter, the influx of European immigrants after 1945 also had a spill-over effect in shaping the content of the government's program for integrating Indians - what was good for promoting democratic values and good citizenship practices for "new Canadians" should be applied to "original peoples". In previous decades, the moulding of Canadian citizenship values had been left largely to missionaries and educators, but the experience of World War Two had shown that this was too important an issue to be left in private hands.<sup>77</sup> Thus the federal government, through the nationalities branch and its successor, the Canadian citizenship branch, secretary of state department, had involved itself and voluntary associations in devising programs for promoting Canadian citizenship.<sup>78</sup>

In the postwar era, the Canadian citizenship branch was transferred from the secretary

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76. See Hugh Shewell, "Social policy and the liberal state: A case study of the authority to provide social assistance on Indian reserves in Canada," Faculty of Social Work, University of Toronto, January 1991: 44-45.

77. See Norman Hillmer, "The Second World War as an (Un) National Experience," and N.F. Dreisziger, "The Rise of a Bureaucracy for Multiculturalism: The Origins of the Nationalities Branch, 1939-1941,," in N. Hillmer, B. Kordan, and L. Luciuk (eds.), On Guard for Thee: War, Ethnicity, and the Canadian State, 1939-1941. Canadian Committee for the History of the Second World War (Ottawa: Department of Supply and Services, 1988); also, W.R. Young, "Building Citizenship: English Canada and Propaganda during the Second World War," Journal of Canadian Studies, (3 and 4), Fall/Winter (1981): 121-132.

78. Ibid.

of state department to the citizenship and immigration department. The Canadian citizenship branch, unlike its sister Indian Affairs Branch, had a research branch and was in touch with voluntary associations; it took the lead in defining citizenship values, devising schemes for social adjustment, and educating the receiving society to accept foreign customs, cultures, and values.<sup>79</sup> It was in this administrative context that the Hawthorn study on B.C. Indians came to be sponsored by the Canadian citizenship branch.

While cultural and ethnic pluralism was an emerging facet of Canadian society in the 1950s, this trend did not generate political recognition of multiculturalism, nor concepts of special status for ethnic groups and Aboriginal peoples. Two events shed considerable light on the values and goals of Canadian society at mid-century: the report of the Royal Commission on Development in the Arts, Letters, and Sciences (Massey Commission); and the passage, and amendment of, Canadian citizenship legislation in 1946 and 1956. Each deserves some attention as they indirectly affected the development of Indian policy between 1951 and 1957.

#### *The Massey Commission and Indian policy*

The Massey Commission was formally launched in 1949, presenting its final report in 1951. Although the commissioners were specifically directed to investigate broadcasting, federal cultural institutions, government relations with voluntary cultural associations, and federal university scholarships, their instructions were parlayed into a crusade for Canadian cultural nationalism. The formation, organization, and deliberations of the Massey

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79. See, Canada. Citizenship and Immigration, Annual Reports, Canadian Citizenship Branch, 1951-1958.



Commission have been described in detail by historian Paul Litt in The Muses, the Masses, and the Massey Commission (Toronto: University of Toronto Press, 1992) and require no additional analysis here save to the extent that it affected Canadian Indian policy. And this it did in two aspects.

First, the Massey Commission hearings showed that Canadian cultural development would have to come to terms not just with biculturalism, but multiculturalism as well. Ethnic groups were demanding recognition as immigration was adding to their numbers, variety, and latent political power. The Massey Commission also heard a great deal, especially in the west, about the need to preserve Canadian Aboriginal cultures.<sup>80</sup> At the time however, the cultural lobby as a whole was too concerned about the survival of its own cultural traditions to get exercised about the plight of ethnic and Aboriginal peoples. Biculturalism was an accepted fact based on a historic and necessary political accommodation, and in the commissioners' views, there was no reason why new immigrants and Indians should not be integrated into existing arrangements.

When confronted with the opportunity of extending the logic of the liberal principle of tolerance underlying biculturalism, into multiculturalism, the limits of the elite's liberal qualifications of romantic nationalism were reached. The Massey commissioners were willing to accept the integration of ethnic and aboriginal cultures into a distinctive Canadian culture, but the idea of an ethnic mosaic was not translated from an emerging demographic trend to an acknowledged political reality.

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80. NAC, RG33, Records of Royal Commissions, Massey Commission, Series 28, Vol. 18.

In a related matter which also impacted on the development of Indian policy, the Massey commissioners gave whole-hearted approval to the recruitment of voluntary associations to act with government in setting Canadian cultural goals and defining aspects of Canadian citizenship. The Massey commission's official blessing gave support and impetus to voluntary associations and agencies concerned with influencing Indian policy - the CAAE, IODE, Canadian Citizenship Council, Canadian Welfare Council, Canadian Council on Social Development, and civil liberties groups - to engage themselves in Aboriginal social adjustment, citizenship, and legal issues.

*The Canadian Citizenship Act and Indian people*

The war experience, and post-war immigration convinced political and cultural elites of the desirability of creating a distinct Canadian citizenship.<sup>81</sup> Until the 1940s, there were simply two groups: aliens and Canadian Nationals, the latter being accorded status as "British Subjects".<sup>82</sup> Many new immigrants from eastern and southern Europe objected to being termed "British Subjects", as did a significant portion of Six Nations and Mohawk groups in Canada who, since the days of Joseph Brant, had asserted sovereign status.<sup>83</sup>

In 1946, An Act respecting Citizenship, Nationality, Naturalization and Status of Aliens (The Canadian Citizenship Act) was passed which came into effect on 1 January

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- 81. Leslie A. Pal, "Identity, citizenship, and mobilization: The Nationalities Branch and World War Two," Canadian Public Administration, 32(3), Fall: 407-426.
  - 82. Aliens could become "naturalized" through a procedure described in the Naturalization Act, see Part 2, "An Act respecting British Nationality, Naturalizations and Aliens," c.138, Revised Statutes of Canada (1927).
  - 83. Isabel T. Kelsey, Joseph Brant, 1743-1807. Man of Two Worlds (New York: Syracuse University Press, 1984).

1947.<sup>84</sup> At the time Indian branch administrators and their legal advisors believed the Canadian Citizenship Act encompassed Indians. However, Indian leaders claimed that since they did not vote, pay taxes, nor have the same liquor privileges as regular Canadian citizens, they were not citizens but possessed a unique form of "Indian citizenship".

This urge for a distinct form of citizenship was exemplified and given impetus in the courts. In 1954 Louis Francis, a Mohawk from the St. Regis Indian Reserve (Akwasasne), launched an Exchequer Court action to have Article 3 of Jay's Treaty (1794) recognized as confirming the special border-crossing privileges of Canadian Indian people.<sup>85</sup> The political implications amounted to the assertion of a separate North American Indian status.

Louis Francis lost his case on appeal to the Supreme Court of Canada in 1956.<sup>86</sup> As well, in that year, Section 9 of The Canadian Citizenship Act (1947), "Canadian Citizens other than Natural-Born", was amended by a new section to specifically include Indian people:

- (4) An Indian as defined in the Indian Act, or a person of the race of aborigines commonly referred to as Eskimos, other than a natural-born Canadian citizen, is a Canadian citizen if that person
  - a) had a place of domicile in Canada on the 1st day of January, 1947, and
  - b) on the 1st day of January, 1956, had resided in Canada more than ten years, and such person is deemed for the purposes of section 19, to have become a Canadian citizen on the 1st day of January, 1947.<sup>87</sup>

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84. Revised Statutes of Canada (1952), c. 33.

85. See, the Ottawa Evening Journal, 16 November 1953, "Feathered Indians in Ottawa Court. Sue Queen to Recover Custom Duty."

86. Francis v The Queen (1956), 3 D.L.R. (2d) 641.

87. Statutes of Canada 4-5 Elizabeth II, c. 6, "An Act to amend The Canadian Citizenship Act" (assented to June 7, 1956).

The passage of the 1956 Canadian Citizenship Act was designed to allay any doubts, both domestic and international, that Indian people were Canadian citizens. The fact that their citizenship was deficient, not equal to that of their fellow citizens, was overlooked by government officials.

***The International Labour Office and Canadian Indian administration***

During the 1950s the conditions, and citizenship status of Canadian Indians came under international scrutiny. The postwar years was a period of imperial decolonization, the proclamation of universal human rights, and optimistic internationalism focusing on the work of various United Nations agencies such as WHO, UNESCO, and the International Labour Office (ILO). Canada was an enthusiastic participant in these international endeavours. At the same time, however, diplomats and politicians were on guard against any foreign scrutiny of domestic conditions. The United Nations agency which caused Canadian officials, including Indian affairs management, considerable apprehension was the ILO.<sup>88</sup>

After the Second World War the ILO was interested in the working and living conditions of migratory labourers. In 1949 ILO officials forwarded a detailed questionnaire to the Canadian Department of Labour concerning the conditions, status, and government programs for Indian people.<sup>89</sup> The request for information was referred to the Indian Affairs Branch where, after several drafts, a thirteen page report was forwarded to Geneva. Requests for updated statistical information, as well as the exchange of research studies, continued

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88. The International Labour Office had been established in the 1930s as an agency of the League of Nations. Its headquarters was located at Geneva, Switzerland.

89. NAC, RG10. Vol. 8588, File 1/1-10-4, Vol. 1, "Liaison Committee with the International Labour Office, 1949-1951."

throughout the 1950s.<sup>90</sup>

In the spring of 1956 the ILO sponsored an international conference on the subject of "Protection and Integration of Indigenous Populations".<sup>91</sup> Col. H.M. Jones, director of the Indian Affairs Branch attended the Geneva sessions as part of the Canadian delegation. The purpose of the conference was to draw up articles for a "Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Countries". After much discussion and revision a formal document known as the "Indigenous and Tribal Populations Convention 107" was adopted on 26 June 1957.<sup>92</sup>

The Geneva Convention had implications for the conduct of Canadian Indian policy because some provisions called into question existing administrative arrangements and raised Aboriginal rights issues which could attract the attention of domestic Indian rights activists. The Convention consisted of seven parts: General Policy; Land; Recruitment and Conditions of Employment; Vocational Training, Handicrafts, and Rural Industries; Social Security and Health; Education; and Administration.<sup>93</sup> Articles 2, 3, 4, and 5 of "General Policy" urged member states to accord their indigenous peoples the rights and liberties enjoyed by "other

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90. Ibid., File 1/1-104, Vols. 2-5, 1951-1962. In particular see, "The Process of Integration," by Ernest Beaglehole, Dept. of Psychology, Victoria College, University of New Zealand.

91. NAC, Records of Citizenship and Immigration, RG26, Vol. 106, File 3-24-5-1, Pt. 1. Memorandum, Jean Boucher, director, technical services, to Deputy Minister, 20 December 1956.

92. Ibid.

93. "Indigenous and Tribal Populations Convention," ILO, Geneva. (1957). This was the first human rights treaty to recognize indigenous peoples as a distinct concern.

elements of the population”, and to protect indigenous cultures and values. Aboriginal peoples and their property assets were to be protected by the state, but not to the extent that such protection led to racial segregation.<sup>94</sup> Article 5 urged collaboration with indigenous representatives to ensure protection of their civil liberties and “participation in elective institutions”.

Canadian Indian administration was on shaky grounds on a number of these issues. Canadian Indians did not have the federal vote, and held the franchise only in a few provinces.<sup>95</sup> At the time, Indian Affairs Branch administrators were under attack from Canadian civil libertarians concerning authoritarian ministerial powers, particularly those to determine Indian status and band membership, which had no effective appeal mechanism.

The Convention’s four articles under “Part II - Land” struck a nerve within the Indian

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94. In December 1956 the Under-Secretary of State for External Affairs informed the Deputy Minister of Citizenship and Immigration that J.F. Van Wyk, director of the South African Institute of Race Relations, would visit Canada in January 1957 to investigate race relations in Canada including: French-English, and Indian administration “particularly the steps being taken to integrate them into the Canadian economy and social structures”. Van Wyk’s trip, like that of Oswin Boys Bull (director, Leretholi Technical School, Basutoland) in 1932, was funded by the Carnegie Corporation. In July 1962, W. Dirkes-Van-Schalkwyk, South African ambassador to Canada, visited various western reserves to study IAB integration programs. Details of liaison activities with South Africa in 1956 and 1962 can be found in: NAC, RG10, Vol. 8588, file 1/1-10-4, Pt. 5, 1949-1962. Oswin Boys Bull’s activities in the 1930s can be found in: NAC, MG42, Great Britain, Dominions Office, Vol. D.O. 35/417, File 11779/11.

95. In 1957, Indian people held the franchise in the following provinces: B.C. (1949), Manitoba (1952), and Ontario (1954). In later years Indian people could vote in provincial elections: Saskatchewan (1960), New Brunswick and PEI (1963), Alberta (1968), and Quebec (1969). Indians always had the vote in Nova Scotia and in Newfoundland after entry into Confederation in 1949. Indians always could vote in the NWT, and in Yukon after 1960.

Affairs Branch. Article 11, for example, stated:

The right of ownership, collective or individual, of the members of the population concerned over the lands which these populations traditionally occupy shall be recognized.<sup>96</sup>

Article 12 went further, stipulating that if indigenous peoples had their land base expropriated for developmental reasons then fair compensation in equivalent land or a cash payment should be made. And, finally, the customary rights of indigenous ownership and usage of land should be respected within the legal framework of member states.<sup>97</sup>

The aforementioned articles, of course, raised the spectre of international support for, and scrutiny of Canadian Aboriginal land claims, unresolved treaty rights issues, the surveying and subdivision of reserves in western Canada, and the high profile St. Lawrence Seaway expropriations at Caughnawaga (Kahnawake) and St. Regis (Akwesasne).

Fortunately for the Indian Affairs Branch, Canadian Indian leaders possessed neither the financial resources nor organizational skills to mobilize and focus international media attention on two serious domestic disputes - the Samson Band membership controversy in Alberta, and the St. Lawrence Seaway Authority expropriation of reserve lands at Caughnawaga and St. Regis. Both controversies threatened to disrupt branch attempts to build a cooperative and more open relationship with Indian people and to convince critics that heavy-handed Indian administration was a thing of the past.

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96. "Indigenous and Tribal Populations Convention," ILO, Geneva, 1957. Article 11, it was feared, would focus attention on the unresolved B.C. Indian title issue and the ongoing land dispute at Oka involving the construction of a golf course.

97. Ibid.

***The Samson Band membership dispute***

The Samson Band membership dispute, a situation that was duplicated on other reserves across Canada, threatened government efforts to establish a new working relationship with Indian people.<sup>98</sup> The disputes, particularly that of the Samson Band at Hobbema, Alberta, received extensive media coverage in Alberta and in other provinces, and engaged the critical attention of influential civil libertarians. Ironically, these band membership disputes arose as a result of governments' desire to improve the efficiency and economy of Indian administration by clearly defining who was legally an Indian, eligible to reside on reserves and receive government benefits and services.

The Samson Band membership dispute began in early 1952 and arose out of a petty quarrel.<sup>99</sup> A band member was arrested and charged with stealing a horse. The arrest warrant was executed by an RCMP officer, assisted by another member of the Samson Band. When the horse thief was released from jail he proceeded to file a protest against the fellow who had participated in his original arrest charging that three Cree ancestors of the man had accepted

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98. NA, MG32, B34, File 1A-12-H Pt. 2, Vol. 25. In a memorandum of 15 December 1953 to Mr. J.G. Levy, Laval Fortier, deputy minister, stated that there were originally 780 membership protests across Canada. This number increased to over 1,000 by 1956-57. It should be remembered that a statistical "protest" could involve many Indian people via kinship.

99. See article by John Laurie, "General Meeting 1952," in Canadian Cattleman, July 1952, 22-23. Laurie was reporting on the Indian association of Alberta's recent meeting at which the Indian Affairs Branch handling of the Samson membership dispute was referred to as "Gestapo" tactics.



Métis script and thus relinquished Indian status and treaty rights.<sup>100</sup> The implication was clear; depending on kinship, 103-112 members of the oil-rich Samson Band might lose their Indian status.

Up until 1951, Indian Act definitions of "Indian" were vague and open to interpretation. The revised Indian Act contained a specific heading on "Definition and Registration of Indians", comprising fourteen sections, the most important of which were: Section 9, "Deletions and Protests", and Sections 11 and 12 respectively, "Persons entitled to be registered", and "Persons not entitled to be registered". In brief, the 1951 Indian Act called for the existing departmental band lists to be open to revision for six months. Section 9 read in part:

- 9.(1) Within six months after a list has been posted in accordance with section eight or within three months after the name of a person has been added to or deleted from a Band List or a General List pursuant to section seven
  - (a) in the case of a Band List, the council of the band, any ten electors of the band, or any three electors if there are less than ten electors in the band,
  - (b) in the case of a posted portion of a General List, any adult person whose name appears on that posted portion, and
  - (c) the person whose name was included in or omitted from the list referred to in section eight, or whose name was added to or deleted from a Band List or a General List,

may by notice in writing to the Registrar...protest the inclusion, omission, addition, or deletion, as the case may be, of the name of that person."<sup>101</sup>

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100. NAC, MG32, B34, Vol. 25, File 1A-12-4, Pt. 8. Ruth Gorman to Joseph Dechene, M.P., 27 November 1956, enclosed a letter from J.M. Dechene, M.P. Athabasca to Hon. J.W. Pickersgill, minister, citizenship and immigration.

101. Statutes of Canada. 15 George VI, c. 29, "An Act Respecting Indians," (assented to June 20, 1951).

Sections 2, 3, and 4 made provision for the Indian Registrar to investigate complaints and for the Indian Registrar's decision to be referred to a county or district court judge.<sup>102</sup>

In March 1954 a review of existing historical and genealogical records had failed to turn up any conclusive evidence. Fourteen months later branch researchers uncovered new evidence and the case was reopened.<sup>103</sup> Anxious to avoid a rerun of the Macdonald Inquiry of 1944 into band membership in the Lesser Slave Lake Agency, Minister J.W. Pickersgill appointed Edmonton lawyer Charles H. Grant, Q.C., as a Commissioner under Part 2, Inquiries Act.<sup>104</sup> At the second inquiry Commissioner Charles Grant ruled against the Indians in question and the Indian Registrar issued an order (with a three-month appeal period) for the expulsion of 103 Cree from the Hobbema Reserve.

J.W. Pickersgill inherited the Samson Band membership dispute and other similar investigations when he became minister of citizenship and immigration on 1 July 1954. A number of factors heightened the political profile of the Samson expulsions and turned a local

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102. Ibid.

103. NAC, MG32, B34, Vol. 25, File1A-12-4, Pt. 8. Laval Fortier, deputy minister, Citizenship and Immigration, to the Secretary, Treasury Board, 7 June 1955.

104. Ibid.

situation, much to Pickersgill's chagrin, into a national "cause célèbre".<sup>105</sup> The Samson Band's solicitor, Mrs. Ruth Gorman,<sup>106</sup> had close ties with Calgary Conservative M.P. Douglas Harkness; John Laurie, secretary of the Indian Association of Alberta;<sup>107</sup> and Morris Schumiatcher, a Regina civil rights advocate. She was also on the executive of the influential Civil Liberties Section of the Canadian Bar Association. Her speaking engagements across the Province of Alberta brought her into contact with numerous sympathetic voluntary associations and service groups who were urged to draft letters and petitions about the expulsions.<sup>108</sup>

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105. Complicating the dispute was the fact that most members of the Samson Band were Roman Catholics. In 1954, a "National Indian Pilgrimage" to various historic Shrines in Ontario and Quebec had taken place involving 600 Indians. The religious fervour created at the time resulted in the formation of the Catholic Indian League by the Oblates. The League was designed to promote the social and economic rehabilitation of Indian people and to work closely with the Oblate Indian and Eskimo Welfare Commission. Regular monthly gatherings were held at Hobbema where the membership controversy was closely watched and reported on by the Oblate Fathers. See, The Indian Missionary Record, June and September 1954.
  106. See article by Dick Snell, "The Housewife who fights for the Indians," The Star Weekly Magazine, 4 March 1961. Gorman's father, M.B. Peacock had defended Stoney Indian hunting rights in the Rockies. In 1957, she was inducted into the Hobbema Cree as "Wapenta", supposedly meaning "Mother of the Hobbemas". Gorman was named Calgary's "Woman of the Year" in 1958.
  107. See article by Ruth Gorman on John Laurie, "The Doctor Schweitzer of the western plains...Dr. John Laurie," Canadian Golden West, 9, Fall 1972, 12-37.
  108. NAC, MG32, V34, Vol. 25, File 1A-12-4, Pt. 6. Mrs. D.E. Maguire, corresponding secretary, The Alberta Federation of Home and School Associations, to J.W. Pickersgill; and MG32, B34, Vol. 25, File 1A-12-4, Pt. 8. Ruth Gorman to Joseph Dechene, M.P., 27 November 1956.

In 1955 Mrs. Gorman was appointed chair of the Canadian Bar Association's Committee to study the legal status of Canadian Indians. The committee became a permanent unit of the Association's Civil Liberties Section in 1956. In 1955 and 1956 the Civil Liberties Section issued reports which criticized the Indian Affairs Branch's handling of the Samson Band and related membership disputes. The main thrust of these civil liberties reports was that certain sections of the Indian Act delegated discretionary powers to the Minister which were not open to Indian appeal or public review.<sup>109</sup> The Samson expulsions were viewed as particularly repulsive because, in the view of the civil libertarians, historic treaty provisions were violated, and reserve communities, which since the 1876 Indian Act had possessed a degree of self-identification, were now being broken up along "blood lines" without due process.

The domestic political sensitivity of the Samson Band membership issue was heightened in October 1956 by the Hungarian uprising. The resistance was eventually crushed by Soviet forces, but between November 1956 and February 1957, some 15,000 Hungarians emigrated to Canada. Dick Snell, a Calgary journalist, energized Alberta public opinion in January 1957 by running a series of six articles in the Calgary Herald contrasting the Indian Affairs Branch's eviction of 103 poorly educated Cree from their reserve homes with the federal government's open reception of Hungarian refugees.<sup>110</sup> The hard-

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109. Canadian Bar Association. Reports (1955-56). "The Civil Rights and Liberties of Canadian Indians".

110. See the Calgary Herald, 14-19 January, 1957.

heartedness of the Indian Branch administrators, drew critical editorial comment,<sup>111</sup> and petitions from concerned Alberta voluntary organizations to restore Cree band membership.<sup>112</sup>

The political clamour was not dampened by Pickersgill's handling of the affair. At first he stood by the Registrar's decision and quoted statistics to show that their numbers were not great nor the projected hardships severe.<sup>113</sup> Emphasizing that he was only doing his duty, Pickersgill's insensitive approach further inflamed the Samson situation as Douglas Harkness,<sup>114</sup> John Diefenbaker,<sup>115</sup> and Davie Fulton entered the fray.<sup>116</sup> The Samson Band membership issue and related investigations came to an end in April 1957. On April 6,

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111. See The Albertan, 24 January 1957, "Confess Mr. Pickersgill, or Resign."

112. See petition from "Alberta Federation of Home and School Associations," enclosed in D.E. Maguire, corresponding secretary, to J.W. Pickersgill, minister, MG32, B34, Vol. 25, File 1A-12-4, Pt. 6.

113. See for example, the Calgary Herald, 1 February 1957, "Minister's 'Sneers' Make White see Red,"; and The Indian Record, Feb. 1957, "Mr. Pickersgill Goes too Far."

114. NAC, Papers of the Hon. Douglas Harkness, MG32, B19, Vol. 66, Files "Indians A-J, 1954-1957," and "Indians L-T, 1954-1957," and "Indians; Indian Act; Speech (draft), newspaper clippings."

115. See Montreal Gazette, 26 August 1954, "Indian Affairs Probe wanted by Diefenbaker."

116. NAC, Papers of the Hon. E. Davie Fulton, MG32, B2, Vol. 13, 1955-1957. E.D. Fulton, M.P., Kamloops, to C.F. Dickson, Anglican Theological College, Vancouver, 15 February 1957. Also, The Indian Record, Jan. 1957, "Petition to Queen Available in Commons." Pickersgill made matters worse by allegedly issuing orders to have intercepted a petition to Queen Elizabeth that Ruth Gorman had drawn up on behalf of her Samson Band clients. Liberal M.P.s in western Canada wrote personally to Pickersgill urging immediate action to diffuse further political embarrassment and electoral alienation as a federal election was impending.

Pickersgill issued a terse four-page statement announcing that Chief Judge N.V. Buchanan of Alberta had confirmed the membership of 103 Samson Band Cree.<sup>117</sup> Pickersgill stated that all the protests had been dealt with and there would be no further band membership investigations because the original band lists had been posted in 1951, and the six-month appeal period had ended in 1952. Despite the political uproar, in the next five years only 21 Indians were removed from band lists across Canada, while 2001 Indians had been confirmed. In the process, the Indian Affairs Branch had squandered much goodwill among Indian people and elites in the attentive public sector of the Indian policy community.

*The Mohawks and Seaway expropriations*

In eastern Canada, about the same time, there was another Indian controversy involving expropriation of reserve lands for construction of the St. Lawrence Seaway. Seaway construction and the creation of hydro-electric installations necessitated the extensive flooding of farm lands and the relocation of some towns along the proposed routes. In Canada, two Mohawk Indian reserve communities were affected: St. Regis, near Cornwall, Ontario, and Caughnawaga at Montreal.<sup>118</sup> When the Seaway Authority made it known that some 1400

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117. NAC, MG32, B34, Vol. 25, File 1A-12-4, Pt. 8, "Statement by the Hon. J.W. Pickersgill, Minister of Citizenship and Immigration, Re: Hobbema Indian Dispute." Also, see The Indian Missionary Report, March 1957, "Expulsion Threat Lifted for Hobbema Band."

118. At St. Regis the American portion of the reserve at Akwesasne was affected by construction of the Moses-Saunders Power House at Barnhart Island. The Akwesasne Mohawks launched a land claim in U.S. Courts in 1954 claiming Aboriginal ownership of the island. This claim remains an issue to this day and has provided fertile ground for continued historical and legal activity. See, L.M. Hauptman, Formulating American Indian Policy in New York State, 1970-1986 (Albany: State University of New York, 1988), 103-104.

acres of reserve land were to be expropriated, the Mohawks protested, claiming the territory in question was part of their traditional Aboriginal territory.<sup>119</sup> Lionel Chevrier, a Cornwall lawyer and former minister of transport who now headed the Seaway Authority, dismissed Mohawk protests as “a chance to make some money out of the seaway” and charged that the activists were “just having fun at the expense of the seaway”.<sup>120</sup> To Chevrier, the Mohawks who “staged war-dances against the seaway and captured big headlines in Montreal newspapers” were a minority and the vast majority “were satisfied with what we are doing.”<sup>121</sup>

Chevrier's statements to the contrary, the Mohawks at Caughnawaga were in open rebellion against the seaway. Mohawk leaders insisted that expropriation of reserve lands violated the spirit of the new Indian Act as well as international conventions and historic Indian treaties negotiated by the British Crown and the Iroquois Confederacy. Furthermore, the Mohawks argued that the integrity of their reserve base was protected by Article 40 of the Articles of Capitulation signed at Montreal in 1760 and by the terms of the Royal

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119. L.M. Hauptman, The Iroquois Struggle for Survival. World War II to Red Power (New York: Syracuse University Press, 1986); in particular, Chapter 8, “Drums Along the Waterway. The Mohawks and the Coming of the Saint Lawrence Seaway,” 123-150; also C. Vecsey, W. Starna (eds.), Iroquois Land Claims (New York: Syracuse University Press, 1988).

120. L. Chevrier, The St. Lawrence Seaway (New York: St. Martin's Press, 1959), 105-107. According to John Mohawk, professor of American Indian Studies, State University of New York at Buffalo, the seeds of frustration among Mohawks and other Iroquois that gave rise to the later “Warrior Societies” were sown in the 1950s, when Canadian and United States government officials ignored Native protests regarding construction of the Saint Lawrence Seaway. See Bruce E. Johansen, Life and Death in Mohawk Country (Golden Colorado: North American Press, 1993), 114.

121. Ibid.

Proclamation of 1763.<sup>122</sup> To make matters worse, the Indian Affairs Branch, without Indian consultation, authorized the Seaway Authority to expropriate the required sites using Section 35 of the Indian Act.<sup>123</sup>

The Seaway expropriations split the Mohawk community. On 30 March 1955, Caughnawaga Chief Joseph Beauvais called a band council meeting in response to the crisis. He initiated a reserve referendum on the issue of surrendering reserve lands to the Seaway Authority. The Mohawks insisted on maintaining the integrity of their reserve and refused to accede to the Seaway Authority's demands. However, some Mohawks who were economically hard-pressed negotiated individual settlements with the Seaway Authority and the Indian Affairs Branch.<sup>124</sup>

In a subsequent band election, Chief Beauvais and his council were replaced by a more militant "traditionalist" group headed by Chief Michael Montour. Montour and the new council initiated a law suit against the Seaway seeking to halt expropriation. On 18 January 1957, the Mohawk argument was rejected by a Quebec Superior Court at Montreal. Although the Caughnawaga Mohawks had suffered a legal setback, they continued to appeal for just compensation and they lobbied politicians, journalists and the legal community for political

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122. David S. Blanchard, Seven generations: a history of Kanienkehaka (Kahnawake, Quebec: Kahnawake Survival School, 1980). See in particular Chapter 27, "The Kanienkehaka and the Seaway."

123. Section 18 of the amended St. Lawrence Seaway Act (1955) made provision for expropriation of land without the consent of the owner. Section 18 deemed the Seaway Authority a corporation within the meaning of Section 35, Indian Act (1951).

124. By O.C. 1955-1416, 16 September 1955, 1260 acres of the Caughnawaga Reserve were expropriated under Section 35, Indian Act (1951).



support.

In typical Iroquois fashion, the Mohawks attempted to bring the Caughnagawa expropriation case before international bodies. In December 1959, Chief Matthew Lazare prepared a petition for presentation to the Secretary-General of the United Nations.<sup>125</sup> In 1961, Lazare engaged the services of New York City attorney Omar Z. Ghobashy to prepare a legal brief for presentation to the World Court at The Hague.<sup>126</sup>

Domestic press coverage of the expropriation controversy, particularly the eviction of individuals,<sup>127</sup> attracted the civil libertarians and politicians. F.R. Scott, Faculty of Law, McGill University, acted as one of the legal advisors to the Mohawks during compensation discussions with Indian Affairs officials and Seaway Authority appraisers.<sup>128</sup> Scott thought the compensation offers were inadequate and that reserve expropriation was not following due process.

CCF and Progressive Conservative MPs seized on the compensation issue and called on government to appoint outside appraisers to reassess the value of expropriated reserve lands. On 25 March 1957, Douglas Harkness and others used Question Period to press J.W.

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125. O.Z. Ghobashy, The Caughnawaga Indians and the St. Lawrence Seaway (New York: The Devin-Adair Co., 1961), 57-58.

126. Ibid., 126. Also, E. Wilson, Apologies to the Iroquois (New York: Syracuse University Press, 1991).

127. See the case of Louis Diabo in L.M. Hauptman, The Iroquois Struggle for Survival. World War II to Red Power (Syracuse: Syracuse University Press, 1986), 138-139.

128. DIAND, Lands Services and Trusts Branch, Box "Kaknawake Reserve No. 14-St. Lawrence Seaway Land Claim." Memorandum to File, W.P. McIntyre, 10 September 1956.

Pickersgill to establish an Indian claims commission to adjudicate Mohawk claims.<sup>129</sup> No action was forthcoming, expropriations continued, and the controversy continued to fester until the late 1960s.<sup>130</sup>

The St. Lawrence Seaway expropriations and the Samson Band membership dispute offered considerable political ammunition to interested parties in the attentive public sector of the Indian policy community - journalists, opposition politicians, and civil libertarians - to question Indian Affairs administration, its authoritarian and undemocratic practices.<sup>131</sup> Their dissenting voices fuelled speculation that Indian affairs would benefit from a public inquiry.

Indian rights spokesmen such as Andrew Paull of the North American Indian Brotherhood followed the unfolding controversies. The Brotherhood's newspaper, The Thunderbird, described events and presented articles on the Caughnawaga expropriations<sup>132</sup> and the Samson Band membership dispute. The attendant political controversy and negative media coverage was not welcomed by the St. Laurent Liberals as they positioned themselves for a federal election in 1957.

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129. See questions from Douglas Harkness (PC - Calgary North), Colin Cameron (CCF - Nanaimo), and Tom Barnett (CCF - Comox-Alberni) in, Canada. House of Commons, Debates, 1635-1638.

130. Gerald R. Alfred, Heeding the voices of our ancestors: Kahnawake Mohawk politics and the rise of native nationalism (Don Mills, Ont: Oxford University Press, 1995).

131. A critical analysis had been written in 1952. See Martha C. Randle, "The New Indian Act," (March 1952), 276-278, in J.L. Granatstein and P. Stevens (eds.), Forum. Canadian Life and Letters, 1920-70: Selections from the Canadian Forum (Toronto: University of Toronto Press, 1976).

132. The Thunderbird (Sept. 1955), 6-8; The Thunderbird (Jan. 1953), 3, "Royal Commission on Indian Status."

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The years from 1951 to 1957 had started out in a positive fashion on a number of fronts: Parliament passed a revised Indian Act; the Indian policy community concurred that the “Indian problem” should be recast in social welfare terms; and Indian social integration was sanctioned as the goal of Indian administration. Parliament voted increased funding to enable the Indian Affairs Branch to hire additional headquarters and field staffs, to upgrade reserve infrastructure, and to extend pension benefits, education facilities, and social services to reserve residents.

The Indian Affairs Branch realized it could not meet political expectations nor fulfill its revised mandate without Indian cooperation and expert outside assistance. The Indian policy community was cautiously expanded to include the participation of new actors. This situation posed both an opportunity and a threat to the Indian Affairs Branch’s control both of the policy and political agendas.

The carefully planned consultation meetings with Indian leaders from 1953 to 1956 did succeed in identifying aspects of administration and legislation which required modification. Arising from these encounters Indians articulated their own critique of Indian policy focusing on compulsory enfranchisement, off-reserve taxation, unfulfilled treaty rights, and land claims issues. In the process, notions of “Indian citizenship” based on kinship and community relations, Aboriginal and treaty rights became part of the Indian political agenda.

Federal consultations with select provincial governments to develop programs for school integration, hospitalization, and child welfare were productive. The provinces were not enthusiastic about assuming Indian-related responsibilities assigned to the federal government

under Section 91(24), British North America Act unless the new ventures were funded by Ottawa.

The branch's research liaison activities with the Panel on Indian Research, the Ottawa Study Group, the NCIC, and the Hawthorn research team proved beneficial. Administrators were introduced to new perspectives and strategies for advancing Indian integration. They found their encounters with elites in professional and voluntary associations useful as public relations opportunities to blunt or head off outside criticism. The response of international organizations to Indian complaints, while less amenable to government manipulation, was minimal: Indian leaders lacked the financial resources, organizational skills and contacts to take full advantage of events and to launch sustained lobbying efforts.

The period nevertheless ended on a threatening note. The Samson Band membership dispute and the St. Lawrence Seaway expropriation controversies came to a head in 1956-57 attracting considerable media and political attention. Opposition politicians, particularly Douglas Harkness, Davie Fulton, and John Diefenbaker castigated the Liberals - then involved in the pipeline imbroglio - for heavy-handed and autocratic Indian administration. Civil libertarians condemned the extent of the minister's discretionary powers and sections of the Indian Act which violated Indian civil liberties and rights. In many respects, the Indian critique of Indian affairs administration and the position of civil libertarians coincided.

A federal election was called for 10 June 1957. The Progressive Conservatives won a plurality of seats and on 21 June 1957 John Diefenbaker became prime minister. Diefenbaker, a populist and a civil libertarian, enjoyed a longstanding sympathetic relationship with Indian people in western Canada. For many years a critic of Indian administration, he

would require little prompting to decide a thorough review of Indian policy was warranted.

## **CHAPTER SIX**

### **The Joint Committee on Indian administration and the Indian Act, 1959-1961: “Winds of Change”?**

In June 1959, after two years in office, John Diefenbaker's Conservative government struck a joint committee of the Senate and House of Commons to investigate Indian policy and administration. For many years Diefenbaker and his cabinet colleagues, Davie Fulton and Douglas Harkness, had been critics of Indian administration so it was not surprising that the formation of an investigative committee fuelled the expectations of Indians and non-Indians that change was in the wind.

The parliamentary committee sat for two years. Besides government officials, and church authorities, leaders of Indian bands and Native rights associations were invited to participate. As well, organizations specializing in co-operative enterprises and programs for social adjustment – for example, the Co-Operative Union of Canada and the Indian-Eskimo Association (formerly the National Commission on the Indian Canadian) – presented lengthy briefs. Significantly, for the first time, the provinces joined in the deliberations of the Indian policy community. Traditionally, the provinces considered Indian people to be an exclusive federal responsibility under Section 91(24) of the British North America Act. However, a rising urban Indian population - particularly in the west - prompted the provinces to reassess their position and take a greater interest in their Indian citizens.

The three years of hearings produced voluminous testimony from Indians and non-Indians cataloguing deplorable reserve conditions and the need to urgently upgrade health, education, and social welfare services. A variety of strategies to ameliorate reserve conditions

was discussed, including: expansion of Indian branch programs, establishment of co-operative ventures on reserves, implementation of community development schemes, and enlistment of the provinces in social service delivery.

The government's policy of Indian integration came under scrutiny. Native self-help measures were invariably linked to the success of the integration policy. But Natives and non-Natives had differing views of what the integration process entailed and what would be the end result. For example, the Six Nations Iroquois Confederacy argued that, historically, they were allies of the Crown, not subjects and possessed a form of sovereign status. The Federation of Saskatchewan Indians on the other hand favoured integration and put forward a bold plan to achieve it. Throughout the hearings, particularly in 1960, expressions of Indian nationalism and notions of Indian citizenship are glimpsed as Native groups presented their respective political agendas to government.

The joint committee submitted its final report to Parliament in July 1961. The committee endorsed the post-war policy of Indian integration, but revised the government's strategy and program for its achievement. Would the Diefenbaker government adopt the committee's recommendations?

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Before turning to an examination of the joint committee's formation and hearings, John Diefenbaker's views concerning Indian people and Indian administration should be sketched.

***John Diefenbaker's experiences with Native peoples***

On 21 June 1957, John G. Diefenbaker became prime minister of Canada.

Diefenbaker was an advocate of human rights and civil liberties. Being of neither French nor British stock, and through life experience, Diefenbaker promoted the inclusion of minority groups and other under-represented people in mainstream society and politics. Diefenbaker stood for “unhyphenated Canadianism” within what he called “One Canada.” This concept, in Diefenbaker’s own words stood for “prejudice toward none and freedom for all. There were to be no second-class citizens.”<sup>1</sup>

Diefenbaker had first-hand knowledge of the aspirations, living conditions, and grievances of Native peoples in western Canada. First elected to Parliament in 1940 for Lake Centre, since 1953 Diefenbaker had represented Prince Albert constituency, a northern riding that contained numerous Indian reserves and a significant Metis population.<sup>2</sup> He was, amongst other things, a critic of Indian Affairs administration which he regarded as paternalistic and authoritarian. He was particularly incensed that the 1951 Indian Act delegated numerous powers to the minister without the right of appeal. On a more mundane, political level Diefenbaker distrusted the local Indian Affairs establishment because of its close ties to the Saskatchewan patronage network established by Jimmy Gardiner, St. Laurent’s

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1. John G. Diefenbaker, One Canada: Memoirs of the Rt. Hon. John G. Diefenbaker, Vol. 2 (Scarborough: Macmillan of Canada, 1976), 27.
  2. John G. Diefenbaker, One Canada: Memoirs of the Right Honourable John G. Diefenbaker. The Crusading Years, 1895 to 1956, Vol. 1 (Scarborough: Macmillan of Canada, 1975), 23; Denis Smith, Rogue Tory: The Life and Legend of John G. Diefenbaker (Toronto: Macfarlane Walter and Ross, 1995); and Maria Campbell, Halfbreed (Toronto: McClelland and Stewart, 1973), 64. After studying law at the University of Saskatchewan he set up a practice at Wakaw and took on *pro bono* the cases of several Indians and Métis. His most famous case, Rex v. Smith (1939), which he argued (and lost) before the Saskatchewan Court of Appeal involved defence of Indian treaty hunting rights.



minister of agriculture.

Diefenbaker's enthusiasm for reform of Indian administration had a strong civil liberties overtone. Indeed, his views coincided with the reform agenda proposed by the civil liberties section of the Canadian Bar Association in 1956: establish an appeal mechanism to curb ministerial powers, honour Indian treaty obligations, eliminate compulsory Indian enfranchisement, and grant Indian people the vote. Diefenbaker's personal commitment to Indian advancement cannot be denied. During the 1957 election he made a number of campaign promises to western Indian chiefs that, if elected, he would remove some of the more odious sections from the Indian Act. On gaining power, this task was initially assigned to E. Davie Fulton from British Columbia.

### *The stewardship of Davie Fulton*

On 21 June 1957, E. Davie Fulton (PC-Kamloops) was sworn in as minister of justice and acting minister of citizenship and immigration. A hallmark of Fulton's eleven-month stewardship of Indian Affairs was an openness to hearing the views of Indian delegations visiting Ottawa. One such encounter took place on 16 October, when the President and Legislative chair of the Native Brotherhood of British Columbia, Robert Clifton and Peter Kelly, met with Fulton, Douglas Harkness, and a number of Conservative M.P.s.<sup>3</sup> The issue at hand was the state of Indian administration and settlement of longstanding Indian grievances.

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3. NAC, Papers of the Hon. E.D. Fulton, MG 32, B1, Vol. 88, File 1A-12E, "Matters concerning Indians in British Columbia, to be presented to the Federal Government", 16 October 1957.

As Fulton reported to John Diefenbaker,<sup>4</sup> the Native Brotherhood's presentation demanded government action on a number of policy fronts: creation of a royal commission to investigate Indian administration; appointment of an Indian senator; acquisition of the federal vote; and settlement of a number of B.C. issues - the Aboriginal title question and off-reserve taxation. According to the Native Brotherhood, Indian administration could be improved by devolving ministerial powers to Indian band councils and by appointing an Indian as assistant director of the Indian Affairs Branch. Government funds were urgently required to build houses, schools, roads and sewers on reserves. Finally, liaison with provincial government departments and agencies was essential to ensure the delivery of health and welfare services to Indian people both on and off-reserve.

Fulton sent copies of the Native Brotherhood's brief to his colleagues Alvin Hamilton, minister of northern affairs and national resources; J. Waldo Monteith, minister of national health and welfare; and Postmaster General William Hamilton. All three were in favour of granting Indian people the federal vote and providing Senate representation. However, they were concerned that recognition of special Indian rights, privileges and tax exemptions would retard the process of Indian integration. The three ministers did not favour special status for Indians and they felt that if the government acted on Indian wishes this might well lead to additional "rights" demands in the future.<sup>5</sup>

The Native Brotherhood's brief was also forwarded to the director of the Indian

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4. Ibid., E.D. Fulton, Acting minister, to Rt. Hon. John G. Diefenbaker, prime minister of Canada, 17 October 1957.

5. Ibid., see detailed replies from Alvin Hamilton (6 January 1958), William Hamilton (4 November 1957), and J. Waldo Monteith (30 October 1957).

Affairs Branch.<sup>6</sup> Branch officials were apprehensive. They were wary and unsure of Fulton and his policy direction. He had been a critic of Indian administration. They responded cautiously to the Native Brotherhood's submission, essentially defending the status quo. On 28 October 1957, Branch Director H.M. Jones sent a twenty-page memorandum to Deputy Minister Laval Fortier, commenting on each point put forward by the Native Brotherhood.<sup>7</sup> The branch was non-committal on the issues of the federal franchise and Senate representation, observing that the two measures related to general "government policy". Jones noted, however, that elements of the Indian population, such as the Six Nations "Long House" people at Ohsweken, were historically opposed to voting in non-Indian elections.

The Indian Affairs Branch was sensitive to Brotherhood charges that sections of the Indian Act delegating ministerial powers were arbitrary, amounted to a veto of band council authority, and violated individual Indian civil liberties. The branch's response was that the delegation of ministerial power was an instrument for administrative flexibility which permitted the minister to respond to local Indian political situations and conditions. In many instances these discretionary powers were subject to appeal, and in other situations, the band council had to be consulted.

One of the Brotherhood's major contentions was specific to B.C. In the branch's view, the B.C. Aboriginal title question had been investigated thoroughly by a parliamentary committee in 1927. At that time, the historical and legal evidence presented to the committee

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6. Ibid., E.D. Fulton, Memorandum for the Director of Indian Affairs, 17 October 1957.

7. Ibid., H.M. Jones, director, Memorandum to the Deputy Minister, 28 October 1957.

had been deemed not sufficient to establish a *prima facie* argument for the existence of an Aboriginal title claim. Instead, a \$100,000 annual grant in lieu of land cession treaties had been provided.

Explicit in the Native Brotherhood's presentation was the charge that the Indian Affairs Branch was not in touch with the views and aspirations of Indian people across Canada: hence the demand for a royal commission inquiry. The branch director responded that the regional Indian consultations in 1955 and 1956 were designed to improve liaison with Indian people. It was doubtful that a royal commission could adequately address the diversity of Indian views and conditions. Finally, the branch director was non-committal about creating an assistant Indian Affairs commissioner, the post to be filled by an Indian. He pointed out that ten percent of the branch's employees were Indian people and, eventually, one would presumably be ready for "executive responsibility".

Davie Fulton agreed with the Indian Branch's assessment of the Native Brotherhood's position paper. Fulton, like the three cabinet colleagues he had consulted, did not favour the recognition of special status for Indian people. Settling the B.C. Aboriginal title issue was philosophically and politically not on his agenda nor did he favour an extensive inquiry into Indian Branch operations. The latter decision could wait until a full-time minister was appointed. Nonetheless, Fulton saw political merit in proceeding with a number of reforms: appointment of an Indian to the Senate; and revision of specific sections of the Indian Act concerning Indian enfranchisement.<sup>8</sup> Fulton discussed these initiatives with his cabinet colleagues and, on 31 December 1957, received a personal note from Diefenbaker, who was

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8. NAC, MG 32, B-1, Vol. 114, File 1A-17, "Enfranchisements, 1957-1963."

vacationing in Nassau, to proceed as a priority with Indian Act revision.<sup>9</sup> Diefenbaker was intent on fulfilling his election promise to the western Indians.

About the same time, a search was initiated for a candidate to become Canada's first Indian senator. There were three contenders: Andrew Paull, president of the B.C.-based North American Indian Brotherhood; Dr. Gilbert Monture, a distinguished government scientist from the Six Nations Reserve; and James Gladstone, past president of the Indian Association of Alberta. Andrew Paull had liabilities: he was an "Indian rights" advocate and in poor health. Dr. Monture was the candidate of the Ontario Conservatives, particularly M.P. Ellen Fairclough. James Gladstone, on the other hand, was the favourite of John Laurie, Douglas Harkness, and Ruth Gorman. Gladstone also knew John Diefenbaker. More important, Gladstone, a successful rancher, was considered by political operatives to be a moderate, sensible critic of Indian administration: a person who would not generate uncontrollable political waves. On 1 February 1958, the day that Diefenbaker called a federal election, James Gladstone was summoned to the Senate.<sup>10</sup>

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9. Ibid.

10. The Hon. James Gladstone, from the Blood Reserve in southern Alberta, was born 21 May 1887, (Kanai) near Mountain Mill, NWT. He was educated at St. Paul's Anglican Mission, Blood Reserve, 1884-1903; and at the Calgary Indian Industrial School, 1903-1905. In July 1911 he married Janie Healey, they had six children. A rancher and farmer, he was President of the Indian Association of Alberta, 1948-1954, and again in 1956. On three occasions he travelled to Ottawa as an Indian delegate to discuss changes to the Indian Act. He was appointed to the Senate on 1 February 1958. He died at Fernie, B.C. on 4 September 1971. See H.A. Dempsey, The Gentle Persuader. A Biography of James Gladstone, Indian Senator (Saskatoon: Western Producer Prairie Books, 1986).

***Ellen Fairclough and the creation of the 1959 joint committee***

During the winter election campaign Indian affairs was placed on the political backburner. On 31 March, the Progressive Conservatives won a majority government. On 12 May, a new ministry was sworn: Ellen Fairclough became minister of citizenship and immigration.<sup>11</sup> Ellen Fairclough's experience with Indian people and issues was limited. She became familiar with Indian people through living in proximity to the Six Nations Reserve. She was interested in women's issues and labour policy and it may have been through this prism that Indian conditions caught her attention. Her memoir, Saturday's Child, contains scant historical information on her four years as minister. However, in an interview for this thesis she indicated that Diefenbaker wanted action on Indian issues and Fairclough followed his direction, drawing on insights and advice from Fulton and Harkness.

Ellen Fairclough inherited Fulton's mandate to revise the Indian Act. In order to meet Diefenbaker's campaign commitment, Fairclough engineered the passage of an amendment to the Indian Act that would prevent band membership disputes similar to the Samson Band

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11. Ellen Louks Fairclough was born at Hamilton, 28 January 1905. A chartered accountant by profession, she became Canada's first female cabinet minister in June 1957 when Prime Minister John Diefenbaker appointed her secretary of state. Fairclough was a Hamilton city councillor 1946-49 and in May 1950 was elected to Parliament in a by-election. As PC labor critic she introduced a private member's bill requiring equal pay for equal work and the creation of a Women's Bureau within the Department of Labour. In 1958, Fairclough became minister of citizenship and immigration, a portfolio she held until 1962, when she became postmaster general. She was defeated in the April 1963 federal election. After leaving politics, she became corporate secretary of Hamilton Trust and Savings Corporation, a commissioner of Hamilton Hydro, and international treasurer of Zonta International Order of St. John of Jerusalem, Knights Hospitaller. In March 1995, Ms. Fairclough was named to the rank of Companion of the Order of Canada. See, E.L. Fairclough, Saturday's Child. Memoirs of Canada's First Female Cabinet Minister (Toronto: University of Toronto Press, 1995).

controversy, from reoccurring. This was accomplished in August 1958 when section 12 was revised.<sup>12</sup>

Following the March election, voluntary and professional organizations, civil right advocates, Native rights associations, and western Indian band chiefs pressed the Diefenbaker administration to conduct a thorough investigation of Indian administration and the Indian Act.<sup>13</sup> Diefenbaker and his colleagues were certainly receptive but uncertain how to proceed. It was one thing to be a critic of Indian administration, quite another to determine the content and pace of reform. Establishing a royal commission was one policy option: lack of political control and expense were liabilities. Diefenbaker, exhibiting his usual political caution, favoured striking a joint committee similar to the 1946-48 exercise. This manoeuvre had obvious benefits. The views of Indian people, politicians, and outside experts could be canvassed and evaluated. Policy reform would not likely outstrip current public opinion concerning Indian issues and thus become threatening to the government.

In September and early October, Minister Fairclough and senior branch officials discussed possible terms of reference for the inquiry. Six subjects were identified: Indian education; medical and social services; Indian financial credit and commercial enterprises;

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12. Statutes of Canada. 7 Elizabeth II. c. 19, "An Act to amend the Indian Act" (13 August 1958). Section 12 was amended as follows: "(3) Subparagraphs (i) and (ii) of paragraph (a) of subsection (1) do not apply to a person (a) pursuant to this Act is registered as an Indian on the day this subsection comes into force, or (b) is a descendant of a person described in paragraph (a) of this subsection."
  13. NAC, MG 32, B1, Vol. 88, File 1A-12G, 1957-1959. Ellen Fairclough to Walter S. Owen, president, Canadian Bar Association, 5 February 1959.

municipal government on reserves; the federal vote; and compulsory enfranchisement.<sup>14</sup> On 22 October 1958, Minister Fairclough announced when Parliament resumed sitting in January 1959, a joint committee would be struck "to make a 'pretty broad' study of all matters pertaining to the position of Indians in Canadian society today". To prepare herself for the hearings, on 9 November Fairclough embarked on a three-week tour of Indian reserves in Manitoba, Saskatchewan and Alberta.

There was extensive public support within the Indian policy community for the minister's initiative. Indian affairs bureaucrats even saw it as an opportunity to gain political support and additional funding for community development programs. On 7 April 1959, after a trip to Calgary, Fairclough received a six-page petition from lawyer Ruth Gorman, co-signed by representatives of forty Indian bands, Native rights associations, church groups, labour unions, social service clubs, and the media. The petitioners requested that: an appeal mechanism be established to review ministerial decisions, treaty Indians should not lose their Indian status, and government-funded trades and professional training should be available to Indian people. The petition disclosed a rationale of self-interest for the action plan:

Secondly these groups and societies (sic) who represent over two million persons are, as well, earnestly requesting the Government to undertake a program which is designed to raise Indians' standards on the reserve so he may enjoy equality in education, economic security, job training and placement on or near his reserve, political responsibility in the administration of his own affairs, with that of his white neighbours so eventual assimilation may be completed with some success without destroying the cultures of a worthwhile race or creating a race problem

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14. NAC, RG10, Vol. 8583, File 1/1-2-16, Pt. 1, H.M. Jones, director, memorandum to the deputy minister, 16 October 1958.



and a criminal and delinquent problem for the surrounding communities.<sup>15</sup>

This petition is of interest for a number of reasons. Its organizer, Ruth Gorman, was past chair of the civil liberties committee of the Canadian Bar Association. On the eve of joint committee hearings, the petition affords some insights into the dominant society's views of Indians as citizens. Indian people should have access to social services and vocational training to ensure their self-reliance and economic independence. Despite the use of the term "assimilation", the petition supported Indian cultural preservation and the promotion of self-government on reserves. There was no suggestion of special status for Indian people, nor any mention of protecting treaty rights. Whether Native groups that endorsed the petition noticed the absence of special rights is not recorded. Indeed, they may simply have viewed the petition as an instrument to at least get the "reform ball" rolling. Once the hearings got underway, Native leaders could then present their own political agendas.

On 29 April and 5 May 1959, the House of Commons and the Senate approved the formation of a joint committee to investigate Indian administration. The committee, comprising twenty-four M.P.s and twelve senators, was co-chaired by Quebec M.P. Noël Dorion and Senator James Gladstone.<sup>16</sup> Unlike the specific terms of reference for the 1946-48 inquiry, the 1959 joint committee had a broad mandate:

...to examine and consider the Indian Act...and amendments thereto,

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15. NAC, MG 32, B1, Vol. 88, File 1A-12F, 1957-1961. Ruth Gorman to the Hon. Ellen Fairclough, 7 April 1959.
  16. The 1959 joint committee, like the special joint committee of 1946-48, was dominated by Protestants. There were three hold-overs from the first investigation: J.A. Charlton, M.P. and Senators Horner and Dupuis. Charlton later became parliamentary secretary to Minister Ellen Fairclough.

and to suggest amendments as they may deem advisable with authority to investigate and report upon Indian administration in general and in particular, on the social and economic status of the Indians...<sup>17</sup>

There were advantages to vesting the joint committee with broad terms of reference. Indian Affairs officials would have difficulty in dominating proceedings. Through public consultation, a spectrum of interest groups with a stake in Indian administration and policy development would be encouraged to testify, submit briefs, and thus participate in the formulation and development of an agenda for government action.

*The joint committee hearings begin*

Formal hearings of the joint committee began on 3 June 1959 and adjourned on 15 July for the summer recess. In May, the steering subcommittee had decided to invite leaders of Indian bands and Native rights associations to testify. On short notice only four Aboriginal groups indicated their readiness to participate: the Six Nations Band Council, the Six Nations Iroquois Confederacy, the Native Brotherhood of British Columbia, and the Manitoba Indian Brotherhood. The 1959 sessions were uneventful in every respect.

The first witnesses were Minister Ellen Fairclough, Laval Fortier, deputy minister, and Col. Hubert Jones, branch director. The minister opened proceedings with a bland statement that referred to seven major briefs she had received from non-Native organizations as well as one from the Indian Association of Alberta demanding an inquiry into Indian Affairs.

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17. Joint Committee of the Senate and the House of Commons on Indian Affairs, hereafter JC, Minutes of Proceedings and Evidence (No. 1, 20 May 1959; 3 June 1959), 3-5. Diefenbaker had supported a general investigation of Indian administration during the 1957 campaign. See The Indian Record, 20 (6) June 1957, "Better Deal for Indians promised by Diefenbaker."

Fairclough did not articulate a particular goal or vision for the hearings and she quickly turned proceedings over to her officials.

This was not to be a re-run of the 1946 sessions. Anticipating the striking of a committee, branch officials in the spring of 1958 had assembled information packages for the consideration of committee members which included: "A Review of Branch Activities, 1948-1958", a compendium of Annual Report, copies of the Indian Act and regulations, as well as copies of the numbered Indian treaties. The deputy minister noted two developments during the 1950s that had improved Indian administration. First, the "White man's community", including voluntary and professional groups, had become interested and active in the welfare and economic development prospects of Indian people. Second, in 1955 and 1956, branch officials had organized seventeen regional consultation meetings with Indian leaders to discuss legislative amendments and administrative streamlining. In the view of officials these encounters had been successful and more were planned in the future. The implication was that officials were listening to Indian concerns and would modify the government's program to ensure that Indian progress was maintained.

The branch director and director of education followed the deputy minister. Unlike their hapless state in 1946, officials exuded confidence and went into great detail describing administrative and program achievements. The branch's centre-piece was an expanding program to enhance Indian education that featured improved vocational training and

integration of Indian schools and curriculum into provincial systems.<sup>18</sup>

In the last days of June, the Six Nations Band Council and the Six Nations Iroquois Confederacy appeared before the joint committee. The Six Nations Council demanded an end to compulsory enfranchisement, restoration of "self-government", and acquisition of the federal vote.<sup>19</sup> Appearing a day later, the Six Nations Iroquois Confederacy presented parliamentarians with a lengthy historical and legal discourse in support of their view that the Six Nations were a sovereign people and the system of band council government under the Indian Act was illegal.<sup>20</sup> Parliamentarians were not impressed with the Confederacy's arguments as they ran counter to the prevailing policy orthodoxy of Indian integration and acquisition of Canadian citizenship.

In the early days of July the representatives from the Native Brotherhood of British

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18. Since 1948 the Indian population had increased 17.7% while annual branch expenditures had increased from \$10.3 million to \$40 million. An Economic Development Division had been established and the Revolving Loan Fund expanded to \$1,000,000. On reserves, 8,600 new houses had been constructed. Education accounted for \$22 million of the branch's annual budget. In 1948, 23,285 Indian children were in school: the figure was now 38,836, a 65% increase. In 1948, 611 were in high school, this figure was now 2,144. In 1951, only 9 Indian bands in the western provinces were under the elective systems, now 344 of the 571 bands had elected councils. Sixty-one Indian women held elected office, three as chief. Old age security, old age assistance, blind and disabled persons allowances had been extended to Indian people. Finally, since passage of the Indian Act in 1951 7,000 Indian people had enfranchised voluntarily.
  19. Joint Committee (hereafter JC), Minutes of Proceedings and Evidence (No. 4, 23 June 1959), 77-98. The Six Nations spokesmen were Chief E.P. Garlow and Councillor F. Hill.
  20. JC, Minutes of Proceedings and Evidence (No. 5, 24 June 1959), 101-115. The Confederacy was represented by Chiefs Green, General, Jacob and Hill. Arthur Anderson, secretary, and Ella Worthington, legal counsel, also attended.

Columbia (NBBC) and the Manitoba Indian Brotherhood (MIB) testified. The NBBC submission was the same as that discussed with Conservative cabinet ministers in October 1957. The document demanded settlement of the Aboriginal title issue, an appeal mechanism to curb ministerial powers, acquisition of the vote, and Indian representation in Parliament.<sup>21</sup> The MIB presentation described the deplorable state of reserve conditions in northern Manitoba and called for an end to compulsory enfranchisement.<sup>22</sup>

After twelve sessions the committee adjourned. In the short time politicians had heard a variety of Native concerns and had been exposed to a number of political agendas ranging from assertion of sovereign status to settlement of Aboriginal title claims. There was no formal response from the committee to Aboriginal concerns: only the recommendation that the joint committee be reconvened at the next session of Parliament. The 1959 hearings activated the Indian policy community and put members of the attentive publics sector on notice that they would have an opportunity in 1960 to air their views on policy matters.

*Indians obtain the federal franchise*

In the early spring of 1960, outside the committee hearings, there were two important developments in both policy and administration: Indian people were granted the federal vote, and Laval Fortier, deputy minister of citizenship and immigration, was replaced by Dr. George Davidson, then deputy minister of welfare. It will be recalled that granting the federal vote

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21. JC, Minutes of Proceedings and Evidence (No. 6, 2-3 July 1959), 127-144. Robert Clifton, president, and the Rev. Peter Kelly, chair, legislative committee testified.

22. JC, Minutes of Proceedings and Evidence (No. 7, 9 July 1959), 231-233. Chief A.J. Cook, president, and A.E. Thompson, secretary, made the presentation.

to Indian people had been canvassed by the cabinet in 1950, and, at that time rejected, because C.D. Howe feared the electoral consequence in his Port Arthur riding. Throughout the 1950s a significant number of Indian leaders, excluding Ontario and Quebec Iroquois “Longhouse” groups, favoured acquisition of the franchise so long as Indian status, treaty rights, and income tax exemption were not forfeited. Influential elements in the attentive public domain of the Indian policy community – adult education teachers, social workers, and civil libertarians – also favoured the measure.

John Diefenbaker was also an advocate of the Indian franchise; in his view, voting was one hallmark of Canadian citizenship. But there were other political considerations as well. On the domestic scene a Bill of Rights was in the early drafting stages and with its emphasis on equal rights for all Canadians, Indians could hardly be denied the right to vote. On the international front, Diefenbaker had recently criticized the government of South Africa for its apartheid policies which disenfranchised black Africans. Thus the political situation of Canadian Indians was a potential source of political embarrassment.

After months of dithering, the course of least resistance was chosen. On 31 March 1960 the Indian Act was amended by the repeal of Section 86(2), which had the effect of nullifying Section 14(2)(e) of the Canada Elections Act.<sup>23</sup> Henceforth, Indian people could vote at federal elections without signing an income tax waiver. The initiative was hailed by non-Indian members of the Indian policy community as a major step towards the integration of Indian people into Canadian society. In Indian country, the measure received mixed

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23. Statutes of Canada. 8-9 Elizabeth II. c. 8, “An Act to amend the Indian Act” (31 March 1960).

reviews.

***George Davidson becomes deputy minister***

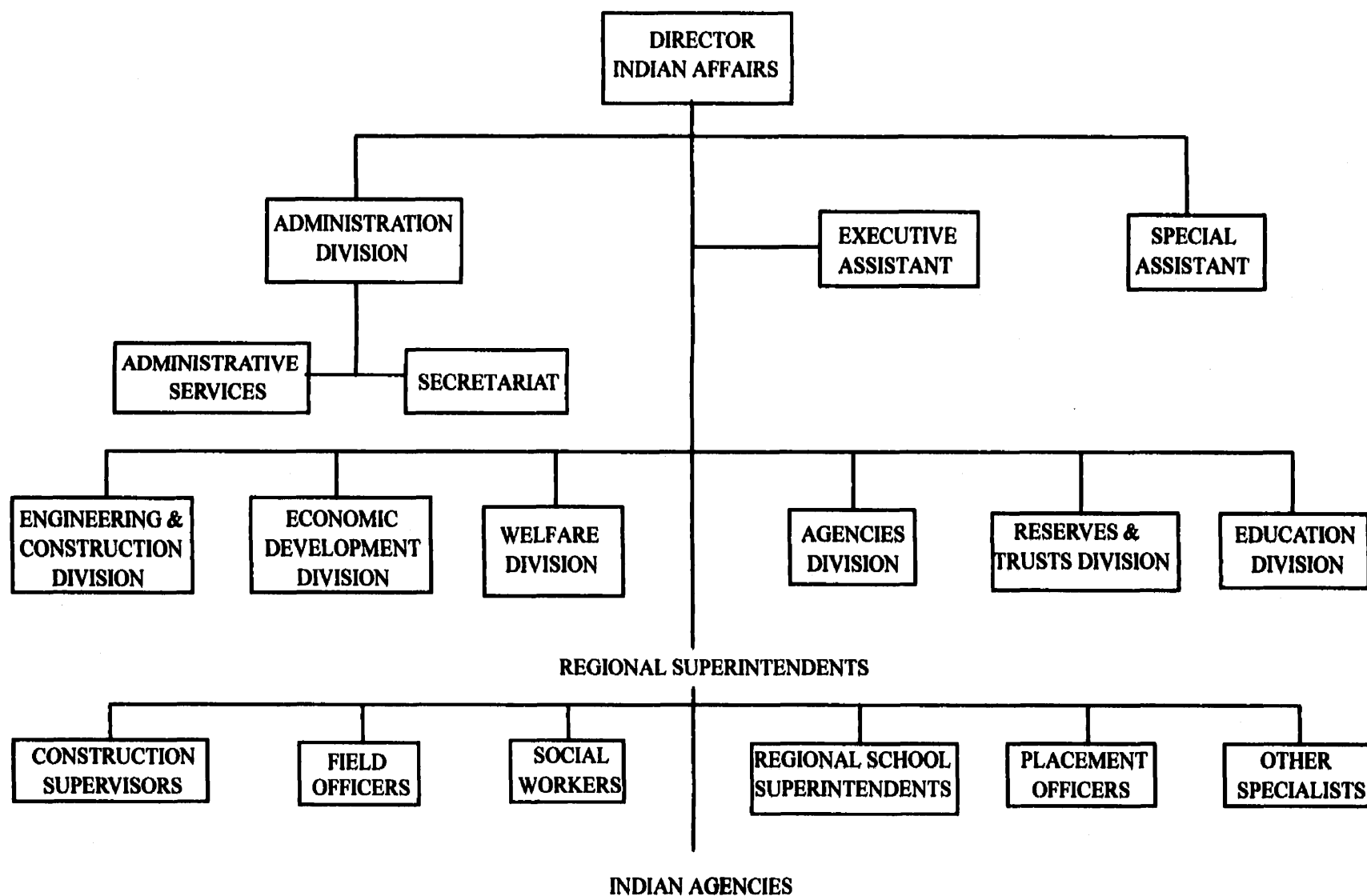
The appointment of Dr. George Davidson as deputy minister of citizenship and immigration on 26 April 1960 was a positive development for the Indian affairs bureaucracy. Laval Fortier, the outgoing deputy minister and Colonel Jones, branch director, had worked together on Indian policy and administrative matters since 1953. Their relationship was formal, somewhat distant, tinged with a degree of personal rivalry and suspicion. Dr. Davidson's arrival was welcomed by Colonel Jones who had worked with Davidson on welfare issues when he had been executive director of the Canadian Welfare Council (1942-44) and then deputy minister of Welfare (1944-60).<sup>24</sup> Colonel Jones respected George Davidson, and in turn, Davidson appreciated the administrative and program challenges facing the Indian Affairs Branch in the 1960s.

***The joint committee hearings resume (1960)***

The Indian policy community had been alerted and then activated by the short round

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24. Dr. George F. Davidson was born at Bass River, Nova Scotia, in April 1909. He was educated at UBC and Harvard (Ph.D. 1932). He was B.C. Provincial Superintendent of Welfare and Neglected Children, 1934-1935; Executive Director, Vancouver Welfare Federation and Council of Social Agencies, 1935-39; Director of B.C. Social Welfare, 1939-42; Deputy Minister (Welfare), National Health and Welfare, 1944-60; Deputy Minister, Citizenship and Immigration, 1960-62; Director, Bureau of Government Organization, PCO, 1963-64; Secretary, Treasury Board, Department of Finance, 1964-68; President, CBC, 1958-72; Canadian Representative to U.N. Social Community, 1947-50; member of Canadian delegation to U.N. Economic and Social Council on numerous occasions, 1946-52; Chairman, Social, Humanitarian and Cultural Committee U.N. General Assembly, 1953; President, U.N. Economic and Social Council, 1958; President, Canadian Conference on Social Work, 1952-54; International Conference of Social Work, 1956-60; Chairman, National Joint Council of the Public Service of Canada, 1954-60.

## ORGANIZATION CHART, Indian Affairs Branch 1960





of committee hearings in 1959. In March 1960 the mandate of the joint committee was renewed and invitations were sent out to Native groups and other interested parties to testify. Hearings began on 4 May and concluded on 5 July. In the space of two months, the committee met 41 times, heard 61 witnesses, and received 73 briefs from Indian bands, Native rights associations, voluntary and professional organizations, and the major churches. The Indian policy community added a new member when, for the first time, four provincial governments aired their views concerning shortcomings in federal Indian policy and service delivery.

The vast amount of documentation presented to the joint committee in 1960 precludes the review and analyses of each submission. To facilitate the sampling and analysis of opinion, a selection has been made of the more important Native and non-Native presentations, these are listed below. Tables summarizing the recommendations of specific groups are marked by an asterisk and have been incorporated into this chapter.

#### **Indian bands and Native rights associations**

St. Regis (Akwesasne)  
 Six Nations Confederacy  
 Indian Associations of Alberta \*  
 Federation of Saskatchewan Indians \*  
 Queen Victoria Treaty Protective Association  
 Nishga (Nisga'a) Tribal Council \*  
 Aboriginal Native Rights Committee, B.C. Interior Tribes \*  
 Union of Ontario Indians \*

#### **Voluntary/professional organizations**

Indian-Eskimo Association of Canada \*  
 Co-Operative Union of Canada \*  
 B.C. Indian Arts and Welfare Society \*

### **Churches**

Canadian Catholic Conference\*  
 Anglican \*  
 Presbyterian \*  
 United Church of Canada \*

### **Provinces**

Ontario \*  
 Saskatchewan \*  
 Manitoba \*  
 British Columbia \*

The testimony of these Indian policy actors has, in turn, been organized under a number of topics and themes: Indian Act amendments, Indian reserve conditions, Indian views concerning integration and Canada citizenship, and non-Indian views on Indian integration and Canadian citizenship.

### *Indian Act amendments*

There was a consensus among Indian participants in 1960 that certain sections of the Indian Act should be totally eliminated, for example: compulsory enfranchisement (Section 112), expropriation of reserve lands (Section 35), and prohibitions on the sale or barter of produce (Section 32). Many Indian leaders supported modification of liquor restrictions (Section 92-96) and changes in the inheritance provisions (Sections 42-51). Virtually all Native groups (as the following Table Eleven for the Union of Ontario Indians illustrates) wanted to establish an appeal mechanism for reviewing ministerial decisions and achieve a greater degree of self-government by devolving ministerial powers to band councils. Many Native rights associations supported the establishment of a separate Department of Indian

## Table Eleven

**SUMMARY**  
**RECOMMENDATIONS OF THE UNION OF ONTARIO INDIANS: 23-24 JUNE 1960.**

Spokesmen: Councillor H. Miskokomon; Chief W. Mewassige; Chief E.P. Garlow; Chief Telford Adams; Chief Omer Peters; Chief George Hill.

Recommendations:

- Ministerial powers should be subject to appeal
- band councils to control membership: authorize Section 112 enfranchisements
  - : permit enfranchised Indians to return to reserves if they repay band funds allotted to them
  - : no payment of band funds to enfranchised Indians unless council approves
  - : children of enfranchised parents should be permitted to determine their status at age 21
  - : illegitimate Indian children may acquire band membership with permission of band council
  - : post band lists.
- band council resolutions to stand even if opposed by local Indian Superintendent
- Indian band councils should have copy of all regulations associated with Indian Act administration
- each reserve should have a copy of relevant Indian treaty
- Indian people should not have to sign a waiver to vote
- no lease or sale of reserve lands (Section 35) unless approved by band council
- full investigation of medical and hospital services for Indian people
- recruitment of qualified Indian personnel to Indian Affairs Branch.

Source: JC, MPE (No. 14, 23-24 June 1960), 1325-1393.

Affairs that would deliver education and social services directly to Indian people.

There was, of course, Indian dissent. The St. Regis Mohawk Band Council and the Six Nations Iroquois Confederacy once again presented historical and legal arguments to support their claim to be “allies” of the Crown, not subjects, and to prove that the Indian Act had no application to their situation.<sup>25</sup> The latter views were discounted by parliamentarians and non-Native organizations who were unwilling to entertain claims to sovereign Indian status. Mainstream Indian opinion that demanded Indian Act revision and devolution of ministerial powers to band councils was supported, for example, by the Province of Saskatchewan, the Indian-Eskimo Association, the B.C. Indian Arts and Welfare Society, and the Canadian Catholic Conference. The Anglican Church understood the need to retain ministerial authority for administrative flexibility, but condemned the continuing “paternalism” of Indian administration.

#### *Indian reserve conditions*

All parties to the 1960 hearings condemned the squalor of the reserves. Despite a decade of government investment, basic fresh water and sewer facilities were frequently unavailable. Health care, welfare services, housing, and roads required immediate attention. The Indian-Eskimo Association and the Co-Operative Union of Canada castigated the branch for lack of action but realized there was a limit to what government could do for aboriginal people. A program of Indian self-help (the theme of the 1946-48 hearings) involving community development and co-operative ventures was needed to supplement government

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25. IC, Minutes of Proceedings and Evidence (No. 2, 5 May 1960), 92-95; also IC, Minutes of Proceedings and Evidence (No. 13, 22 June 1960), 1149-1316 and Appendix MI, “The Status of the Six Nations in Canada,” 1198-1316.

activities. Appalling reserve conditions retarded the process of Indian integration which, in turn, perpetuated Indian segregation and government paternalism.

Representatives of the Province of Saskatchewan criticized existing arrangements from a practical viewpoint. A growing Indian population, confined to a small reserve land base, was driving thousands of Indians into the cities seeking employment. Provincial and municipal social welfare services were at the breaking point, but the Indian Branch continued to deny any financial obligations for off-reserve Indians. New financial arrangements were needed, as well as a conference to clarify federal-provincial responsibilities for aboriginal people.

The debate concerning measures to ameliorate Indian living conditions is important for it led policy community members into a related discussion of the efficacy of Indian integration, its purpose and meaning, and strategies for its realization. As the debate unfolded a variety of notions and concepts about the meaning of Indian citizenship emerged.

#### *Indian views on integration and Canadian citizenship*

Historical encounter and years of political activism had produced a spectrum of Indian opinion concerning their integration into mainstream Canadian society and what the term "citizenship" meant for them. It is worthwhile to examine a number of Native submissions in detail to appreciate the diversity of views and to assess the reaction of politicians and government officials.

The most vocal nationalists were the Mohawk traditionalists. In the 1960 hearings the Mohawk viewpoint was presented by Chief Alex Oakes and Councillor Ernest Benedict from St. Regis (Akwesasne) and by Chiefs Joseph Logan and Emerson Hill of the Six Nations

Confederacy at Ohsweken. In its presentation the St. Regis council asserted that the Royal Proclamation of 1763 confirmed "Indian title", not Crown title, to reserve lands. On a similar note, Councillor Ernest Benedict who had appeared before the special joint committee in 1947, drew the parliamentarians' attention to Article 3 of the Jay's Treaty (1794) which, in the Mohawk view, confirmed Iroquois border-crossing privilege as well as a unique North American Indian status.<sup>26</sup> The St. Regis manifesto was amplified by Chiefs Logan and Hill from Ohsweken who categorically affirmed their status as "allies", not subjects, who possessed special rights and status arising from various colonial treaties, Indian conferences, the Royal Proclamation of 1763, and Jay's Treaty.

These historical arguments, of course, were not new. Chief Joseph Brant had employed their use to wring concessions from imperial and colonial officials in the late eighteenth century. In the twentieth century, "sovereignty" arguments had split the Ohsweken community in 1924 and 1959 and a succession of Mohawk activists had even travelled to The Hague and New York to seek international support for the Mohawk position. At committee hearings in 1947, 1959 and again in 1960, M.P.'s were sceptical of the Mohawk reconstruction of historical events and the assertion of a supra-national North American Indian status.

More moderate expressions of special rights and status were presented to committee

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26. Ibid.

members by the Nishga (Nisga'a) Tribal Council<sup>27</sup> and by the Aboriginal Native Rights Committee, B.C. Interior Tribes. The following Table Twelve outlines the key elements of their proposed program. The Nishga delegation was headed by Frank Calder, the CCF M.L.A. for Atlin.<sup>28</sup> The focus of the Nishga submission (as it had been in 1947) was historical documentation and legal arguments concerning the unresolved Aboriginal title issue. Specifically, the Nishga sought compensation for the destruction of community traplines, lands and natural resources by the American Columbia Cellulose Company; the area claimed comprised 6,400 square miles in the Nass River valley.

The Nishga Tribal Council threatened court action.<sup>29</sup> This prospect focused the attention of committee members who questioned Nishga motives. Frank Calder reassured the members that the Nishga Council was not seeking political independence nor return of the Nass valley to Nishga ownership. The Nishga sought recognition of their "aboriginal title" as the original owners of lands and resources and fair compensation for their use by

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27. The Nishga Tribal Council was founded in April 1955 to represent the Indian communities of Aiyanish (New Aiyanish), Canyon City (Gitwinksihlkw), Greenville (Lakalzap), and Kincolith (total population 1800). The mandate of the Nishga Tribal Council was to protect Nishga land and natural resources, and to promote Nishga health, education, social and economic interests.
  28. Frank A. Calder graduated in Theology from UBC. From 1949 to 1956 he was CCF Member for the provincial riding of Atlin. In 1955, he became President, Nishga Tribal Council, and a Member of the B.C. Special Advisory Committee, B.C. Indian Affairs branch (sic).
  29. IC, Minutes of Proceedings and Evidence (No. 7, 26-27 May 1960), 580-591. See Table Twelve "Summary - Recommendations of two British Columbia Indian Associations: 26-27 May 1960".

Table Twelve

**SUMMARY**  
**RECOMMENDATIONS OF TWO BRITISH COLUMBIA INDIAN ASSOCIATIONS:**  
**26-27 MAY 1960.**

Spokesmen: Nishga Tribal Council: President, F. Calder, Vice-President, Rod Robinson; Aboriginal Native Rights Committee, B.C. Interior Tribes: G. Manuel, Genevieve Mussell, W. Walkem.

Recommendations:

- Aboriginal title issue must be settled and compensation paid; related issues concerning size of Indian reserves and irrigation of land must be negotiated.
- enhanced band council powers to include reserve policing; chiefs and councillors to be paid
- vocational training for Indian people; residential schools should be retained
- ensure Revolving Fund loans are available to Indian entrepreneurs
- improve Indian medical and dental facilities, housing, and welfare services
- devise a separate Indian Act for non-treaty B.C. Indians to deal with such issues as
  - : reserve cut-off lands
  - : timber allocations
  - : grazing fees
  - : extension of provincial services
- repeal Sections 35, 92-96A, 112 of Indian Act; modify inheritance Sections, 42-51
- recognize hereditary fishing rights
- establish a separate Department of Indian Affairs

Source: JC, MPE (No. 7, 26-27 May 1960), 579-674.



Euro-Canadians.<sup>30</sup> Settlement of the aboriginal title issue, which dated back to the 1880s would be regarded by the Nishgas as an act of good faith by the dominant society and remove a psychological barrier to Nishga integration.

The Aboriginal Native Rights committee of the B.C. Interior Tribes supported the Nishga position, but its leadership -- George Manuel,<sup>31</sup> William Walkem and Genevieve Mussell -- went a step further in outlining how the interior tribes wished to relate to B.C. society. The Aboriginal Rights Committee wanted a separate Indian Act for the interior tribes that would serve as an instrument to promote provincial service integration. In the Rights Committee's view, a specially designed Indian Act (which was never spelled out) would empower the interior Salish Tribes to negotiate with the Province of British Columbia to

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30. Ibid., 586-587.

31. George Manuel was born in 1921 in the Shuswap community of Neskainlith, fifty kilometres east of Kamloops. At an early age he attended Kamloops Residential School, when he developed tuberculosis he was transferred to the Methodist "preventorium" at Coqualeetza in the lower Fraser Valley. He eventually became chief of his band and a critic of Indian health care services. Manuel developed close personal ties with Conservative M.P. Davie Fulton. In 1958, Manuel toured the interior to drum up support for a new Indian organization the "Aboriginal Native Rights Committee of the Interior Tribes of B.C.". A founding meeting was held at Hope, B.C., in 1959. Besides Manuel, its leaders included Oscar Peters (Hope Band), Clarence Joe (Sechelt), William Walkem (Spences Bridge), Charles Brown (Lytton), and Genevieve Mussell (Skwah). The term "interior tribes" caused confusion since the organization was made up of interior Shuswap and Nlaka'pamux (Salish), and mainland Salish from the Vancouver area. Thus by 1960 there were three main B.C. Indian organizations: The Native Brotherhood headed by Rev. Peter Kelly, the Nishga Tribal Council, and the Aboriginal Rights Committee. For a most useful book on B.C. Indian politics, see Paul Tennant's Aboriginal Peoples and Politics. The Indian Land Question in British Columbia, 1849-1989 (Vancouver: UBC Press, 1990). For a biography of George Manuel consult Peter McFarlane, Brotherhood to Nationhood. George Manuel and the Making of the Modern Indian Movement (Toronto: Between the Lines, 1993).

settle issues concerning grazing rights, timber allotments and reserve cut-off lands. As well, bilateral agreements could be negotiated by individual bands providing access to provincial welfare services, electric power facilities, road maintenance equipment, and other provincial services.<sup>32</sup> Citing Maori conditions in New Zealand, the Rights Committee sought an expanded reserve land base and community development projects to improve agricultural production and promote local reserve economies.<sup>33</sup>

The Interior Tribes' presentation contained many constructive suggestions, but a particular passage was of concern to the committee members: it appeared contrary to the government's policy goal of Indian integration. The section read:

The British Columbia Interior Indians who submit the brief affirm that we wish to keep our chiefs and councillors, our lands and hereditary privileges of hunting, trapping, and fishing, also our water and grazing rights. That is, as a group, we wish to live as Indians with our separate identity, and our traditional way of life. But we are eager to cooperate with other people of Canada where our mutual interests naturally merge.<sup>34</sup>

George Manuel elaborated on the meaning of the paragraph. Many Indian people in the interior were not ready "to step into the White man's world", and Manuel noted that the lines in question had been inserted at the request of "our older chiefs" who had "heard that members of parliament and senators wished the Indians should be enfranchised and the

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32. JC, Minutes of Proceedings and Evidence (No. 7, 26 May 1960), 592-615. See also Table Twelve "Summary - Recommendations of two British Columbia Indian Associations - 26-27 May 1960."

33. *Ibid.*, 602-611.

34. *Ibid.*, 638.

reservations abolished.”<sup>35</sup>

Indian people across Canada feared termination: loss of Indian status and elimination of Indian reserves. The position of the B.C. Interior tribes, at least, was that they wished to retain the traditional cultures, rights, lands and resources, and ways of life. Co-operation with Canadian society - not integration - would occur on Salish terms. In effect, the Salish were asserting a notion of Indian nationalism and citizenship based on group-differentiated rights. This was at odds with the liberal-democratic individualist values that dominated Canadian society and the thinking of parliamentarians.

The views of the newly-formed Federation of of Saskatchewan Indians (FSI), represented by William Wuttunee,<sup>36</sup> differed substantially from those of Iroquois traditionalists and the two B.C. Native rights groups. As the following Table Thirteen illustrates, the Saskatchewan approach was more “integrationist” in philosophy. First, there was no mention of repealing Section 112 on compulsory enfranchisement. Second, the FSI position stressed the need for greater federal-provincial cooperation to improve reserve infrastructure and access to electric power and telephone facilities. There was also a recommendation that the resources of the Saskatchewan Department of Co-Operation should be enlisted to establish

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35. Ibid.

36. William Wuttunee, a Cree from the Red Pheasant Reserve, was the FSI main spokesman. Wuttunee, a Calgary lawyer, later became Chief of the National Indian Council (1961) and served on the Board of Directors of the Indian-Eskimo Association. Wuttunee was a proponent of Indian integration. He supported the 1969 White Paper on Indian Policy in a controversial book titled, Ruffled Feathers. Indians in Canadian Society (Calgary: Bell Books, 1971).

**SUMMARY****RECOMMENDATIONS OF THE FEDERATION OF SASKATCHEWAN INDIANS: 25 MAY 1960**

Spokesmen: President John B. Tootoosis; Vice-President David Knight; W. Wuttunee, Legal Consultant

Recommendations:

- Indian bands should be incorporated and be permitted to hold title to reserve lands
- enhanced band council powers: salaries for Chiefs and councillors; end to permit system for sale of reserve recourse
- Ministerial powers should be subject to appeal
- encourage provincial school integration for off-reserve Indians; establish home/school associations
- improve vocational training for Indian students; establish adult education courses
- improve reserve housing, health and welfare services
- end leasing of reserve land to non-Indians
- increase treaty annuities to meet cost of living
- establish a system of Indian farm loans and co-op credit societies on reserves
- Indian Affairs branch should purchase and store Indian grain crops
- financial assistance for commercial fishermen
- devise a national community development plan - "Columbo Plan" - to ensure Indian communities integrate into mainstream of Canadian society
- Indian voters should elect their own Federal Mps - 10 in number
- social science research project to investigate Saskatchewan Indian conditions
- establish a separate Indian Affairs department
- "Model Indian Act": Chiefs to act as a Chief Executive Officer for reserves: strict reserve voting procedures and qualifications
  - : delineated band council powers and responsibilities
  - : reduced Ministerial control.

Source: JC, MPE (No. 6, 25 May 1960), 437-569. The "Model Indian Act" can be found at pages 475-519.

model farms on select reserves.<sup>37</sup>

The most innovative and far-reaching proposal contained in the Saskatchewan brief dealt with the legal status and ownership of reserve lands. In Canadian law, title to reserve lands was vested in the Crown, which held it in trust for Indian people. The FSI view was that advanced Indian bands should be permitted to incorporate and hold title to their respective reserves.<sup>38</sup> The chief of each reserve would, in effect, become a "Chief Executive Officer", and band councillors would assume duties and titles similar to corporate entities. A "Model Indian Act" was included in the Saskatchewan presentation that contained detailed clauses outlining the roles and duties of reserve officials, electoral procedures, and how band officials would be held responsible to the reserve community in their exercise of power and disposition of band funds.<sup>39</sup> The FSI brief concluded with a proposal that a national "Columbo Plan" -- at the time an international program to aid underdeveloped third world countries -- should be established to ensure Indian reserves across Canada had sufficient physical and human resources to promote their social, political, and economic integration.<sup>40</sup>

The parliamentarians reacted cautiously to the FSI resolutions, particularly the

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37. IC, Minutes of Proceedings and Evidence (No. 6, 25 May 1960), 457.

38. *Ibid.*, 446-447.

39. *Ibid.*, "Model Indian Act", 475-519. It will be recalled that in 1948 federal officials entertained the notion of permitting Indian bands to incorporate and hold title to reserve lands. The idea was set aside when the department of justice pointed out that incorporation laws were a provincial matter and permitting bands to incorporate would mean they would fall outside the jurisdiction of Section 91(24).

40. *Ibid.*, "Co-operatives and People of Indian Ancestry", 458-464. See Table Thirteen "Summary - Recommendations of the Federation of Saskatchewan Indians: 25 May 1960".

suggestion that Indian bands become incorporated entities. It will be recalled that Indian band incorporation had been raised during the 1946-48 committee hearings, but the concept had been rejected by the department of justice because Indian administration would then fall within provincial jurisdiction. In 1960, federal down-loading was not an issue: the fear was that reserve lands could be sold to private interests leaving individual Indians destitute.<sup>41</sup>

Another concern of parliamentarians was the Saskatchewan proposal - also advanced by the Indian Association of Alberta (see following Table Fourteen) - that the Indian Affairs Branch assume total responsibility for the payment of Indian relief, social assistance, and mandatory contributions under the Unemployment Insurance Act.<sup>42</sup> At the time, the Minister was authorized under Section 66(2) of the Indian Act to make these payments out of band revenue accounts. What bothered the politicians was the idea that all facets of Indian social assistance would be housed within the Indian Branch and Indian people would not be obtaining services, as other Canadians did, from a variety of government departments. This would perpetuate Indian segregation. As well, there were concerns that expenditures for Indian "social aid" might escalate and drastically increase the future cost of Indian administration.

The FSI claimed to represent 64 of 66 provincial Indian bands. No sooner had the FSI made its presentation when the supposedly defunct Queen Victoria Treaty Protective

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41. Ibid., 525-531. W. Wuttunee assured concerned M.P.s that the intent of the resolution was not to permit Indian band councils to sell reserve lands without the consent of the Crown, but rather to permit a band to incorporate.

42. Ibid., 542-545.

Table Fourteen

**SUMMARY**  
**RECOMMENDATIONS OF THE INDIAN ASSOCIATION OF ALBERTA: 11-13 MAY 1960.**

Spokesmen: President H. Beebe; Northern Representative, J. Samson; R. Gorman, Legal Advisor.

General Recommendations:

- end compulsory and voluntary enfranchisement
- reserves to be held in trust for Indians
- Indians living off reserve retain treaty rights
- simplify Indian Act; create a separate Indian Affairs Department; form a permanent Indian Affairs Standing Committee; strike a Royal Commission to investigate Indian affairs.

Self-Government:

- Ministerial powers should be subject to appeal
- enhanced band council powers for leasing, trust fund expenditures, reserve surrenders.

Education:

- encourage provincial school integration for off-reserve Indian students; establish hostels in Calgary/Edmonton
- improve facilities, curricula, and teacher training
- introduce provincial courses to study Indian cultures and Anthropology
- create a Royal Commission to investigate aspects of Indian education.

Health and Welfare:

- improve medical/doctor services; Indians should be eligible for all welfare and pension benefits; better roads, sewers, housing for reserves.

Economic Development:

- establish small industries on reserves; improve loans for Indian entrepreneurs
- improve vocational training; hiring preference for Indian labour.

Hunting/Fishing/Trapping:

- Migratory Birds Convention Act should not apply to reserves
- should not be restricted by provincial regulations
- Treaty rights should be respected
- commercial licences for Indian fishermen.

Source: JC, MPE (No. 3, 11-13 May 1960), 121-287.

Association (QVTPA) raised objections.<sup>43</sup> The QVPTA had a predominantly Catholic membership and viewed the FSI as a close partner of the Saskatchewan CCF party. The QVTPA disassociated its membership (from seventeen reserves) from the FSI program objecting in particular to the FSI's views on acquisition of the federal and provincial franchises, and liquor privileges. The QVTPA reiterated a position put forward in 1947 to the special joint committee: the Indian Act had no legal authority, and the treaties alone defined the special relationship of Native peoples to the Crown.

The absence of an Indian consensus in regard to integration and the lack of enthusiasm for attaining Canadian citizenship was disconcerting to members of the joint committee. The evidence they had heard from prominent Native groups demonstrated a reluctance to become part of mainstream society. Indian people wished to retain their own cultures, languages, lands and resources, and ways of life. The notion of "citizenship" held different meanings for Native people ranging from the Iroquois traditionalists' assertion of a supra-national North American Indian status, to expressions of national identity that did not extend much beyond the reserve and its immediate locale. Faced with conflicting Native views and intransigence what did non-Native members of the policy community have in mind when they spoke of Indian integration and citizenship?

*Non-Native views of Indian integration and Canadian citizenship*

The best place to start in this analysis is with the position of the Indian Affairs Branch.

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43. The QVTPA represented the following bands in Saskatchewan and Alberta: Pound Maker (sic), Little Pine, Sweet Grass, Loon Lake, Big Island Lake, Little Island Lake, Lucky Man, Onion Lake, Thunderchild, Muscowpetung, Okeaneese (Okanese), Carry The Kettle, Peepeekisis, Star Blanket, Wood Mountain, Ermineskin, and Montana.



In the winter of 1959, the branch received a resolution on Indian affairs from Walter S. Owen, president of the Canadian Bar Association (CBA). The resolution, passed at the CBA's fortieth annual meeting, called on the government "to take steps to accelerate assimilation of Indian Canadians into the economic and social life of the communities which they live, but without prejudicing their rights as individuals under ancient treaties." Minister Ellen Fairclough responded on 5 February 1959, concurring with the CBA's proposal but making an important distinction and statement of policy:

I think there is general agreement that this should be and in the objective of Government. I should point out, however, that the Indians for the most part take strong exception to the use of the term "assimilation", which to them means a process whereby they will lose all sense of Indian identity. Our objective is to assist Indians in making the necessary adjustments to become fully participating members of the general community without necessarily losing their identity as Indian Canadians, and at the same time respecting such rights they may have under treaty.<sup>44</sup>

Minister Fairclough proceeded to outline the various programs that the branch had in place to facilitate Indian integration but noted that the acculturation process was "gradual" and was proceeding "no faster than the Indians are prepared to accept." Fairclough called upon the CBA, and other non-governmental organizations, to come forward with suggestions and programs to facilitate Indian social adjustment and self-help.<sup>45</sup>

In the summer of 1960 influential non-Native members of the expanded Indian policy community appeared before the joint committee. These were crucial sessions because the organizations and groups that were scheduled to testify represented, and were shapers of

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44. NAC, MG 32 B1, Vol. 88, File 1A-12F, 1957-61. Hon. Ellen Fairclough to Walter S. Owen, president, Canadian Bar Association, 5 February 1959.

45. Ibid.

mainstream opinion, concerning the role and place of Native peoples in Canadian society. Parliamentarians and government officials would have to take note of their views to ensure policy recommendations emanating from the joint committee would not be in advance of public opinion and have widespread support. To facilitate analysis, the views of prominent and professional organizations, church authorities, and the provinces will be analysed.

*Voluntary and professional organizations*

Three organizations made presentations to the joint committee: the Indian-Eskimo Association of Canada,<sup>46</sup> the Co-Operative Union of Canada,<sup>47</sup> and the B.C. Indian Arts and Welfare Society.<sup>48</sup> All three presented agendas for action that had the underlying theme of "helping Indians to help themselves". In practical terms this meant that Ottawa should relax its paternalistic control over Indian administration; Indian people should be involved in government policy planning; and Native people themselves, through community development measures, should take greater responsibility for solving their own problems.

The Indian-Eskimo Association (IEA) was the first off the mark in May 1960. As demonstrated by the following membership Table Fifteen, the IEA was an umbrella service

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46. JC, Minutes of Proceedings and Evidence (No. 5, 19 May 1960), 361-427. Appended to the Minutes were submissions from six Indian bands in Nova Scotia and New Brunswick: Annapolis Valley, Chapel Island, Eskasoni, Middle River, Burnt Church, and Oromocto. All submissions stressed the need for improved educational facilities, housing, welfare and health services, vocational training and job placement. In the case of Oromocto, a land claim involving sale of land to National Defence was raised.
47. JC, Minutes of Proceedings and Evidence (No. 9, 2 June 1960), 829-858.
48. JC, Minutes of Proceedings and Evidence (No. 7, 26-27 May 1960), Appendix #2, 696-700.

Table Fifteen

**STRUCTURE AND MEMBERSHIP OF THE INDIAN-ESKIMO ASSOCIATION - 1960****Executive Committee:**

President:	Mrs. W.H. Clark	(NCIC, YWCA, CYC, JPC)
Vice-President:	André Renaud O.M.I.	(NCIC, OEIWC, OSG)
Treasurer:	Rev. J.A. Munro	(Presbyterian Church)
Director:	Dr. John Melling	(NCIC)

**Committees:**

Finance:	*Dr. G.C. Monture, Chairman (Six Nations) H.A. Stephens, Financial Advisor
Publications:	*Bernard F. Neary, Chairman (IAB) Royd Beamish, Emerson Coatsworth Michael Pengelley, M.D.H. De Courcy Rayner N. Riddihough, Mrs. C.D. Rouillard
Research:	Dr. F.G. Vallee, Chairman (McMaster, Can. Citizenship Branch) Prof. E. Govan, Carl Latham, Prof. T.F. Ilwraith, André Renaud Prof. Farrell Toombs, Vic Valentine Prof. Fred Voget Consultants: J. Lagassé, F.R. Scott
Membership:	*Rev. E.E.M. Joblin, Chairman (United Church) J.J. Fransen, Trevor Hamill, Rev. L.F. Hatfield (Anglican), Violet King Miss Frieda Matthew, Mrs. J. O'Shea Sgt. Major W.C. Poulton, J. Turner Mrs. J.M. Tracy

**Provisional Board of Directors:**

*Miss Phyllis Brown (CWC)	Mrs. Ward Markle (Catholic Women's League)
Rev. Dr. Dixon Burns (Baptist Federation)	Catherine Melver CBC
*Emerson Coatsworth (CBC)	*E. Moses Six Nations, (Ont. Indian Housing Comm.)
Rev. Canon A.H. Davis (Anglican)	Rev. F.N. Poulton (Can. Council of Churches)
Bernard Grafton (Man. Dept. of Education)	Sr. Major W. Poulton (Salvation Army)
*Dr. L.F. Hatfield	Mrs. C. Rouillard (Editor, IEA Bulletin)
Walter Herbert (Canada Foundation)	Anges Roy (YWCA)
Gordon Hodge (YMCA)	Alex Sim (Can. Citizenship Branch)
Kenneth Kidd (ROM)	
Dr. J. Roby Kidd (CAAE)	
Dorothy Macpherson (NFB)	

\*member of Executive Council

organization whose non-Native and Native membership included government scientists, adult educators, social welfare enthusiasts, academics, and church officials. When the IEA appeared before the joint committee four officials were on hand: Mrs. W.H. Clark, president; Rev. Father André Renaud, O.M.I.,<sup>49</sup> vice-president; Dr. Gilbert C. Monture, chairman of finance, and Dr. John Melling, executive director.<sup>50</sup>

The IEA noted (see following Table Sixteen of recommendations) that Indian people were engaged in a "process of change" involving their slow, but steady integration into Canadian society.<sup>51</sup> For the foreseeable future Indians would view their reserves as safe havens but, in time, ties would be broken as educated Indians obtained employment off-reserve.<sup>52</sup>

Indian integration was a social process. There were practical limits to the amount of Indian cultural distinctiveness that could be retained and the "White man" should not be asked

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49. Father Renaud was one of the founders of the Ottawa Study Group (1954) and had been a prime mover in organizing the CAAE's National Commission on the Indian Canadian in 1957. In 1960, Father Renaud made presentations to the joint committee on behalf of both the IEA and the Canadian Catholic Conference.

50. Dr. John Melling, a Quaker, was educated at Brasenose College, Oxford, where he studied economics and philosophy. He became interested in intercultural relations while at Leeds University and prepared a study of the problems of integrating colored workers into that urban community. His historical account of the life of William Penn introduced Melling to the problems of North American Indians. In August 1958, he left Leeds University as deputy director of the Department of Extra-Mural Studies to assume duties as director, National Commission on the Indian Canadian.

51. See Table Sixteen "Summary - Recommendations of the Indian-Eskimo Association: 19 May 1960."

52. IC, Minutes of Proceedings and Evidence (No. 5, 19 May 1960), 366.

Table Sixteen

**SUMMARY**  
**RECOMMENDATIONS OF THE INDIAN-ESKIMO ASSOCIATION: 19 MAY 1960**

Spokesmen: President, Mrs. W.H. Clark; Vice President, Rev. Father André Renaud, O.M.I.; Chairman of Finance, Dr. G.C. Monture; Executive Director, John Melling.

Recommendations:

- Indian people in a transition period, eventually they will leave the reserves
- practical limits to Indian cultural distinctiveness
- support services are essential for urban and reserve Indians to assist integration into Canadian society
- community development projects are essential for amelioration of reserve conditions
- individual improvement will be yardstick to measure success of community development projects
- Indian's capacity for social change will be enhanced by:
  - receiving the Federal franchise
  - developing an Indian leadership cadre
  - decentralizing IAB administration
  - instructing Indian Superintendents to act as liaison with provincial governments for extension of services to reserves
- to advance Indian citizenship, closer IAB cooperation with Citizenship Branch officials
- Regional Indian Advisory Boards of Indians/non-Indians to coordinate programs and services
- Indian Claims Commission to investigate treaty issues and land claims - Ministerial powers should be subject to review and appeal
- end compulsory enfranchisement (Section 112)
- Indian legal status should be reviewed to remove liabilities which inhibit integration.

Source: JC, MPE (No. 5, 19 May 1960), 363-427.

to "pay the whole cost of the decision (to integrate) or even costs that are not necessary".<sup>53</sup> From the IEA's viewpoint the contemporary "Indian problem" had three dimensions. First, there was the need to instil in Indian people the proper skills and personal self-confidence to strengthen their capacity to accommodate social change. In this regard, enhanced Indian education and community development schemes would foster the formation of an indigenous leadership cadre, enable Indian people to take charge of their own lives, and promote the goal of economic self-sufficiency.<sup>54</sup>

There was a second dimension to the Indian problem. The dominant society had to be educated to accept Indian people into their midst, to be more appreciative of distinctive Native cultures, and the historic role Indian people had played in Canadian economic and political development. The federal government, particularly the Indian Affairs Branch, should promote greater public awareness of Indian social issues and political aspirations.<sup>55</sup>

Finally, the legal status of Indian people required investigation to remove legal liabilities that might adversely affect measures to promote integration. In the IEA's view:

...there has to be a continuing effort to create among Indians, material well-being, civic sense and social cohesion: we do not see, nor does anyone else (we think), whether and if so how, present safeguarding of the peculiar Indian rights and enforcement of their disabilities can be combined harmoniously with their journeying to the Good Life. This is a critically important question: without an answer to it, all else may turn out to be mere palliative.<sup>56</sup>

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53. Ibid., paragraph 25, 366.

54. Ibid., paragraph 30, 369-371.

55. Ibid., paragraph 70, 389-390.

56. Ibid., paragraph 71, 390.

The IEA made a number of policy recommendations. Compulsory Indian enfranchisement should be abandoned. The discretionary powers of the minister should be curbed; Indian Affairs administration should be decentralized; and regional Indian advisory boards created to advise government on the co-ordination and delivery of programs and services. To remove Indian grievances which retarded the process of integration, an Indian claims commission should be established to adjudicate land claim issues and alleged violations of Indian treaties.

Under examination from committee members Clare Clark, Father Renaud, and Dr. Monture (a Six Nations Indian) reinforced the IEA message that Indian education, community development measures, and social welfare services - involving adult educators, voluntary organizations, university extension specialists, and provincial government agencies - were vehicles to promote Indian acceptance of social integration. In this context, Executive Director John Melling noted an administrative conundrum that was hardly a new problem:

...a sort of basic contradiction in the work of the Indian Affairs Branch itself. The Indian Affairs Branch is operating as a separate organization to administer the affairs of people here in Canada who are themselves legally separate. Yet the whole effort of the Indian Affairs Branch appears to be directed towards enabling these legally separate people to become part and parcel of the general Canadian community.<sup>57</sup>

The IEA's presentation, particularly its suggestion for "off-loading" the solution to the "Indian problem" to Indians themselves, the provinces, and non-governmental social agencies, struck a responsive chord with the parliamentarians. After all, the cost of Indian administration had historically been a major factor in determining policy since the nineteenth

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57. Ibid., 395.

## Photograph Three

Executive Members of the Indian-Eskimo Association, 1960.



*Some members of the Executive of IEA who continue to carry responsibility for IEA: left to right, seated: Miss Phyllis Burns, Dr. G. C. Monture, Mrs. W. Harold Clark, Mr. Elliott Moses, Father André Renaud; standing: Mr. John Melling, Rev. Dr. J. A. Munro.*

Source: IEA Bulletin, No. 1, 1960.



century.

The program of the Co-Operative Union of Canada (CUC) offered further hope for cost-cutting measures.<sup>58</sup> The Co-Operative Union's views of the "Indian problem" were succinct (see following Table Seventeen).<sup>59</sup> Prior to European contact, Indian people lived communally and shared in the harvesting of nature's natural resources. The reserve and treaty systems confined Indian people to a limited land base that materially contributed to their present condition as a "backward population". Indian people were dispossessed, disheartened, and frustrated.

The Co-Operative Union, represented by Ralph Staples, president, and Dr. A.F. Laidlaw, vice-president, argued that the Union's self-help program was suited to rectifying contemporary Indian conditions because, in their view, there was a similarity between co-operative philosophy and Native cultural traditions of communal living and sharing. The co-operative movement fostered social progress by group effort, not through individual achievement.

Dr. Laidlaw cited the successful Canadian experience with co-operatives, in particular Father Moses Coady's Antigonish Movement,<sup>60</sup> the Columbo Plan, and UNESCO initiatives on the African and Asian continents. The success of co-operative enterprise rested on three

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58. JC, Minutes of Proceedings and Evidence (No. 9, 2 June 1960), 829-858.

59. Ibid., 830-832. See Table Seventeen "Summary - Recommendations of the Co-Operative Union of Canada: 2 June 1960."

60. Ibid., 845. See also, Moses M. Coady, Masters of their own destiny. The story of the Antigonish Movement of Adult Education Through Economic Cooperation (New York: Harper and Brothers Publishers, 1939).

## Table Seventeen

**SUMMARY**  
**RECOMMENDATIONS OF THE CO-OPERATIVE UNION OF CANADA: 2 JUNE 1960.**

Spokesmen: President, Ralph S. Staples; National Secretary, A.F. Laidlaw.

Recommendations:

- citizenship requires individual responsibility and discipline
- co-operative movement is a process of self-help encouraging self-reliance/self-improvement
- co-operatives among "backward peoples" instil civic pride
- co-op movement stresses sharing - this reinforces communal ownership of reserve property and resources
- co-op movement will bridge and eliminate intra- and inter-tribal rivalries and Indian/non-Indian friction and suspicion
- Indian education is key to Indian self-improvement
- IA Branch should be transformed into a "National Council" to foster community cooperation.

Source: JC, MPE (No. 9, 2 June 1960), 829-858.

principles: consultation, education, and promotion.<sup>61</sup> The result was provision of practical education and the development of an under-privileged group's economic strength and self-confidence. The co-operative approach could not be imposed on Indian people. Improvements to reserve conditions and Indian morale would be incremental. The Co-Operative Union's major policy recommendation was that the Indian Affairs branch, the CUC, and select voluntary organizations should amalgamate into a "National Council" of Indians and non-Indians that would develop and coordinate community-based projects.<sup>62</sup>

The utility of the co-operative approach to improving Indian conditions and social adaptability was questioned by Senators S.J. Smith (Kamloops) and James Gladstone (Lethbridge). Smith doubted whether Indian people could develop the necessary leadership cadre to implement a self-help program. In his view, their fear of relinquishing treaty rights and tax exemption benefits inhibited any Indian initiative to integrate.<sup>63</sup>

Senator Gladstone, on the other hand, took issue with the co-operative movement's collectivist philosophy. He suggested that individual Indian effort was the key to success.<sup>64</sup> Whether Gladstone was expressing a personal view as a successful rancher, or was suggesting that there was a strong strain of individualism in Native cultures, is not known. In response Co-Operative Union spokesmen assured Gladstone that joint enterprises and credit unions,

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61. Ibid., 837-838.

62. Ibid., 839.

63. Ibid., 854-855.

64. Ibid., 856.

and other forms of community organization, were only supplements to individual effort.<sup>65</sup>

The B.C. Indian Arts and Welfare Society (BCIAWS) in a written submission supported the co-operative agenda for Indian self-help and social integration.<sup>66</sup> This organization as the following Table Eighteen illustrates, placed greater emphasis on adult education and vocational training and suggested that Indian labourers employed by band councils should be treated as "municipal employees". All provincial social welfare services should be extended to reserve residents. The BCIAWS was confident that within a generation Indian people would leave the reserves and be absorbed in the general population.<sup>67</sup>

The views of the IEA, Co-Operative Union, and the B.C. Indian Arts and Welfare Society received mixed reviews from government officials and parliamentarians. Elements of their respective programs - support for the policy of Indian integration, endorsement of community development strategies, and the engagement of provincial agencies in delivery of social services - were roundly endorsed. What is clear is that the Indian policy agenda was still being set by non-Natives and traditional paternalism was simply being recast. Would church authorities be able to offer anything new?

### *The churches*

Since the inception of the Indian civilization program in the early decades of the

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65. Ibid., 856.

66. IC, Minutes of Proceedings and Evidence (No. 7, 26-27 May 1960), Appendix H2, 696-700. See Table Eighteen "Summary - Recommendations of the B.C. Indian Arts and Welfare Society: Dec. 1959."

67. Ibid., 697-699.

Table Eighteen

**SUMMARY**  
**RECOMMENDATIONS OF THE B.C. INDIAN ARTS AND WELFARE SOCIETY: DEC. 1959**

Spokesman: Corresponding Secretary, Miss Victoria E. Ashdown.

Recommendations:

- Indian people will eventually leave reserves and be absorbed in the general population
- assimilation process will take 25 years
- Indians should receive Federal vote and liquor privileges similar to non-Indians
- credit unions should be established for Indian labourers
- establish co-operative enterprises in arts and crafts to foster community pride and revenue
- emphasis on Indian vocational and adult education
- Indian band councils should employ Indians as "municipal employees"
- extend provincial social and welfare services to reserve residents
- promote provincial courses on Indian history and culture in schools
- support for H.B. Hawthorn's study of B.C. Indian administration and its recommendations.

Source: JC, MPE (No. 7, 26-27 May 1960), Appendix H2, 696-700.

nineteenth century, religious groups had been active partners with the Indian Department in devising and implementing policies and programs to ensure Indian progress and eventual assimilation in colonial society. In this process Native people were to lose all vestiges of their "Indianness", adopt European ways, and become self-reliant citizens. As we have seen, the churches, particularly the Roman Catholic Church, maintained an influential role in policy-making until the early 1950s.

The hearings of the special joint committee in 1946-48 recast Indian assimilation in terms of integration and social adjustment, and determined that the solution to the "Indian question" lay in the delivery of enhanced health education, and social services. At this juncture the role of the churches in policy formulation and service delivery began to diminish. The Indian Affairs Branch pushed ahead with a program of integrating Indian schools into provincial systems. As well, in the 1950s new actors in the Indian policy community - adult educators, social welfare experts, and academics - eclipsed church authorities as government's new partners in policy and program development. In 1960 a prospective new policy actor - the provinces - appeared on the scene and this event forecast a further diminution in the role of religious interests. Nonetheless, the churches were still active in field of Indian education in 1960 and the joint committee could not totally disregard their views.

Four churches made presentations in the summer of 1960: the Roman Catholic Church represented by the Canadian Catholic Conference; the Anglican Church; the Board of Home Missions of the United Church of Canada, and the Presbyterian Church. The delegation from the Catholic Conference that appeared before the joint committee in June was an entirely

different group than had appeared before the special joint committee in 1947.<sup>68</sup> It will be recalled that on that occasion the focus of discussion was Indian education and the imperative to ensure that Roman Catholic Indian students received a Roman Catholic education, either through Indian residential or reserve day schools. At the time, the bishops' arguments caused considerable grief for the heavily Protestant committee who were convinced that Indian schools should be non-denominational.

Thirteen years later the Catholic Conference's brief shied away from the Indian education issue and instead, as the following Table Nineteen records, focused on strategies for promoting Indian integration.<sup>69</sup> The chief architect of the presentation was Father André Renaud, a community development specialist, who was also a member of the Indian-Eskimo Association. Father Renaud challenged the committee to recognize the fact that Native people and reserves were not going to disappear. The Indian population was the fastest growing "ethnic" group, and the poorest. If Indian people were going to integrate into Canadian society, their distinctive "Indianness" had to be appreciated and tolerated by the host society. In Renaud's view the challenge "...was to prepare the coming generations to live and work as Indians as well as Canadians".<sup>70</sup>

Father Renaud took issue with two proposed solutions to the Indian problem. First,

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68. JC, Minutes of Proceedings and Evidence (No. 27, 27 May 1947), 1446-1464.

69. JC, Minutes of Proceedings and Evidence (No. 8, 1 June 1960), 724-732. See Table Nineteen, "Summary - Recommendations of the Canadian Catholic Conference: 1 June 1960."

70. Ibid., 725. Bishop P. Dumouchel, O.M.I. had expressed similar views in an article in The Indian Missionary Record (January 1956), "Integration - Not Assimilation".

Table Nineteen

**SUMMARY**  
**RECOMMENDATIONS OF THE CANADIAN CATHOLIC CONFERENCE: 1 JUNE 1960.**

Spokesmen: General Secretary, Monsignor John Carley; Rev. Father André Renaud, General Director, Oblate Indian and Eskimo Welfare Commission; Rev. Father James Mulvihill, Assoc. Director, Oblate Indian and Eskimo Welfare Commission.

Recommendations:

General:

- Indian cultures and reserve communities persist
- Indian population is fastest growing ethnic group and the poorest
- Indian problems will not be solved by a legal approach nor efficient government administration.

Economic Rehabilitation:

- must be group-centred; in proximity to reserves; adult and vocational training
- employ experts in economics and applied anthropology; methodology of U.N. Technical Assistance Projects.

Education:

- education is key to Indian integration; need a scientific survey of needs
- not endorse enrolment and integration of Indians in non-Indian provincial schools because Indian cultures are not appreciated
- improve teacher training and salaries
- vocational courses for students not completing grade 10.

Home-Living Conditions for Indians:

- accelerate reserve housing for young couples
- home-making and child-care courses for Indian women.

Extension of Self-Administration:

- establish regional Indian councils to administer Indian affairs
- hire more Indians in the IAB.

Recognition of Indian Culture:

- public education program needed to teach value of Indian cultures/histories
- establish Indian study-groups to discuss liabilities and assets of their ethnic background

Cultural Integration:

- Canadian society is multi-cultural
- integration is a two-way process of cultural exchange
- dominant society must appreciate Indian cultures.

Source: JC, MPE (No. 8, 1 June 1960), 724-732.



he disagreed with the IEA that the anomalies of Indian legal status should be sorted out as a priority. Second, he rejected the traditional view of the Indian Affairs Branch that a successful integration program amounted to one-third legislation and two-thirds administration. In the words of Father Renaud, Indian people first and foremost wanted cultural recognition:

It has been almost official policy up until recently to assimilate them. Now we speak about integration, but in the minds of the Indians, it means assimilation. They feel that they are not given a chance to get what they would like to get in the way of enjoying their own independence. They point to the fact that other groups in Canada, beginning with the French, have cultural recognition, are invited to contribute to the total culture of Canada, whereas the Indians have never been officially encouraged to preserve their culture. On the contrary, a good deal of it has been ridiculed, with the result that they have tended to hide it.<sup>71</sup>

Although Father Renaud was an influential member of the IEA, his views were certainly at odds with the official IEA position that envisaged limited Native cultural retention as part of the integration process.

Renaud then outlined the philosophy for a six-point program for Indian rehabilitation and integration. It was aimed squarely at government paternalism:

A good deal of the problems in administration is simply caused by the fact that the Indians do not run their own show and that their affairs are administered by others. We feel that the solution is not in better administration of Indian Affairs, but in helping the Indians as people. ...the community is the thing; not the individual; and that it is the community that must be reinforced in every way, so that the individuals coming from these communities will be full-fledged Canadians in every way and will be able to manoeuvre in our general society without having lost their Indianness.<sup>72</sup>

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71. Ibid., 734.

72. Ibid.

In Renaud's view, the key to successful Indian integration did not rest on individual enterprise, but on group-centred community development initiatives, involving the active participation of Indian people, Indian Affairs Branch staff, and social science experts. Economic rehabilitation, adult education, cultural pride, self-determination, and spiritual development were essential program ingredients.

The submission of the Catholic Conference was favourably received by committee members and branch officials. Although stung by criticism of its paternalistic administration, they were reassured that Indian integration had been endorsed. There would be no repeat of the confrontation that had occurred in the 1940s.

The Anglican Church delegation was led by the Primate, accompanied by the Bishops of Keewatin (H.E. Hives) and Ottawa (E. Reed).<sup>73</sup> Dr. L.F. Hatfield, general secretary of the Council for Social Services (and a member of the IEA),<sup>74</sup> delivered the Anglican presentation (see following Table Twenty) that focused on five topics: Indian administration, citizenship, education, social services, and economic development.<sup>75</sup> In comparison to the Anglican Church's submission to the special joint committee in 1947, its recommendations dealt with a broader spectrum of Indian-related activities and were not limited to defending the status quo.

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73. JC, Minutes of Proceedings and Evidence (No. 9, 2 June 1960), 793-809.

74. Rev. L.F. Hatfield was born and educated in Nova Scotia. He was chair of the special committee on organization of the NCIC that drafted the constitution of the IEA as an independent organization. In 1960 he was a member of the provisional board of directors of the IEA.

75. See Table Twenty "Summary - Recommendations of the Anglican Church of Canada: 2 June 1960."

## Table Twenty

**SUMMARY**  
**RECOMMENDATIONS OF THE ANGLICAN CHURCH OF CANADA: 2 JUNE, 1960.**

Spokesmen: Primate, Most Rev. H.H. Clark; Rt. Rev. E.S. Reed, Bishop of Ottawa; Rt. Rev. H.E. Hives, Bishop of Keewatin; Rev. Canon A.H. Davis, General Secretary, Missionary Society; Rev. L.F. Hatfield, General Secretary, Council for Social Service; Mr. Carl Latham, Mr. F.A. Brewin, Anglican laymen.

Recommendations:

Administration:

- integrate Indian people as full citizens in Canadian society
- extend municipal and provincial services to reserves
- grant powers to band councils similar to rural municipal governments
- hire Indians for positions in IAB; explain government policies and programs
- Ministerial powers should be subject to appeal
- decentralize Indian administration and hire qualified agency staff

Citizenship:

- qualified Indian people should gain the Federal vote
- compulsory enfranchisement should be eliminated (Section 112).

Education:

- emphasis on day school education using provincial curriculum
- residential schools for remote areas
- appoint Indian school trustees; give parents a say in education matters
- establish a system of urban Indian hostels, vocational training ventures, and job placement.

Social Services:

- Indian people should receive welfare benefits as other citizens on or off reserve
- band councils should manage welfare programs and income maintenance schemes
- family counselling services to strengthen family life and rehabilitation programs for criminals
- reserve housing and infrastructure should be improved.

Economic Development:

- conduct a scientific survey of reserve resources
- job skills training
- loans for Indian entrepreneurs.

Source: SJC, MPE (No. 9, 2 June 1960), 793-809.

The thrust of the Anglican recommendations focused on ways of promoting Indian integration and offered clerical insights into the nature of Indian citizenship. As Dr. Hatfield explained:

It is our conviction that the provisions of the Indian Act and administration of that act should work toward the gradual and complete integration of the Indian as a person entitled to the rights and privileges of full Canadian citizenship, ready to accept all the responsibilities which pertain to that citizenship. This is how we attempt to define integration. We see such integration as one aspect of the total process by means of which a Canadian people and culture is being developed by Indian and non-Indian Canadians - recent immigrants and Canadians of longstanding - all bringing their heritage to a common Canadian life. That which fosters independence, initiative, self-esteem and appreciation of one's own heritage, and that of others, is greatly to be desired.<sup>76</sup>

The Anglican submission, like that of the Canadian Catholic Conference, supported the government policy of Indian integration, but instead of the reserve community, the individual Indian was the focus. The notion of collective Native rights was also absent from Anglican Church thinking.

R.H. Small M.P., questioned the Anglican premise that Indian people wished to become Canadian citizens. During the 1959-60 sessions he had heard abundant Indian testimony to the contrary.<sup>77</sup> Bishop Hives of Keewatin responded to Small noting that, in his experience, Indian people opposed integration because they were under the mistaken impression that the process would entail loss of Native status, government benefits, and treaty rights. When the concept of integration was explained to Indian people - "the development of citizenship, with responsibilities" - Hives maintained that Indian people became more

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76. IC, Minutes of Proceedings and Evidence (No. 9, 2 June 1960), 795.

77. Ibid., 812.

positive.<sup>78</sup> The Primate, the Rt. Rev. Howard Clark, offered a personal view that Indian integration did not mean total absorption: "I would feel that the Indian may retain his identity within a free and fully integrated society."<sup>79</sup> The Primate noted that racism existed in Canadian society and it was imperative to educate non-Indians to accept and respect traditions and cultures which were not founded in Judaeo-Christian thought. In this regard, the Anglican clerics saw themselves ahead of public opinion, and they had a duty to mold it in ways favourable to integration.

The Anglican spokesmen, like their counterparts in the Roman Catholic Church, recommended a reformulated program of Indian education as the vehicle to promote Indian progress. Unlike the Catholic primates, the Anglicans endorsed provincial school integration.<sup>80</sup> In the words of Canon Davis, provincial participation in Indian administration reduced Indian segregation:

What we have in mind here is that education is a provincial responsibility  
...And if the federal government retains the responsibility for the  
educational program for the Indian children, you are fostering  
segregation along educational lines.<sup>81</sup>

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78. Ibid., 811.

79. Ibid., 813. Later in testimony Primate Clark, noted "...that this committee feels the same concern we do that the Indian should stand as a free person among the community, and not lose his identity as an Indian, unless he wants to, and that his future within the Canadian nation should be...his own decision, so long as he is granted the same rights of citizenship and in the end accepts the same responsibilities as other racial origins do."

80. The Catholic Conference was acutely aware that there was no separate school system in B.C., Manitoba, New Brunswick, Nova Scotia, and P.E.I.

81. JC, Minutes of Proceedings and Evidence (No. 9, 2 June 1960), 816.

Subsequent discussions revealed committee members and church officials were cognizant of two problems associated with provincial school integration. First, the brighter students tended to leave the reserve to seek urban employment, while the less-skilled remained behind. In essence a two-tier Indian education system was evolving.

Professor J.R. Miller and other scholars have argued that the policy of sending Indian children to provincial schools was intended to accelerate the assimilation program.<sup>82</sup> But evidence to the contrary emerges from committee discussions. Church officials noted that provincial school curricula did not include instruction in Indian languages, history and cultures. This situation placed a psychological burden on students because it reinforced the notion that their Native heritage was worthless. As well, Native parents were concerned that if their children attended provincial schools they would lose their traditional teachings and practices. In practice these factors operated against the process of Indian integration.

Parliamentarians and church officials came up with a number of suggestions. Indian school trustees should be appointed to advise on curricula and ensure that Native content was included. As well, the establishment of a system of urban Indian hostels to accommodate off-reserve students would promote a friendly atmosphere conducive to linguistic retention and cultural preservation.

In the Anglican view, another lingering barrier to successful Indian integration was continuing bureaucratic paternalism. Paternalism could be reduced by the transfer of

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82. J.R. Miller, Shingwauk's Vision. A History of Native Residential Schools (Toronto: University of Toronto Press, 1996), 382-383.

ministerial powers and responsibilities to band councils.<sup>83</sup> More Indian people should be hired at headquarters and in the field, and band councils should receive adequate funding to run reserve operations and government programs.<sup>84</sup> The Anglican brief did not specifically call for it, but their suggestions likened the operation of band councils to rural municipal governments: an Indian self-government model that had been broached by government officials in the nineteenth century.

The submissions (see following Tables Twenty-one and Twenty-two) of the Board of Home Missions of the United Church<sup>85</sup> and the Presbyterian Church<sup>86</sup> caused little stir. The United Church was represented by two officials E.E.M. Joblin and H.M. Bailey, both from the Home Missions in southwestern Ontario.<sup>87</sup> Joblin's main point was that, in his experience, there was a lack of cooperation among government and voluntary agencies, including the churches, in devising programs for enhancing Indian rehabilitation and social

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83. JC, Minutes of Proceedings and Evidence (No. 9 2 June 1960), 822-823.

84. At the time there were two superintendents of Indian heritage, David Greyeyes (Touchwood Agency) in Saskatchewan and James Powless (Christian Island) in central Ontario. Most Indian recruitment to the Indian Affairs Branch was for manual labor positions in field agencies.

85. JC, Minutes of Proceedings and Evidence (No. 8, 1 June 1960), Appendix J2, 781-790.

86. JC, Minutes of Proceedings and Evidence (No. 10, 8 June 1960), 863-891. See Table Twenty-one "Summary - Recommendations of the United Church of Canada: 8 June 1960."

87. E.E.M. Joblin, assistant of the secretary, Board of Home Missions, was also chair of the membership committee, Indian-Eskimo Association. A graduate of Victoria University (University of Toronto) in arts and theology, he had worked at the Caradoc Reserve in southwestern Ontario for many years.

**SUMMARY**  
**RECOMMENDATIONS OF THE UNITED CHURCH OF CANADA: 8 JUNE 1960.**

Spokesmen: E.E.M. Joblin, Assistant Secretary, Board of Home Missions; H.M. Bailey, Superintendent of Home Missions, Western Ontario.

Recommendations:

General:

- cooperation between governments and voluntary agencies
- Indians must be encouraged to take responsibility for their own affairs.

Contribution of the Church:

- religion is important for society; teaches individual worth and power to achieve the best
- United Church trains Indian people to accept responsibility and assume community leadership roles.

Cooperation:

- governments and voluntary associations must work together to:
  - improve Indian economic development opportunities
  - foster social and cultural development
  - enhance Indian education
  - improve health care services
  - enlighten Indian affairs administration

Responsibility:

- Indian people should participate and share in areas of cooperation
- Indian people should assume greater responsibility for managing their own affairs.

The Indian Act:

- Indian people should gain the Federal vote, without loss of rights and privileges
- establish a separate Department of Indian Affairs
- Ministerial powers should be subject to appeal
- provide loans and credit to responsible Indian entrepreneurs
- clarify trespass sections of Indian Act (Sections 30-31)
- establish a continuing research committee on Indian affairs

Source: JC, MPE (No. 10, 8 June 1960), "A Brief on Indian Affairs", 863-871.



integration.<sup>88</sup> Each party had its own political agenda and entrenched interests to safeguard. The jostling for advantage caused bewilderment and confusion among Indians and this impaired their social adjustment. In the future Joblin hoped that Indian community development programs would provide a neutral forum for coordinated voluntary action.<sup>89</sup>

The comments of Joblin should not be considered revolutionary nor particularly insightful. The notion of non-Indians working at cross-purposes was often trotted out by missionaries to explain their failure to get converts. In recent literature, such as Kerry Abel's Drum Songs, the idea has been challenged as a non-Native failure to simply recognize that Native people were refusing to make certain changes for their own reasons and on their own terms.

The debate whether strategies for Indian integration should be based on the individual, or the aboriginal collectivity and community, was addressed by the Presbyterian church (Table Twenty-two).<sup>90</sup> The Presbyterians did not favour co-operative self-help ventures. Their program placed reliance on individual enterprise, private Indian ownership of land, provincial school integration, and the extension of provincial social and health care services to reserve residents. The views of the Presbyterian church were very much in line with the "integrationist" views of the Federation of Saskatchewan Indians (and as well be seen with

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88. JC, Minutes of Proceedings and Evidence (No. 10, 8 June 1960), 872.

89. Ibid., 873.

90. See Table Twenty-two "Summary - Recommendations of the Presbyterian Church in Canada: 1 June 1960".

Table Twenty-two

**SUMMARY**  
**RECOMMENDATIONS OF THE PRESBYTERIAN CHURCH IN CANADA: 1 JUNE 1960.**

Spokesman: N/A

Recommendations:

General:

- free, responsible and full citizenship for Indian people
- equal rights and responsibilities with other Canadians

Community Development:

- reserve system has isolated Indian people from mainstream of Canadian society
- reserves have caused degradation and fostered hatred of non-Indians
- Indian legislation, reserve and treaty systems, imposed paternalistic administration
- Indian people should become Canadian citizens with the "right" to:
  - land ownership
  - enfranchisement (with a probationary period)
  - dispose of personal property by wills
  - receive and manage own income
  - develop their own communities within Canada
  - transform reserves into municipalities
  - have own police and hire legal counsel.
- interests of enfranchised Indian women, children, and illegitimates must be protected
- uniformity of liquor legislation
- improve reserve housing and infrastructure
- redefine role of IAB staff as advisors to Indian people on a regional basis
- Federal/Provincial conferences, involving Indian delegates, to develop leadership training
- community involvement in providing health care and welfare services

Education:

- Indian people should attend regular public schools
- greater liaison between IEA, IAB, churches, and voluntary associations
- residential schools for remote Indian bands
- emphasis on creation of system of Indian youth hostels, adult and vocational training
- counselling services for Indian students.

Off-Reserve and Part-Indian:

- third class citizens
- Federal government should assume responsibility for provision of services.

Source: JC, MPE (No. 8, 1 June 1960), Appendix J2, 781-790.

the Government of Saskatchewan)<sup>91</sup> and with the personal views of co-chair Senator Gladstone. Whether this conjuncture of opinion would influence the final recommendations of the joint committee remained a moot question.

The testimony of church leaders was well received by the joint committee - government officials were pleased that there had been little rancour and, while some facets of Indian administration had been criticized as paternalistic, Indian integration had been endorsed as government policy. Proponents of Indian integration, however, had emphasized that Indian people, like their fellow citizens, should receive services from all levels of government, not just the federal government. Thus the views of the provinces, new Indian policy actors, assumed great importance.

#### *The provincial viewpoint*

In 1960 four provinces made presentations to the joint committee. Ontario and Saskatchewan sent delegations to testify, while B.C. and Manitoba submitted written briefs. The first off the mark was Ontario. Three representatives from the Ontario Department of Public Welfare appeared before the joint committee: Elliott Moses, chair of the Indian advisory committee,<sup>92</sup> and colleague Walter White (Walpole Island) and Mrs. A.L. Simpson

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91. Compare Table Twenty-two "Summary - Recommendations of the Presbyterian Church in Canada: 1 June 1960" with Table Thirteen, "Summary - Recommendations of the Federation of Saskatchewan Indians: 25 May 1960", and Table Twenty-four "Summary - Recommendations of the Government of Saskatchewan: 16-17 June 1960".

92. Elliott Moses was born on the Six Nations Reserve. He was an executive of the NCIC and the Indian-Eskimo Association. See NAC, Elliott Moses Papers, MG30, C169, "Ontario Provincial Government's Cooperative Movement with the Federal Government in the Administration of Indian Affairs."

(Alnwick).<sup>93</sup> The trio endorsed an Indian policy (see following Table Twenty-three) they characterized as "assimilation". As we have seen, the terms assimilation and integration were often used interchangeably by policy actors. In its 1958 submission to the federal government the Canadian Bar Association (CBA) had used the term "assimilation". The CBA was politely corrected by Minister Fairclough who pointed out that "integration" was the more appropriate term that described the CBA's proposals. In the case of the Ontario delegation, "assimilation" may simply have been the term with which they were most familiar.

In any event, the Ontario policy proposals were well received: Minister Fairclough, who was in attendance, termed them "wonderful".<sup>94</sup> The Advisory Committee recommended that Indian bands should obtain full title to reserve lands. In turn, Indian people could use reserve land as collateral for obtaining loans. Ministerial powers should also be devolved to band councils including the authority to spend funds from their capital revenue accounts. Removal of trespass Sections (30-31) from the Indian Act would promote the extension of provincial and local municipal services.

Committee members were intrigued by the notion of permitting Indian people to use reserve land as collateral for loans. The proposal had also been raised by the Federation of Saskatchewan Indians in early hearings. Again, the apprehension was that if individual Indians obtained title to reserve lands, rather than a corporate band title, the reserves might

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93. SJC, Minutes of Proceedings and Evidence (No. 4, 18 May 1960), 304-313. See Table Twenty-three "Summary - Recommendations of the Indian Advisory Committee, Ontario Department of Public Welfare: 18 May 1960".

94. *Ibid.*, 314. During the Ontario presentation Ellen Fairclough distributed copies of "A Commentary on the Indian Act" prepared by the Indian Affairs Branch which was intended to guide and inform discussions.

Table Twenty-three

**SUMMARY**  
**RECOMMENDATIONS OF THE INDIAN ADVISORY COMMITTEE,**  
**ONTARIO DEPARTMENT OF PUBLIC WELFARE: 18 May 1960**

Spokesmen: Chairman Elliot Moses; Webster White and Mrs. A. Simpson,

Recommendations:

- Indian assimilation should be supported
- ultimate goal is full Canadian citizenship
- a number of policy initiatives will advance goal of Indian citizenship:
  - : Indian bands should hold legal title to reserve lands
  - : Indian people should be able to use reserve land holdings as collateral for loans
  - : reserves should be properly surveyed for development purposes
  - : IAB Revolving Loan Fund should be augmented to encourage Indian entrepreneurs
  - : band councils should control expenditures from their capital funds
  - : remove "trespass" sections (30-31) from Indian Act, to encourage extension of provincial and local services
  - : improve local Indian educational facilities
  - : Indian women who marry non-Indians should not lose status
  - : Ministerial powers should be limited

Source: JC, MPE (No. 4, 18 May 1960), 304-313.

be broken up, particularly if holdings were seized as payment of bad debts.<sup>95</sup> Could the Indian Act be modified to accommodate the initiative, while protecting individual Indian interests?

The presentation of the three western provinces differed considerably in philosophy and content from the Ontario brief. Accompanying Tables Twenty-four, Twenty-five, and Twenty-six provide highlights of their respective proposals. The Government of Saskatchewan sent senior officials to testify, and since the province had taken a keen interest in Native policy since the advent of the CCF government in 1944, their views will be dealt with in depth.<sup>96</sup>

The Saskatchewan delegation was headed by the Hon. John Sturdy,<sup>97</sup> assistant to Premier Tommy Douglas; and by Roy Woollam, director of the provincial committee on minority groups. In his introduction John Sturdy constructed the prism through which the province viewed Indian issues: a growing on-reserve population confined to a restricted land base; an increasing number of off-reserve Indians and Métis demanding costly municipal and provincial services; a dichotomy on living conditions between northern and southern

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95. Ibid., 323-326.

96. JC, Minutes of Proceedings and Evidence (No. 12, 16-17 June 1960), 1029-1072. See Table Twenty-five "Summary - Recommendations of B.C. Department of Social Welfare: 26-27 May 1960", and Table Twenty-six "Summary - Recommendations of the Province of Manitoba: December 1959".

97. John Sturdy was born at Goderich, Ontario, on 27 January 1893, and, as a youth, moved to Saskatchewan. From 1935 to 1940, he was general secretary, Saskatchewan Teachers Federation and from 1940-44, assistant director, Educational Services, Canadian Forces Overseas. In the 1944 provincial election he ran for the CCF and was appointed minister of reconstruction and rehabilitation. In August 1948, Sturdy became minister of social welfare. In 1956, he was named assistant to the premier, and minister without portfolio.

Table Twenty-four

**SUMMARY**  
**RECOMMENDATIONS OF THE GOVERNMENT OF SASKATCHEWAN: 16-17 June 1960.**

Spokesmen: Hon. John Sturdy, Assistant to Premier T.C. Douglas; Ray Wollam, Director, Saskatchewan Provincial Committee on Minority Groups; Walter Hlady, Northern Training Officer, Centre for Community Studies, University of Saskatchewan.

Introduction:

- Indian population 23,000; on-reserve, off-reserve, Métis; regional differences north and south
- Indian cultures not future oriented; communal sharing restricts individual advancement; Indians and non-Indians not respect each other's values.

Disabilities of Indian Status:

- anomalous legal status of Indians: "Indian" and "Canadian citizen"
- reserve system and paternalistic IAB administration retards integration - legal barriers to economic integration: limited say in expenditure of band funds
  - : law forbid sale of assets from reserves (Sec. 32)
  - : assets cannot be used for collateral
  - : Ministerial powers
  - : compulsory enfranchisement
  - : tax waiver to vote federally
  - : preparation of wills.
- loss of Indian status viewed as an economic/social disadvantage
- Recommendations: end compulsory enfranchisement (Sec. 112); remove Sec. 32; grant Federal franchise; appeals to Minister's decisions; permit Indians to probate wills on same basis as non-Indians; eliminate policies which discourage self-determination and segregation.

Economic Problems:

- a north/south dichotomy; in south new initiatives required: development of farming as an economic base; training provided by Provincial Agricultural Reps.; Federal government should create facilities to store Indian grain; Revolving Fund should be used to purchase land outside reserves; prohibit lease of Indian reserve land to non-Indian farmers; reserves should be surveyed and lands allotted
- in north new approaches required: community development projects for reserves; cooperative blueberry enterprises; development of commercial fishing in western portion of province; protect hunting/fishing/trapping areas; Revolving Fund for fur farming; job training and placement programs; preferential hiring practices.

## RECOMMENDATIONS OF THE GOVERNMENT OF SASKATCHEWAN cont'd

### Education Services:

- future of Saskatchewan Indians is off reserve employment; barriers include: residential schools, language, education, nomadism, age retardation
- solutions are: replace residential schools with integrated educational facilities; vocational training from Provincial and university extension facilities; employers to hire Indian labour.

### Social Services:

- health care services on reserve are high quality, preclude movement off reserve
- requirement for greater Federal/Provincial cooperation and cost-sharing
- need for more preventative health services
- welfare services require similar Federal/Provincial coordination; Federal government provides welfare services to on-reserve Indians making them reluctant to leave reserves
- province provides child welfare services to off-reserve Indians; jurisdictional problems with adoptions and juvenile delinquents
- Recommendations: existing health/welfare services discourages movement of Indians off over-crowded reserves; welfare services must be modified to ensure Indians get some services and care as non-Indians
- Federal/Provincial/Municipal/Indian conferences required to clarify responsibilities and cost-sharing.

### Indian Affairs Policy and Administration of Services:

- Saskatchewan Indian population on reserve increasing on a limited land base; only feasible policy is to encourage Indian people to leave reserve and live in urban environment
- IAB goal is Indian integration but no administrative structure designed for that purpose
- IAB promotes contradictory policies i.e. health/welfare services on reserves inhibit integration
- Recommendations: clarify purpose of Indian administration to help Indians move off-reserve while maintaining traditional rights, special economic and social security measures
- administrative flexibility to deal with diverse conditions in northern and southern Saskatchewan
- long range planning via Federal/Provincial consultation on program goals including: subsidized off-reserve housing program; employment counselling; job placement; survey of Indian reserve resources and conditions.

Source: JC, MPE (No. 12, 16-17 June 1960), 1029-1072.



Table Twenty-five

**SUMMARY**  
**RECOMMENDATIONS OF B.C. DEPARTMENT OF SOCIAL WELFARE: n.d.**

Spokesmen: submission signed by W.D. Black, Minister of Social Welfare

Introduction:

- recent Indian Affairs initiatives: Indian Act revised 1951; Hawthorn report on B.C. Indian administration (1955); Study of People of Indian Ancestry in Manitoba (Lagassé, 1959)
- Indian integration is long-term objective; need planned program to achieve this goal
- must recognize principle of Indian self-determination commensurate with realistic standards and goals of public welfare
- need for greater Federal/Provincial co-operation in Indian affairs.

Observations on Indian Social and Economic Status:

- Indian population in B.C. - 36,973, a 32.3% increase in a decade
- Indian conditions vary in regions of the province
- Hawthorn and Lagassé suggest new approach to Indian problems
- general public must have more information on Indian conditions, progress, and aspirations
- must clarify Federal/Provincial responsibilities for Indian social welfare e.g. adoption of Indian children; off-reserve non-status and Metis.

Suggestions:

- non-Indians must be willing to accept Indian people into society
- governments, churches, voluntary and professional groups must plan and coordinate measures for Indian integration
- encourage social science research projects on Indian-related matters
- create one Federal department responsible for Indian Affairs
- revise Indian Act
- clarify Federal/Provincial roles and responsibilities for Indian administration.

Recommendations:

- Long-Term Objectives : full citizenship and integration of Indian people
  - : full extension of Provincial services
  - : revise Indian Act
- Short-Term Objectives: publish more information on progress of Indian integration
  - : implement pilot social welfare projects
  - : establish reserve institutions to facilitate social change
  - : establish group homes for Indian children in need of protection.
  - : clarify Federal/Provincial responsibility for off-reserve Indians
  - : create Federal/Provincial Committees on Indian Affairs

Source: JC, MPE (No. 7, 26-27 May 1960), Appendix H1, 676-696.

Table Twenty-six

**SUMMARY**  
**RECOMMENDATIONS OF THE PROVINCE OF MANITOBA: DECEMBER, 1959.**

Spokesman: N/A

Observations:

- social barriers against Indians; racism; no jobs for those with low education; insistence on conformity; insistence on protocol/formality; economic system based on individual competition and production; no faith in Indian people responding to rehabilitation programs
- need for IAB to sponsor programs of public education
- Indian population of Manitoba 22,077; 78% live on reserve, 22% off reserve; jurisdictional questions
- Welfare Council of Greater Winnipeg established an Indian and Metis Committee (1957) to alleviate and study off-reserve conditions of some 4000 people
- 1959 Jean Lagasse has completed a 3 vol. study of "People of Indian Ancestry in Manitoba".

Rehabilitation Program for Indians:

- Indian people should become economically self-sufficient, socially adjusted, culturally integrated
- Indian cultures will have to change before integration can occur - need for a twentieth century Indian culture
- Indian integration requires a two-prong program
  - : help Indians to overcome their handicaps
  - : help non-Indians to overcome their prejudices
- IAB need to hire anthropologists and sociologists to devise measures to facilitate Indian integration.

Responsibility of Indian Affairs:

- provinces and municipalities have recently become interested in their Indian citizens
- constitutional powers under 91:24 BNA Act must be reviewed to assess responsibility for off-reserve Indians
- education, welfare, and economic development should be studied by Federal/Provincial Conferences
- Indians should receive federal vote; have same liquor privileges as non-Indians
- Indian status provides Indians with a "few extra privileges"; these are not in lieu of Canadian citizenship
- remove trespass sections (30-31) from Indian Act; simplify Indian Act and regulations
- IAB should focus on promotion of adult education.

Source: JC, MPE (No. 9, 1 June 1960), Appendix J1, 769-779.

Saskatchewan, and minimal progress on Indian integration due to the absence of federal planning and Indian cultural differences.<sup>98</sup>

The integration process was hampered by a paternalistic Indian Affairs Branch and by the reserve system that reinforced racial segregation.<sup>99</sup> The anomalous legal position of Indians erected barriers to economic integration: band assets could not be used for loan collateral; there were continued restrictions on the sale of reserve resources (Section 32); Indian band councils had a limited say on the expenditure of band funds; Indians could not devise their own wills; and the Minister's discretionary powers stifled the devolution of power and responsibility to band councils. Section 112, compulsory enfranchisement, was socially and economically disadvantageous to Native people because of the threatened loss of treaty rights, special taxation exemptions, and rupture of kinship ties. There were solutions: repeal the offensive sections of the Indian Act, grant Indians the federal vote, permit appeals to ministerial decisions, and eliminate all policies and practices that discouraged integration and self-determination.<sup>100</sup>

A contributing factor to overcrowding on the southern reserves was the established federal practice concerning the delivery of social services. During the 1950s, the Indian Affairs Branch and National Health and Welfare had extended welfare and health care services

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98. See Table Twenty-four "Summary - Recommendations of the Government of Saskatchewan: 16-17 June 1960". For an overview Saskatchewan's Native policies see, F. Laurie Barron, Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF (Vancouver: UBC Press, 1997).

99. JC, Minutes of Proceedings and Evidence (No. 12, 16-17 June 1960), Part II, "The Indians of Saskatchewan," 1032-1039.

100. Ibid., "Part III, Disabilities of Indian Status," 1039-1043.

to all but the most remote, northern reserves. The initiative encouraged Indian people to remain on reserve which, in turn, resulted in over-crowding, and a decline in living conditions.<sup>101</sup>

Indian people who migrated to the cities to seek employment opportunities encountered jurisdictional disputes between the federal, provincial and municipal governments counselling, education, and social welfare benefits. The confusing and discouraging urban situation was relayed back to the reserves by "moccasin telegraph".<sup>102</sup> In Saskatchewan's view there was only one solution: federal-provincial jurisdiction and financial responsibilities had to be clarified to ensure that off-reserve services and programs were on a par with those available to the on-reserve population.<sup>103</sup>

Those Indians who remained on reserves faced severe economic hardship. In the south, in the prairies and parklands, new economic development projects were urgently needed. The leasing of Indian reserve land to non-Indians should be prohibited, while revolving fund loans from the Indian Affairs branch should be available for Indian people to purchase additional acreage outside the reserve.<sup>104</sup> In the north, co-operative ventures in commercial fishing, fur conservation, and blueberry harvesting were recommended as measures to promote economic prosperity. Federal loans should be available for Indian job

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101. Ibid., "Part IV, Social Services," 1063-1069.

102. Ibid., "Welfare Services," 1065-1067.

103. Ibid., "Part VII, Indian Affairs Policy and the administration of Services," 1069-1072.

104. Ibid., 1048.

training and placement programs.<sup>105</sup>

The Saskatchewan delegation was convinced that the only feasible Indian policy was to encourage Indian people to leave the reserves, without loss of traditional rights and special benefits. Premier Douglas himself had advocated such a policy and, while he did not view the reserves as viable homelands, he did not support their dismemberment. Integration was a slow, long-term process. The process could be advanced through vocational training, preferential Indian hiring practices, and provincial school integration, with advisory services provided by the provincial government and universities.<sup>106</sup>

Ray Wollam suggested that a joint federal-provincial inquiry into the legal, educational, economic, social and health needs of all Saskatchewan Indians was timely.<sup>107</sup> In fact, similar studies had been carried out by Dr. Harry Hawthorn on B.C. Indian conditions and by Jean Lagassé on people of Indian ancestry in Manitoba. Once the survey had been completed, and the data analysed, the province would be in a position to consider assuming responsibility on a "farmed-out" basis for Indian welfare, health care, and economic development.

In retrospect, the Saskatchewan proposals were curious and raised a number of questions. Was the recommendation that Indian people be encouraged to purchase additional land off-reserve a back-door measure for dismantling the reserves? The question was not answered whether purchased land would be accorded reserve status. If the land was granted

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105. Ibid., 1048-1049.

106. Ibid., "Part V, Educational Services," 1054-1063.

107. Ibid., 1092.

reserve status then it would be withdrawn from the local municipal tax base. This would have caused a political furore.

Another curious aspect of the Saskatchewan presentation was the continued provincial support for, and promotion of, co-operative ventures. As Laurie Barron has documented in Walking in Indian Moccasins. The Native Policies of Tommy Douglas and the CCF, by 1960 many co-operative ventures involving Indians had failed. It had been assumed that the co-operative form of organization was appropriate to traditional Indian values, but many Indians preferred to deal directly with the Hudson's Bay Co. Apparently there was a strong element of individualism in Native cultures that had not been appreciated by government planners. But there were other factors that contributed to the failure of co-operatives: Indians and non-Indians did not get along; Indian people lacked the expertise to manage co-operative properties, and many Natives did not possess the initial capital required to get projects up and running.

A third proposal, to conduct a survey of Saskatchewan Indian conditions and reserve resources was an old research project. It had first been broached with Minister J.W. Pickersgill in the mid-1950s, who had agreed to provide some federal funding. When Fulton replaced Pickersgill in June 1957 the project was revived, but Fulton refused funding noting that a general inquiry into Indian affairs was in the offing. Why the project was dusted off again in 1960 is unclear, unless the survey was simply a pet project of Ray Wollam.

Nineteen-sixty marked the end of eighteen months of committee hearings. Non-Indian members of the expanded Indian policy community had testified: they had endorsed the policy of Indian integration and had suggested various strategies for achieving it. Representatives

of Indian bands and Native rights associations had also testified but increased Native activism made it difficult for parliamentarians and government officials to identify a Native community of interests. There was Native support for enhanced education and welfare measures, but only lukewarm enthusiasm for integration into mainstream society. What is interesting is that a number of Indians and non-Indian presenters - the Federation of Saskatchewan Indians, the Provinces of Saskatchewan and Ontario, and the Presbyterian Church - suggested that bands be incorporated and title to reserve lands be devolved to band members. This proposal did not amount to Indian termination - a policy theme in vogue at the time in the United States - because all parties wanted legislative safeguards to ensure that reserve lands were not privately alienated. The Indian Affairs Branch, acting as a sort of municipal affairs ministry, would have a continuing supervisory role in this regard.

Two months of joint committee hearings ended on 5 July 1960, with a brief second report to Parliament. The joint committee made only two policy recommendations: the repeal of Section 112 concerning compulsory Indian enfranchisement; and the reconstitution of the joint committee for a final round of hearings in 1961. The first recommendation was actually superfluous as Minister Fairclough had already announced the government's intention to delete Section 112.<sup>108</sup>

### ***The final hearings of the joint committee (1961)***

In January 1961, the House of Commons and the Senate passed resolutions to re-

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108. JC, Minutes of Proceedings and Evidence (No. 15, 5 July 1960), including Second Report to Parliament, also Index to briefs, 1413-1414. See also JC, Minutes of Proceedings and Evidence (11-13 May 1960), 174. Section 112 was removed on 9 March 1961 by an amendment to the Indian Act.

establish the joint committee and re-affirm its terms of reference. A new co-chair, Lucien Grenier (PC-Bonaventure) was named to replace Noël Dorion who had been appointed secretary of state in October 1960. The public hearings began on 1 March, terminating on 30 May 1961, after which 16 *in camera* sessions were held. A final report to Parliament was issued on 8 July 1961.

In all respects the 1961 hearings were anti-climatic. During March and April six Indian bands and five Native rights associations appeared. Major, but repetitive, presentations were made by the Native Brotherhood of B.C. and the North American Indian Brotherhood who pressed for resolution of the B.C. Aboriginal title issue and the provision of improved health care, education, and welfare services. The Queen Victoria Treaty Protective Association and the recently formed Qu'Appelle Indian Advisory Council<sup>109</sup> reasserted Indian treaty rights to free education, hunting, trapping and fishing.<sup>110</sup> The Manitoba Indian Brotherhood also pressed for recognition of treaty rights and for

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109. Chiefs John Gambler and Laurence Thompson spoke on behalf of the Qu'Appelle Advisory Council (Star Blanket, Carry The Kettle, Wood Mountain, Okeeneese (Okanese), Muscowpetung, and Peepeekisis Bands). In 1947, Regina lawyer Morris Shumiatcher assisted the fledgling Union of Saskatchewan Indians in preparing a brief to the first special joint committee on the Indian Act. At that time, John Gambler provided Shumiatcher with his views of the treaties and these were subsequently incorporated into the Union's document. (Personal communication with Morris Shumiatcher).

110. The Catholic Indian League of Canada (founded by the Oblates in 1954) submitted a brief concerning the Indians of Alberta. The League represented Indians from the Hobbema, Saddle Lake, Beaver Lake, Peigan, Blackfoot (Siksika), Blook (Kanai), Sarcee (Tsuu T'ina), Winterburn, Cold Lake, Good Fish Lake, Onion Lake, Bob Tail (Montana), Louis Bull, Ermineskin, and Samson Bands, as well as the Legoff Residential School (Cold Lake Residential School). The report emphasized the benefits of denominational schools and urged gradual Indian integration while respecting the feelings and rights of the individual and the wishes of parents.



parliamentary representation for Native people.

In March 1961, two professional bodies, the Canadian Medical Association (CMA) and the Canadian Welfare Council (CWC) put in an appearance, as well as Father André Renaud on behalf of the Welfare Council of Greater Winnipeg. The CMA brief proved a disappointment: the doctors focused on issues of payment for services and the need to clarify federal-provincial responsibilities concerning Indian health care administration.<sup>111</sup>

The CWC presentation was more constructive and elicited comments from key committee members concerning Indian views of integration. Phyllis Burns, director of welfare services, sketched important developments in Indian social welfare services in 1947: the provision of family allowances, and the extension of old age security, old age assistance, and disabled persons' allowance. Reserve housing had improved as had the delivery of health care and social services. Major shortcomings remained: the lack of economic development opportunities, access to vocational training, and adult education.<sup>112</sup>

At the time Phyllis Burns was on the executive of the Indian-Eskimo Association. Not surprisingly, she reiterated many of the major IEA proposals presented in 1960: resolve the anomalous legal status of Indian people, negotiate federal-provincial arguments to expand Indian welfare services, subsidize community development projects on reserves, and reduce paternalistic Indian administration by devolving ministerial powers to band councils.

In the question period, discussions focused on two issues - abolition of the Indian Affairs Branch, and the realistic prospect for Indian integration. On both subjects, Phyllis

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111. JC, Minutes of Proceedings and Evidence (No. 3 16 March 1961), 61-65.

112. JC, Minutes of Proceedings and Evidence (No. 5 22 March 1961), 95-103.

Burns was cautious, noting that the Indian integration process was long-term (she cited a 50-year limit) thus some form of custodial Indian administration would be needed in the interim. This prompted comments from committee members. Judy LaMarsh (Lib.-Niagara Falls) condemned Indian administration as insensitive and over-protective. R.H. Small (PC-Danforth) provided his own perspective on integration:

Having sat on this committee for a couple of years I think those who received briefs will find there is a picture involved that does not lend itself to complete integration...all through the evidence, the Indians wants to be himself. He wants to maintain his own tongue and his own culture. He does not want to be accepted so that he can mix with them.<sup>113</sup>

Comments in a similar view came from M.P. July LaMarsh in response to the presentation from Father Renaud, who now appeared on behalf of the Indian and Métis Committee of the Welfare Council of Greater Winnipeg.<sup>114</sup> Father Renaud, a member of the Canadian Catholic Conference and Indian-Eskimo Association delegations, repeated familiar themes. Community development projects and co-operative enterprises would improve reserve conditions. Enhanced Indian education would instil cultural pride, promote social adaptability, and advance social integration. This optimistic forecast was questioned by Ms. LaMarsh who noted contradictory testimony from Natives and non-Natives:

I have noted that there is quite a divergence in the briefs presented by Indians and the briefs presented by others...Those presented by non-Indians appear to assume that integration is the goal to which we should work. Oddly enough these briefs say we should be listening to Indians, that they should have more participation in their own affairs...Yet the briefs which are presented by Indian groups are those such as the ones presented this morning [Manitoba Indian Brotherhood], and that were presented are going back to treaty rights, to a

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113. Ibid., 107.

114. JC, Minutes of Proceedings and Evidence (No. 6, 23 March 1961), 144-163.

request to the government to be more paternal, to provide more services and in a sense make them more dependent and less capable of integrating.<sup>115</sup>

In response, Father Renaud suggested that continued Indian consultation and dialogue would gradually break down attitude barriers which inhibited Indian integration. The rationale for, and funding of, government assistance programs should be explained to Indian people, as well as the reality that delivery of social services could also be provided by provincial government agencies and by the bands themselves. In Renaud's view, Indian band government, modelled on that of a rural municipality, should be implemented as soon as possible. This initiative would greatly reduce Indian dependence on government<sup>116</sup>.

Before preparing its final report to Parliament, the joint committee set aside time in May 1961 to hear once again from senior officials of the Indian Affairs Branch. Col. Jones set a confident tone when he appeared before the committee on 2 May and provided an overview of recent branch achievements.<sup>117</sup> In almost every instance officials had adopted the program and administrative reforms suggested by the expanded Indian policy community.

Indian education was a bright spot: nine reserve day-schools were under construction and progress was reported on the integration of Indian education into provincial systems. Strides had been made to expand Indian credit facilities and commercial enterprises. A new economic development division was providing loan funding to fledgling Indian enterprises. In co-operation with the Department of Agriculture, western Indian farmers were eligible to

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115. Ibid., 163.

116. Ibid., 163-165.

117. IC, Minutes of Proceedings and Evidence (No. 8, 2-3 May 1961), 275-280.

receive benefits from the Prairie Grain Advance Payments Act, the Prairie Farm Assistance Act, and the Prairie Farm Rehabilitation Act. For off-reserve Indians vocational training programs had been expanded and an Indian Employment Placement program was in place.

The creation of Indian municipal governments was being studied by the branch. Indian administration was being gradually decentralized and Indian superintendents were instructed to assume an advisory role to band councils.<sup>118</sup> The powers of band councils to spend band funds had been expanded as well as a band council's authority to pass by-laws. Paternalism still dominated administrative practice however, because the minister retained authority to veto "unauthorized" by-laws. This power was considered by branch officials to be similar to that exercised by a provincial minister of municipal affairs.<sup>119</sup>

Indian acquisition of the federal vote was no longer an issue as this had been achieved in 1960.<sup>120</sup> In the view of branch officials, the question of compulsory Indian enfranchisement had been resolved. Between 1948 and 1960, of the 9,180 Indians who had relinquished Indian status, 4,231 were Indian women who had married non-Indians. Compulsory

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118. JC, Minutes of Proceedings and Evidence (No. 8, 2-3 May 1961), 299-302. See testimony of Jules D'Astous.

119. JC, Minutes of Proceedings and Evidence (No. 9, 4 May 1961), 323-330. See testimony of Eric Acland.

120. Politicians of every stripe were apprehensive about sharing power. Diefenbaker was no exception. He, like Walter Harris (1950) assessed the electoral consequences of the "Indian vote". On December 5, 1959, the Indian Affairs Branch prepared a "historical summary of Indian voting" for Ellen Fairclough. At the conclusion of the joint committee hearings in 1961, a contract (\$6,500) was let to Chief Joseph Dreaver (Mistawasis Band) to explain the joint committee's findings to Saskatchewan Indians. Chief Dreaver's real mission was to assess the strength of the recently formed NDP among Saskatchewan Indians. See RG 26, Vol. 14, File 1-11-3, Pt. 8.

enfranchisement had been formally terminated in March 1961; however, voluntary enfranchisement was retained. Government officials felt that voluntary enfranchisement offered “enterprising” Indians a way of personally removing restrictive legal distinctions. It was also an avenue to obtain a share of band funds that could be used to establish a small business. This latter option was important since the Indian Branch reported there were no plans nor financial resources to expand the reserve land base. The surplus Indian population would have to find off-reserve housing and employment.<sup>121</sup>

*The final report of the joint committee*

Between 30 May and 13 June 1961, committee members held a series of *in camera* sessions with Indian Branch officials to discuss amendments to the Indian Act.<sup>122</sup> There are no extant historical records of their discussions so it is impossible to determine what issues and options were discussed. On 15 June the civil servants were dismissed as committee members began to draft a final report to Parliament. On 8 July 1961, the joint committee on Indian administration produced a ten-page report containing its Indian policy recommendations.<sup>123</sup> The following three-page, Table Twenty-seven highlights the major recommendations.

In the preamble to its report, the committee noted that “winds of change” were

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121. JC, Minutes of Proceedings and Evidence (No. 14, 23 May 1961), 515-542. See testimony of L.L. Brown.

122. JC, Minutes of Proceedings and Evidence (No. 16, 30 May - 7 July 1961), 619-624.

123. *Ibid.*, 605-618.

Table Twenty-seven

**Summary of Findings and Recommendations:  
Joint Committee of House of Commons and Senate  
on Indian Affairs 1959-1961**

- a) The winds of change have been blowing through the ranks of the Indian people.
- b) There is a growing awareness and recognition of the problems and needs of Indians amongst the non-Indian population.
- c) Indians may soon be willing to assume the responsibility and accept the benefits of full participation as Canadian citizens.
- d) More responsibility and authority should be directed to band councils and individual Indians with a consequent limitation of governmental control.
- e) The advancement of the Indians towards full acceptance of the responsibilities and obligations of Citizenship should be without prejudice to their traditional cultural, historical and economic benefits.

**I. Indian Status and Band Membership**

- a) Indian and non-Indian children who are legally adopted should assume the status of their adoptive parents.
- b) The status and membership rights of illegitimate children should conform, where possible, to provincial laws.
- c) The term "enfranchisement" should be deleted from the Act.
- d) Indian women who marry non-Indians should not receive a per capita share of band funds for a period of five years, but retain the right to return to their reserve in the intervening period.

**II. Use, Management and Development of Reserve Resources**

- a) The Indian Act should be amended to formally recognize lawful possession of land held by an Indian for twenty years and also to permit band councils to allocate land on a conditional basis.
- b) Designated band councils should be authorized to issue leases of reserve land for a period not exceeding five years without a surrender and/or approval of the Minister.
- c) The Indian Affairs branch should withdraw from the management of land held by an individual Indian who should be enabled to lease his land himself for designated purposes.
- d) The Indian Act should be amended to clearly indicate the word "surrender" is confined to sale of land.
- e) As the present provisions of Section 88 of the Act bar many Indians from ordinary sources of credit, the section should be amended to permit individual Indians to waive the protection afforded as regards their personal property; and band revenue funds should be subject to attachment in respect of judgments for damages and unfulfilled contracts.

**III. Election and Authority of Band Councils**

- a) The Act should provide for a term of office for band councils of not more than three years with one-third of the members elected each year.
- b) All band members, who are otherwise qualified, should be allowed to vote at band elections and on any other matter affecting the band if present on the reserve when the election is held.
- c) The chief should be elected by the band members rather than from the elected council.
- d) An oath of office for band council members should be required.
- e) The Indian Act should set out specific duties and authorities of the Chief.

- f) The Act should provide for filling a vacancy in a band council as soon as possible after the vacancy occurs.
- g) There should be an extensive educational program to acquaint band councils with the Indian Act and regulations and with Council authority.
- h) It should be the definite policy of governments to move toward more self-governing bands and to this and more bands should be given control of their revenue funds.
- i) There should be a decrease in ministerial and governmental authority with a concomitant increase in band council authority.
- j) By-law authority under the Act should be combined and additional powers granted.
- k) To assist elected band councils in local self-government, per capita grants on an unconditional basis should be made.

#### IV. Use and Management of Band Funds

- a) Greater responsibility should be placed upon Indian bands in matters of credit.
- b) Band councils should be enabled to take adequate security on loans with the right to foreclose in case of default.
- c) Where a band does not have sufficient funds for loaning purposes, a system of making secured lands to bands for re-loan to band members should be instituted.
- d) An appropriate penalty should be provided in the Indian Act for misuse of band funds by band councils.

#### V. Education and Development of Human Resources

- a) Education is the key to the full realization by Indians of self-determination and self-government.
- b) Education of Indian children in schools under the jurisdiction of the provinces should be continued and expanded.
- c) Kindergarten facilities for Indian children should be provided.
- d) The provincial authorities should be approached to ensure that a more comprehensive and accurate account of the Indian people is used and described in history courses and texts.
- e) Agreements should be entered into with provincial authorities to extend adult education facilities to Indians with the program expanded.
- f) Travelling library facilities to Indian communities should be expanded wherever possible.
- g) Academic upgrading and social orientation courses to prepare young Indians for placement or specialized training should be greatly expanded.
- h) Full support and encouragement should be given to formation of Home and School or Parent-Teacher Associations.
- i) The fullest possible encouragement and incentive should be given to Indian children to go as far as they can in school.
- j) In addition to an intensive educational program, the economic opportunities and environment of the Indian people should be developed.
- k) The Canadian Broadcasting Corporation and other agencies should prepare factual presentations of the Indians' way of life and their contribution to the development of Canada.

#### VI. Health and Welfare

- a) The question of transferring health services for Indians to the provinces should be discussed at a Dominion-Provincial Conference, but the present health program should be continued and extended until such time as this can be accomplished.
- b) Provincial welfare legislation and services should be used for the benefit of the Indian population.
- c) Social welfare should be placed on the agenda of a Dominion-Provincial Conference with a view to transferring jurisdiction to the provinces.

- d) A substantially increased public investment should be made in Indian housing and sanitation facilities.
- e) A revolving loan fund for housing purposes should be established.

## VII.

## Taxation and Legal Rights

- a) Special depreciation allowances should be allowed Indian commercial fishermen.
- b) All existing liquor restrictions should be deleted from the Indian Act; and the same rights extended to non-Indian citizens of the various provinces be applicable to Indians, except that the right of possession and consumption on the reserve be granted only after approval by a majority vote of the band.
- c) Section 32 and 33 of the Indian Act relating to the sale or barter of produce from reserves in the three Prairie Provinces should be deleted.
- d) Provincial courts should have jurisdiction to deal with Indian estates.

## VIII.

## Indian Administration in General

- a) Indian Affairs should be the subject of a Dominion-Provincial Conference in order that such matters may be transferred to provincial jurisdiction as may be mutually acceptable to the Indian people, provincial and federal authorities.
- b) Another Special Joint Committee of the Senate and House of Commons should be appointed within a period of seven years to review Indian Affairs.
- c) A program of research into the economic, cultural and social concepts of the Indian people should be undertaken in conjunction with the provinces and universities.
- d) Community planning and development studies should be continued.

## IX.

## Indian Claims Commission

An Indian Claims Commission should be established to hear the British Columbia and Oka Indian land questions and other matters, and that the cost of counsel to Indians for the two land questions specified above, be borne by the Federal Treasury.



blowing through the ranks of Indian people.<sup>124</sup> In the “not too distant future” Indian people would become full Canadian citizens: but not at the expense of their relinquishing traditional cultures, historic rights, or other special government benefits. This preamble merits comment and analysis because it set the philosophy and tone for the policy recommendations that followed. The phrase “winds of change” was consciously borrowed from a 3 February 1960 speech by British Prime Minister Harold Macmillan. On that date Macmillan had addressed the South African Parliament in Pretoria and condemned the policy of apartheid. He warned White South Africans that a “wind of change” was blowing across the African continent in the form of black African nationalism. This nationalism would have to be accommodated in the years ahead.

There is no evidence to suggest that parliamentarians equated the status and socio-economic conditions of Canadian Indians with black Africans. However, in the two years of hearings M.P.s and Senators had heard various expressions of Indian nationalist sentiment, as well as their demand for greater autonomy and self-government. “Winds of change” simply expressed the committee’s optimism that an end to Indian dependency was in sight provided its policy recommendations were adopted.

The committee endorsed the post-war policy of Indian integration as opposed to assimilation: Indian people could become full Canadian citizens while retaining non-

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124. The use of the phrase “winds of change” is of interest. Macmillan borrowed the phrase “wind of change” from a speech by British Prime Minister Stanley Baldwin in 1934: “There is a wind of nationalism and freedom blowing round the world.” Macmillan’s speech was given considerable press coverage and was praised in *The Ottawa Journal*, 5 February 1960. See, Alistair Horne, *Macmillan*. Vol. 2, 1957-1986. (London: Macmillan, 1989), 194-195.

threatening elements of their distinctive “Indianness” – languages, cultures, and historic rights. In acknowledging special Indians rights the committee was cautiously endorsing the notion of Indian people as “citizens plus”, a term that the Hawthorn-Tremblay commissioners made popular in 1966.

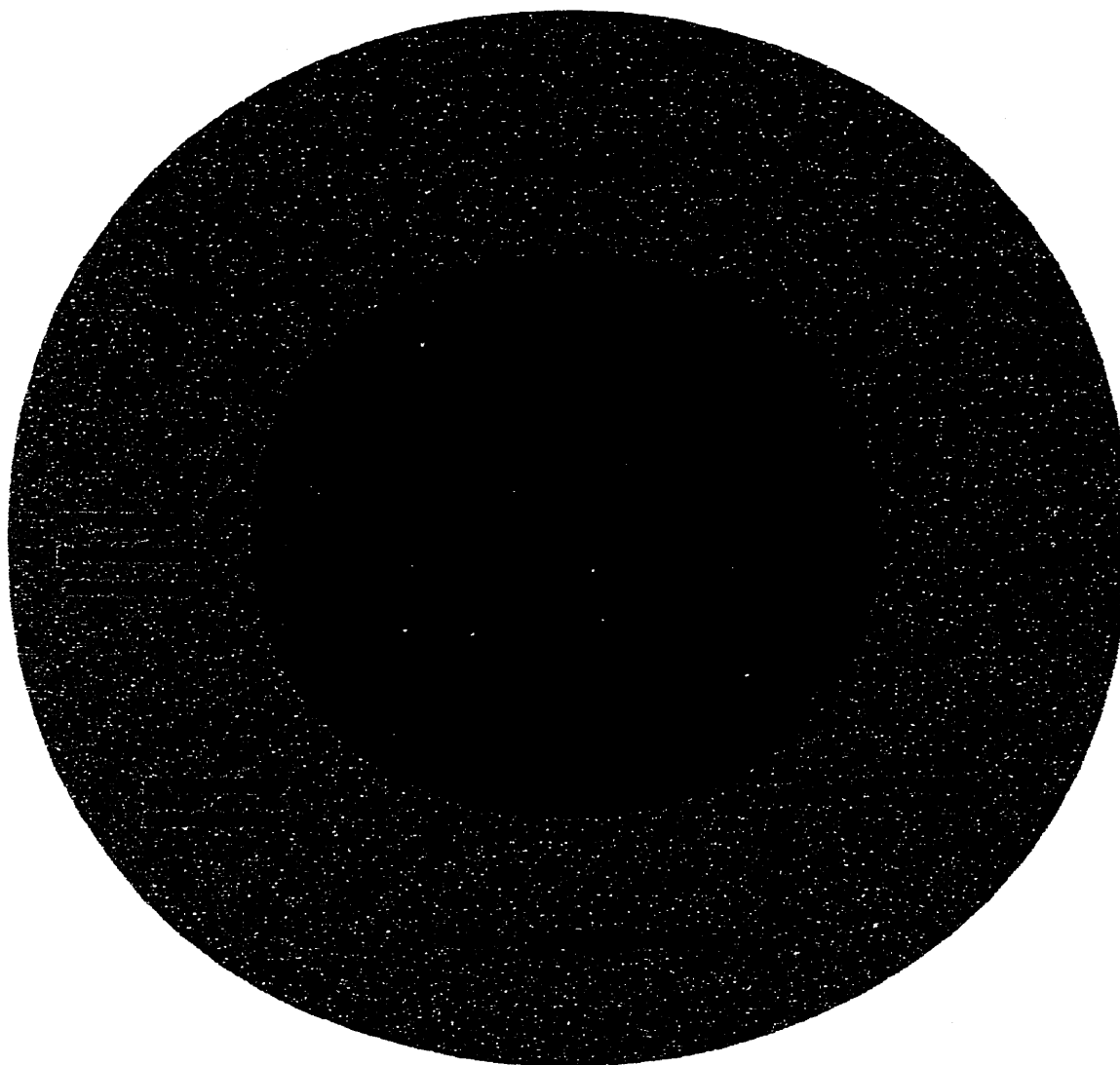
The committee made a number of specific recommendations to hasten the process of Indian integration, promote self-reliance, and end the cycle of dependency. The more far-reaching and innovative measures, many of which were first broached in the final report of the 1948 special joint committee, included:

- granting individual Indians title to reserve lands;
- use of reserve land holdings and property as collateral for loans;
- removal of any reference to “enfranchisement” from the Indian Act;
- provision of per capita operating loans to band councils, with the authority to spend and to loan band funds;
- extension of provincial court jurisdiction over Indian estates;
- the gradual transfer of federal responsibility for Indian education, health care and welfare services to the provinces; and
- establishment of an Indian claims commission to hear the B.C. Aboriginal title question and the Oka land dispute.

The report of the 1959-61 joint committee is an important document in a number of respects. In tone and content it was, for the most part, a non-Native product of the Indian policy community as depicted in the following Figure Seven. The “definition of problem” to be solved, and the policy agenda, was controlled by parliamentarians and government officials in the sub-government sector of the Indian policy community. Indian bands and Native rights

*The Indian Policy Community: 1957-1963*

WINDS OF CHANGE



NATIVE PEOPLE ON AND OFF RESERVES

associations remained on the periphery of policy formulation, in the attentive publics sector, as they had during the first set of hearings in 1946-48. Indian views and proposals for change, like the integration program of the FSI, were accorded non-Indian attention when they conformed with the views and agenda of the dominant policy actors.

The 1959-61 hearings marked the decline in influence of church authorities in policy formulation, although their endorsement of new arrangements was welcomed. The impact of two new sets of actors assumed greater importance. Professional and voluntary groups such as the Canadian Welfare Council, the Co-Operative Union, and the Indian-Eskimo Association, through networking with politicians and bureaucrats, advanced and approved a social welfare/education agenda that promised to ameliorate reserve conditions and promote Indian integration. Provincial governments, once passive on-lookers in Indian affairs, joined the expanded post-war policy community as cautious actors who would assume a greater role in the future delivery of welfare, health and education services to Indian people both on and off reserve.

The rationale for establishing the joint committee was to set Indian administration on a new enlightened course. There was never any suggestion of Indian termination, a policy that had recently found favour in the United States in 1954.<sup>125</sup> The three principles of post-war Indian administration - protection, amelioration, and integration were modified. Greater emphasis was placed by government on the latter two principles. The theme of Indian

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125. Between 1954 and 1962, 12 major U.S. Indian groups were terminated via legislation. The population involved was 12,263 and comprised 1.3 million acres of reservation land. See F.P. Prucha, The Great Father, 1048. The Menominee were most adversely affected.

integration, as opposed to assimilation, broached following the 1946-48 committee hearings, was broadened to encompass the notion of Indians as "citizens plus". A program to hasten integration and end the cycle of Indian dependency was endorsed: title to reserve land holdings would be vested in individual Indians, ministerial powers would be devolved to band councils, and the provinces would assume more responsibility for the delivery of many federal programs.

The joint committee's report sanctioned a view of Indian people that had been evolving within the Indian policy community during the 1950s: Indian people as "citizens plus". To non-Indians this meant that Indian people would vote, pay taxes (on off-reserve income), and have access to liquor as other Canadians, while still retaining aspects of their traditional cultures, treaty rights, and other government benefits. Indian people could remain as "Indians" and be full Canadian citizens, however their relationship with federal and provincial governments, and legal status, would be determined through negotiated self-government arrangements resembling non-Native municipal bodies.

The revised approach to Indian integration and cautious recognition of a differentiated citizenship was not based on a concept of Aboriginality nor on recognition of Aboriginal rights. In part, it was based on the dominant society's acceptance of post-war Canadian cultural pluralism that recognized the contribution of non-traditional cultures to the Canadian mosaic. It was also founded on the policies and practices of the post-war welfare state that afforded assistance to the destitute and recognized that some members of society should receive more rights and benefits than others - veterans, the disabled, the blind, and those

in receipt of government allowances and benefits.<sup>126</sup> If Indian people received special recognition and considerations then, in theory at least, they would become more willing to integrate into mainstream society. At the time, little credence was given to the utterances of many Indian leaders who had expressed their reluctance to become part of mainstream society and, if so, it had to be on Indian terms.

The recommendations of the joint committee did not constitute official government Indian policy. Indian Branch administrative practices could be readily modified, and government programs could be redesigned to improve their effectiveness. The change in policy direction envisaged by the committee required cabinet approval and official legislative sanction. In the summer of 1961 government officials began secret deliberations towards crafting a new Indian policy and revised integration strategy.

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126. The argument and rationale for recognition of Indians as "citizens plus" was based in part on the policies and practices of the post-war welfare state. Regina lawyer Morris Shumiatcher made this argument to Prime Minister Diefenbaker in a letter of 15 June 1959: "I base this argument (Indians as citizens plus) on the principle that many groups in our society receive special aid, among them, veterans, mothers in receipt of mothers' allowances, the blind, the aged, certain farm groups, etc. Since the Indian requires something more by way of assistance than other citizens of Canada why not, I ask, accord him the rights of citizenship, together with these additional benefits (Treaty rights, tax exemption, etc.) he now enjoys." Shumiatcher's letter enclosed a copy of his CBC radio talk, "Full Citizenship for Canada's Indians" aired on 15 May 1959. See NAC, MG32, Vol. 88, File 1A-12F, 1957-61.

## **CHAPTER SEVEN**

### **Epilogue and Conclusions: Continuity within Change**

The parliamentary hearings of 1959-61 had served as a sounding board for government officials, representatives of professional and service organizations, and leaders of Native rights associations and Indian bands to present their views concerning Indian integration, as well as suggestions for legislative and administrative reform. In its final report the joint committee adopted many of their recommendations and presented these to the Diefenbaker government as an action plan for dealing with the perennial "Indian question": how to end chronic dependency and transform Indian people into self-reliant citizens.

In response to the report of the joint committee, the Conservative government launched two major Indian policy initiatives: the establishment of an Indian claims commission, and wholesale revision of the Indian Act. An Indian claims commission had been in the works since 1948 when the measure was first recommended in the final report of the special joint committee. The creation of an adjudicative body to deal with land claims and treaty issues, not attached to the Indian Affairs Branch, was seen as an initiative that would eliminate longstanding Indian grievances, render Indian administration more effective and thus speed the process of Indian integration. This approach, in effect, reaffirmed the longstanding government view that the solution to the Indian problem lay in more efficient government administration and supervision.

Proposed revisions to the Indian Act had the same policy objective: the promotion of Indian integration. All references to compulsory enfranchisement would be removed from the Indian Act. Indian people could remain as Indians. However, title to reserve lands would be

transferred from the Crown to incorporated Indian bands. Individual Indians could then use their reserve holdings as collateral to obtain loan funds. The reserves, themselves, would eventually become Indian municipalities. In the process of gaining access to private property and acquiring civil rights Indian people would become self-supporting citizens. This was basically the theme of the nineteenth century Indian civilization program recast in new terminology. Had the policy cycle come full circle? Were the Diefenbaker Indian policy initiatives just a back door approach to government termination?

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From the beginning of the joint committee hearings in 1959, Minister Fairclough and senior officials of the Indian Affairs Branch had closely monitored testimony. By the spring of 1961 as the sessions were drawing to a close, bureaucrats began closed-door policy deliberations in anticipation of the committee's final report.<sup>1</sup> On 30 May 1961, Deputy Minister George Davidson asked Col. Jones, Indian Branch director, to advise on the efficacy of establishing an independent tribunal to hear Indian grievances relating to the British Columbia and Oka land title disputes, Indian treaty issues, and grievances of a more specific nature relating to Indian reserve administration. Jones responded on 6 June 1961, noting that an Indian claims commission had been proposed by the special joint committee in 1948. Recent Indian and non-Indian testimony presented to the joint committee had been supportive and in Jones's personal view, an independent commission to adjudicate long-standing grievances, would improve the efficiency and effectiveness of government administration:

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1. In his address at the National Indian Superintendents Conference, Harrison Hot Springs, on 18 September 1961, Col. Jones did not mention that an Indian claims commission nor Indian Act revisions were in the works at Ottawa.



I have always felt that the failure of the Government to recognize some of these claims or to take any positive action to have them adjudicated has created a barrier of distrust against the ordinary administrative work of the Branch. Such a barrier might be removed if we were in a position to say that we no longer had anything to do with such claims, that the Indians should take them to the Claims Commission, a body separate and distinct from the Branch.<sup>2</sup>

Davidson referred Jones's memorandum to Minister Fairclough on 7 June, with a handwritten note, "This is a proposal which deserves very serious consideration. In my opinion no single act of the government would do more to regain the confidence of the Indians".<sup>3</sup> Ellen Fairclough replied on 8 June - "Ok. Let's do it then".<sup>4</sup> Thus was born the Canadian Indian land claims experience.

Through the summer and fall of 1961, Indian Affairs officials worked on a cabinet submission.<sup>5</sup> In November 1961, Justice department officials were included in discussions as the proposed body was to be quasi-judicial.<sup>6</sup> On 26 January 1961, Ellen Fairclough and Justice Minister Fulton jointly signed a cabinet memorandum outlining the terms of reference

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2. NAC, Papers of the Hon. Richard A. Bell, MG32 B1, Vol. 100, File 1A-653, 1961-62.

3. Ibid.

4. Ibid.

5. The drafting appears to have been undertaken by C.I. Fairholm, an Indian Branch planning officer who, in 1949, had first assessed the nature and type of Indian claims which government could expect. In 1973, Fairholm drafted the new federal Comprehensive and Specific Claims policies in response to the Calder decision. In 1974, when the Office of Native Claims was established Fairholm was a senior policy official.

6. NAC, MG32, B1, Vol. 100, File 1A-653, 1961-62, Hon. Ellen L. Fairclough to Hon. E.D. Fulton, minister of justice, 9 November 1961.

for an Indian claims commission. Cabinet reviewed the document four times in February and March 1962<sup>7</sup> and asked for clarification of certain items, including the disposition of Métis claims.<sup>8</sup>

The Indian claims commission would have three commissioners, one who would be a judge or lawyer. Life of the commission was estimated at 10-15 years. The commission had a mandate to hear four categories of Indian claims:

- (a) any claim arising out of the acquisition of original Indian lands where the Crown and Indians did not come to an agreement for the extinguishment of the so-called Indian interest or title to the lands...
- (b) claims based upon alleged non-fulfilment of terms of any treaty...
- (c) claims based upon any alleged violation of trust arising out of any treaty or surrender in relation to the use, management or disposition of Indian lands or money...
- (d) other claims that might have no foundation in law or might be open to defeat upon a technical or formal objection, but which might merit consideration upon grounds of honourable dealings and fairness and good conscience...<sup>9</sup>

On 18 October 1962, the federal cabinet approved draft Indian claims commission

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7. NAC, RG2, Privy Council Office Records, Series A-5-a, Cabinet Conclusions, Vol. 6192. The establishment of an Indian claims commission was an enthusiasm of Prime Minister John Diefenbaker. When he was absent, the cabinet deferred important claims policy decisions.

8. NAC, MG32, B1, Vol. 100, File 1A-653, 1961-62, Memorandum to Cabinet, Indian Claims Commission, 7 March 1962. Métis were to be excluded from the process because their Aboriginal claims had been dealt with during negotiation of the numbered western treaties or by subsequent Scrip Commissions. Métis were thus seen as a responsibility of the provinces, not the federal government.

9. Ibid., Memorandum to Cabinet, Indian Claims Commission, 7 March 1962.

legislation that would be introduced into Parliament during the fall session as Bill C-130.<sup>10</sup>

The claims commission would have its own rules of procedure. Strict evidentiary practices would not be followed; the Statute of Limitations and other technical legal defences would not be invoked; government files and archival records would be available to legal counsel for Indian claimants. The commission would render written decisions and advise the cabinet on the amount of any monetary compensation. Monetary awards could be reduced by payments already made on behalf of the claimants (not to include money for administration, health care, education, relief, or road construction).<sup>11</sup>

Indian claims commission legislation had the support of Indian and non-Indian organizations within the post-war Indian policy community. Revision of the Indian Act was quite another matter as there was no Native consensus on how to proceed and at what pace. In recent years, Indian people had achieved major political successes in having the federal government address specific grievances: in 1958 band membership rights of treaty Indians were guaranteed; in 1960 the federal vote was granted; and in 1961, Section 112, compulsory enfranchisement, was deleted from the Indian Act. Still the joint committee hearings of 1959-61 recorded many lingering Indian concerns: ministerial powers were too extensive; band

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10. The Bill died on the Commons Order Paper when the Diefenbaker government was defeated at the polls in April 1963. The Liberal government of Lester Pearson took up the initiative and gave Bill C-130 First reading in December 1963. After consultation with Indian bands the Bill was revised and reintroduced in Parliament in June 1965 as Bill C-123. This Bill died as a result of the 1965 federal election and was not resurrected.
  11. In the case of the B.C. Aboriginal land title dispute, the annual \$100,000 grant in lieu of treaty awarded by parliament in 1928 meant that in excess of \$3,400,000 (in 1962) could be deducted from any claim settlement.

councils sought greater control of band membership, enhanced authority to spend band funds, and a say in the management of reserve lands. The validity of particular sections of the Indian Act dealing with the expropriation of reserve lands (Section 35), leasing of reserve land (Section 37), and the sale of reserve produce (Section 32) was also questioned.

Opinion was divided among elected and traditional Indian band councils, as well as among Native rights associations, on the scope and nature of legislative revisions. Prominent organizations such as the Indian Association of Alberta, Union of Ontario Indians, Manitoba Indian Brotherhood, Nishga Tribal Council, and the B.C. Aboriginal Rights Committee supported revision of specific sections of the Indian Act. On the other hand, the Federation of Saskatchewan Indians sought a restructuring of government-Indian relations by proposing an Indian Act of its own creation.

The Indian-Eskimo Association, the Indian Advisory Committee of the Ontario Government, and the Government of Saskatchewan suggested a variety of new legislative measures. Church authorities, while critical of many administrative practices, endorsed the goal of government Indian policy: integration of Indian people into Canadian society as full, self-reliant citizens. The spectrum of non-Native opinion within the Indian policy community was captured and distilled by the joint committee. Based on the committee's final July report, Indian Affairs officials embarked on an exhaustive review of existing Indian Act legislation.

On 19 November 1961, Deputy Minister George Davidson forwarded to Ellen Fairclough a draft cabinet memorandum outlining major revisions to the Indian Act which would have seen a progressive, but not complete, withdrawal of the federal government from

Indian administration.<sup>12</sup> Davidson characterized the initiatives as “reasonable and forward-looking in their approach”. He cautioned that “they may be criticized in some quarters because they do not propose a drastic and revolutionary upheaval in our Indian Affairs legislation and administration.” Davidson concluded:

...what is needed is a steady continuation of the long march forward to full and self-reliant participation as equals in Canadian life, - with controls and supervision being progressively removed and relaxed as experience justified.<sup>13</sup>

The November proposals were reviewed by Minister Fairclough and her staff and, after extensive discussion, were formalized in a submission to cabinet on 28 March 1962.<sup>14</sup> The federal election of June 1962 deferred a cabinet decision until August. On 29 August 1962, cabinet authorized draft Indian legislation be prepared along the lines suggested in the March cabinet memorandum.<sup>15</sup> Unlike the claims commission legislation, cabinet did not want the proposed Indian Act revisions to be made public because the legislative drafting process could take some time. A second, more important political consideration was that: “The Indians would be very apprehensive if informed that undisclosed changes were being

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12. NAC, MG32 B1, Vol. 88, File 1A-12, 1957-1962.

13. Ibid.

14. Privy Council Office (PCO), Cabinet Document 168/62, “Indian Act: Proposed Revision Thereof”, 28 March 1962.

15. NAC, RG2, Series A-5-a, Cabinet Conclusions, Vol. 6193, “Legislation - Proposed Review of Indian Act”. On 8 August, Richard A. Bell replaced Ellen Fairclough as minister of citizenship and immigration. Nonetheless, it was Fairclough who sponsored and spoke in cabinet on the importance of revising the Indian Act.

prepared.”<sup>16</sup> Thus, despite the Diefenbaker government’s sympathy towards Native peoples, in 1962 control of the Indian policy process remained firmly in the hands of government officials. Indian people still had virtually no say in determining their destiny.

George Davidson to the contrary, the proposed amendments were a departure from standard practices. The following Table Twenty-eight titled, “Proposed Revisions to the Indian Act, March 1962”, provides highlights of the changes. In philosophical terms, the three principles underpinning Indian administration - protection, amelioration, and integration - were revisited and revised. Indian protection, officially proclaimed in 1763 by Royal Proclamation, was to be gradually abandoned. Amelioration of living conditions would proceed as government funding permitted. The process of Indian integration into Canadian society was to be accelerated. Despite the change in emphasis the basic philosophical thrust of the 1830 Indian civilization program remained: give Indian people access to private property, bestow civil and political rights, and they will become self-supporting citizens.

The cabinet memorandum of 28 March 1962 grouped proposed legislative amendments in thirteen categories.<sup>17</sup> The thrust of government policy was to gradually transform Indian reserves into municipal-style governments. In the process, much-criticized ministerial powers would be strictly limited or revoked. Concurrently, Indian band councils would acquire the legal capacity to incorporate and hold title to reserve lands. Band councils would gain authority to control band membership, manage the administration of reserve lands,

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16. Ibid.

17. PCO, Cabinet Document 168/62, “Indian Act: Proposed Revision thereof”, 28 March 1962.

## Table Twenty-eight

## PROPOSED REVISIONS TO THE INDIAN ACT - MARCH 1962

1) Extension of Band Council Authority:

- band councils to assume Ministerial powers contained in Sections: 13 (Admission/transfer of band membership); 19 (Survey/subdivision of reserves); 20 (Possession of reserve lands); 24-25 (Transfer of possession); 28 (Grants of reserve lands void); 35 (Reserve land surrenders); 53 (Disposition of surrendered lands)
- limit or revoke Ministerial powers contained in Sections: 16 (Transfer of band funds); 17 (Constitution of new bands); 32 (Sale/barter of produce); 34 (Maintenance of roads and bridges); 58 (Uncultivated/unused reserve lands)
- extend band council authority for Sections 80 (By-laws) and 82 (Money by-laws).

2) Extension of Individual Rights:

- all adult band members permitted to vote in band council elections, surrenders, referenda (no reserve residency requirement)
- Indians permitted to lease reserve land holdings
- Indians permitted to mortgage/pledge personal property on reserve
- Indians accorded same liquor privileges as non-Indians.

3) Financial Credit:

- Indians/Indian bands permitted to mortgage/pledge personal property as security
- Indians/Indian bands permitted to pledge interest in reserve land to the band or IAB as security for band fund loans or appropriation
- Indian band/IAB can sell personal property seized in default
- additional one million dollars for Indian loans.

4) Legal Rights:

- Indian bands assigned corporate status
- Indian bands hold and exercise real property rights
- repeal Section 88 (Property on reserve not subject to alienation); band capital funds and real property exempt.

5) Distribution of Property on Intestacy:

- estates up to \$5,000 go to widow; adopted children share in inheritance.

6) Band By-Laws:

- repeal Section 82 (Money By-Laws) to permit band councils to spend band funds.

7) Election of Band Councils:

- all adult band members eligible for Chief and Councillor
- see recommendations contained in "Extension of individual rights".

8) Possession of Lands in Reserves:

- amend Sections 20-27 (Possession of Lands in Reserves):
  - a) Certificates of Possession to replace Certificates of Occupation; band councils to manage operation of system
  - b) Indians permitted to transfer, sell, devise reserve land interests
  - c) Minister may recognize individual Indian interest in reserve land if in possession for 20 years.

9) Leasing:

- leases of reserve land limited to 10 years (Section 37).

10) Education:

- Minister authorized to enter into agreements for:
  - a) education for Indians on or off reserve
  - b) education for non-Indians in Indian schools
  - c) operation of kindergartens
  - d) adult education
  - e) assistance to Indians proceeding to higher education
  - f) contributions to build schools off reserves in which Indians will be educated on an integrated basis.

11) Enfranchisement:

- all enfranchisement provisions of the Indian Act are repealed.

12) Right to Band Membership:

- legally adopted children admitted to membership in band of adoptive parents
- repeal provision for protesting admissions to band membership of illegitimate children born to Indian women
- onus for applying for band membership placed on Indian people
- repeal provisions whereby Indian women forfeit Indian status/band membership on marriage to non-Indians
- repeal Section 12 1)a)iv) - compulsory enfranchisement based on blood quantum.

13) Withdrawal from Band Membership:

- Indians permitted to voluntarily relinquish Indian status; right to withdrawal subject to conditions:
  - a) 2 years off reserve
  - b) must demonstrate capacity to support self/dependents
- Indians can obtain a share of band funds and annuities
- withdrawal automatic if: Indian child adopted by a non-Indian; illegitimate child of an Indian woman is legitimized by marriage to non-Indian father.



and pass by-laws, including those relating to expenditure of band funds. Indian people would receive certificates of possession to their reserve land from the band council and, in turn, could arrange for leases or use the property as collateral for loans. As a sweetener, the federal government committed an additional \$1,000,000 in loans to stimulate economic development and employment on reserves.

As part of the strategy to promote Indian integration within Aboriginal communities all enfranchisement provisions would be removed from the Indian Act, including Section 12(1)(b). Indian women could marry non-Indians and not lose Indian status. In select cases where Indians chose voluntarily to relinquish Indian status, the Indian Affairs Branch would accommodate their wishes through administrative arrangements. This approach was a major departure from the historic assimilationist philosophy and clearly demonstrated to Indian people that the policy of Indian integration was flexible and could accommodate moderate Indian cultural, political and social aspirations.

Indian education remained the vehicle for sustaining the integration process. In this regard, the minister acquired enhanced authority to enter into agreements with provincial governments to educate Indian children. Financial assistance would be available to Indian students at the post-secondary level. Adult education and kindergarten programs would also be expanded.

Drafting a new Indian Act began in late 1962, despite the fact that the Diefenbaker government was in a minority position in Parliament. The government's intention was to

introduce a draft Bill in the House of Commons in the spring of 1963.<sup>18</sup> After receiving first reading the Bill would be sent to Indian bands, Native rights associations, and third parties for consideration and comment.

Government records are silent regarding how Indian people would be consulted on the proposed legislative changes. Were the initiatives cast in stone? Would contrary Indian views be taken into consideration? There is also no indication what criteria would be used to evaluate when or whether a particular Indian band was ready for incorporation or prepared for municipal-style government. How Indian bands and Native rights associations would have responded to the government's legislative plans is a moot point. Given the long history of Native activism, and the growing movement for cultural affirmation and self-determination, few Native organizations would have been satisfied. Presumably, the Federation of Saskatchewan Indians would have been supportive given its proposed program for reserve incorporation and "Model New Indian Act". Other Indian bands and Native rights associations, particularly those with minimal administrative experience, would have screamed "termination". Indeed, contemporary American Indian policy which emphasized "termination" could have materially contributed to a Canadian "termination psychosis" that would have derailed government plans.

John Diefenbaker would have found support for his Indian Act legislation from non-Indian members of the expanded Indian policy community. The plans for reserve incorporation, for permitting Indian people to obtain individual title to reserves holdings, and

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18. NAC, MG32, B1, Vol. 88, File 1A-12C, 1958-63, H.M. Jones, acting deputy minister, to the minister, 20 March 1963.

for converting the reserves into municipalities originated mainly within their ranks. The proposal to eliminate all aspects of compulsory enfranchisement from the Indian Act suggested that, in the cultural pluralism of post-war Canada, Euro-Canadians had acquired a modicum of respect and accommodation for distinctive aspects of Indian cultures and traditions. Native people were no longer expected to vanish as government officials and social theorists had forecast in the nineteenth century. Indeed, there appeared to be cautious public acceptance that Indian people could become citizens without having to relinquish special government benefits and treaty rights: they could be "citizens plus", a term later coined by the Hawthorn-Tremblay commissioners in 1966.<sup>19</sup>

In the early 1960s, as in previous decades, Indian policy formulation remained firmly in government hands aided and abetted by non-Native groups within attentive public sector of the Indian policy community. Indian people were expected to comply with government plans for their socio-economic integration now that legislative and claim-related irritants were scheduled to be removed. Until Indian people gained control of the policy process,

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19. In January 1963, Mrs. Peter Robinson, Mrs. Douglas Jennings, and Mrs. W.R. Walton, Jr., national leaders of the Citizenship Division, IODE, met with R.A. Bell, minister of citizenship and immigration. As part of proposed centennial celebrations, the IODE urged a 3-5 year research program to investigate Indian conditions and ways and means to promote Indian integration. Bell concurred and after conferring with retiring Branch Director H.M. Jones suggested the study focus on: "1) The broad social, cultural, economic and educational problems related to integration of Indians as individuals, and 2) The complex problems of the integration of Indian communities into the provincial-municipal framework within which all other Canadian communities operate, while at the same time safeguarding their Indian identity and the obligations imposed by treaty and precedent." It was clear that the branch required useable data and outside advice to further fine-tune its integration agenda. See NAC, MG28, I17, Records of the Imperial Order Daughters of the Empire, Report of meeting with Hon. R.A. Bell, 7 January 1963; and Hon. R.A. Bell to Mrs. Peter Robinson, 30 January 1963.

government officials would set the policy and political agendas, manipulate events to suit their needs, and determine what was best for Indian people: they would remain the “white man’s Indian”.

In February 1963, John Diefenbaker’s minority government lost a vote of confidence in the House of Commons. Electoral defeat followed in April 1963. With the demise of John Diefenbaker’s administration, six years of intense government interest in Indian policy and administration came to an end. Nineteen sixty-three marked the end of a twenty-year policy cycle during which the basic tenets of Canadian Indian policy were reviewed, evaluated, and recast along historically familiar lines.

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Continuity within change is the appropriate aphorism to describe the development of Canadian Indian policy in the years 1943 to 1963. Despite attempts at camouflage by non-Native policy-makers, the basic tenets of post-war Indian policy maintained an eerie continuity with the nineteenth century, particularly in terms of philosophy, policy objectives, and administrative practices. In the immediate post-war world, government officials and their outside supporters believed - in spite of clear evidence to the contrary - that Indian people, if given the opportunity and proper inducements, would willingly become full participants in the activities of mainstream society. Thus the fundamental objective of post-war Indian policy remained essentially the same as framed by government officials in the 1830s: give Indian people access to education, instil notions of private property, confer political and civil rights and, like recent European immigrants, Indians will become self-supporting citizens.

While the objective of Indian policy remained constant, what changed in the post-war

environment of cultural pluralism, was the federal government's strategy to achieve Native self-reliance. The demonstrably ineffective policy of Indian assimilation - the eradication of all vestiges of Indianness - was recast by non-Natives in the kinder, gentler tones of Indian integration. In the revised government scenario, Native peoples would be permitted to retain non-disruptive aspects of their ancient heritages, as well as limited historic treaty rights. The federal government would repeal offensive sections of the Indian Act viz. compulsory enfranchisement (1961) and the ban on dances and ceremonies (1951). Specific land claims and Indian treaty issues would be investigated by a claims commission (proposed in 1962); basic civil rights would be conferred viz. the federal franchise (1960); and education, health care, and social welfare programs - available to Euro-Canadians - would be extended to Native peoples.

Between 1943 and 1963 specific elements essential to the success of the revised strategy either were implemented or were in the planning stage. In return, the dominant society expected Indian people to take advantage of the new, enlightened arrangements and become active participants in post-war Canadian society. The chronic cycle of Indian dependency would thus come to an end.

It never seemed to cross the minds of government officials that, from a Native perspective, perhaps integration was still, in reality, assimilation. After all, Indians were expected to leave their reserves (there were no government plans in 1960 to expand the land base), take up a job, and adapt to the values and ways of white society. True integration would have been a two-way street in which both Natives and non-Natives made appropriate adjustments to accommodate the other. This reciprocity was not on the government's books

of the day.

From today's perspective, government optimism and expectations regarding the viability of a smooth integration process appear naive. As well, the federal government's cautious, incremental response to appalling Indian reserve conditions in the 1940s was totally inadequate. What strategic considerations and systemic factors contributed to government short-sightedness and policy creep? Answers can be found by first examining how Indian conditions and policy issues became part of the post-war political agenda, and then, by analysing how the Indian policy community devised various solutions to address the "Indian problem".

The socio-economic conditions of Indian people and their political aspirations received only sporadic public and political attention in the decades prior to World War Two. Being a politically and economically marginalized peoples, Indian conditions could be safely ignored by governments until publicists, or other outside factors, forcibly brought Native concerns to public attention and threatened embarrassment for politicians. Thus it was that, in the late war years, as part of a general federal reappraisal of post-war Canadian social and economic conditions, the plight of dispossessed Native peoples became an integral part of the national social reform movement. With the advent of the social welfare state after 1945 - with its heady confidence in the role of experts, the ameliorative capabilities of social welfare programs and public education - Indian social disintegration became a significant and worthwhile challenge. Thus, without consulting Native opinion, the federal government set the post-war policy agenda by defining the "Indian question" and its resolution in terms of a disadvantaged social minority in need of enhanced social and health care services.

Government officials, public interest groups, and Native organizations realized in the early 1940s that Canadian Indian policy was bankrupt of ideas and energy and needed to be set on a new course in the post-war world. The two joint parliamentary committees that book-end the period from 1943 to 1963 served a triple purpose: they were forums for the discussion of new approaches to Indian policy and administration; they served as agencies to recruit new policy actors to the attentive publics sector of the Indian policy community; and they served as experiential training grounds where non-Native politicians and Indian leaders met and learned something about each other's history, philosophical views and political agendas. In the course of events - over twenty years - one might have expected to see a significant flow of new ideas, an appreciation of the other's viewpoints, and as a result, a fundamental shift in policy and administrative practices. This in fact did not occur. The parliamentary hearings and policy formulation process was dominated by non-Natives and, when Native leaders engaged in a dialogue with non-Natives, the parties essentially talked past each other, ignoring central issues and historical viewpoints. Why?

Some insights into this dialogue of the deaf can be found by examining the peculiar structure, composition, and policy dynamics of the post-war Indian policy community. The seven diagrammatic figures illustrating important stages in the evolution of the Canadian Indian policy community from 1755 to 1963 reveal a defining characteristic: systemic stasis. From 1867 to 1963 (Figures Four to Seven) the composition of the self-government sector - where policy is formulated and implemented - remained virtually static, although towards the end of the period, the churches declined in importance and the provinces began to emerge as policy actors. Most notable, the Indian Affairs Branch remained at the hub of policy

deliberations, occasionally calling on sectoral actors for their legal expertise and social service capabilities. In not one instance - even from 1867! - did a participant from the attentive public sector successfully penetrate the sub-government sector. By 1963, certain provinces were showing an interest in Indian policy matters, but financial considerations and the "fortuitous" structural barrier posed by Section 91(24), British North America Act (1867) - federal legislative responsibility for Indians and lands reserved for Indians - limited their commitment to action.

Systemic stasis impacted on other aspects of Indian administration in the post-war years. In the absence of new policy actors in the sub-government sector, and the lack of sustained public interest in Indian issues, the Indian Affairs Branch's institutional, or "corporate memory",<sup>20</sup> set the tone for public and Native consultations and served to guide policy deliberations. Government satisfaction with the existing reserve and treaty systems, and smug denial of legitimate Indian aspirations, led to intellectual stagnation and bureaucratic inertia. Indian Affairs officials, reflecting the Branch's corporate culture, remained obsessed with managing the political and policy environments and suppressing Native dissent. Given the back-water nature of Indian Branch operations, long-serving officials<sup>21</sup> were left to their own devices at critical times after the parliamentary hearings and thus could selectively choose from both Natives and non-Natives policy ideas and program proposals which fit neatly into the government's social welfare solution to Indian problems. In the process, legitimate

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20. See John F. Leslie, "Commissions of Inquiry into Indian affairs in the Canadas, 1828-1858", M.A. research essay, Carleton University, 1984.

21. Many senior officials including H.M. Jones, L.L. Brown, and D.J. Allan had been with the Indian Affairs Branch since the 1930s.



Aboriginal rights issues, expressions of emergent Native nationalism, and demands for greater self-determination could be carefully stage-managed or simply ignored. While some new resources and ideas to improve Indian conditions and advance integration were injected forcibly into Indian administration in the post-war decades, paternalism persisted, not only in the manipulative actions of government officials, but also in views expressed towards Indian people by non-Natives recruited to the altered Indian policy community after 1945.

The non-Native recruits to the attentive publics sector were generally middle class liberals who had varying degrees of exposure to sordid Indian living conditions, unique Native cultures, and rights issues. They espoused liberal-democratic notions of Canadian citizenship that emphasized the exercise of civic responsibilities, equality before the law, and reward for individual initiative.<sup>22</sup> These “typical Canadians” staffed such organizations as the Canadian Welfare Council, the Canadian Bar Association, the Co-operative Union of Canada, the B.C. Indian Arts and Welfare Society, and, of course, the all important Indian-Eskimo Association of Canada, which viewed itself as a “patron” of Indian people. Each professional body or voluntary society had a specific agenda or pet project for promoting Indian integration: co-operative ventures, community-development “self-help” projects, extension of social and health care services, expansion of Indian civil liberties, and distribution of public information on the history of Native peoples and their contribution to Canadian society. Given the fact that government officials, church authorities, and professional and philanthropic groups shared similar liberal-democratic values and concurred on a social welfare solution to Indian social

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22. For a discussion of collective versus liberal democratic rights see, Barry Cooper and Rainer Knopff, “Canadian dilemma of collective rights”, Financial Post, 24 September 1991.

problems, it is not surprising that they discounted expressions of Native nationalism, assertions of a supra-national legal status, notions of communal ownership of property, and claims to Aboriginal rights. These notions of collective rights ran counter to the government policy of Indian integration based on liberal democratic values. Indeed the proposed Indian Act amendments in 1962-63 were an aggressive assertion of liberal-democratic values and political institutions which, for the most part, disregarded the expectations and political realities of most Aboriginal communities.

This is not to say that Native people did not make significant socio-economic and political gains during the post-war period. Certainly, health care, education, and social services were upgraded significantly. Increasing sums of money were spent on reserve housing, sewer, water, and other infrastructure items. The Indian Act was amended and objectionable sections dealing with compulsory enfranchisement, prohibitions on dances and ceremonies, and restricted access to liquor were repealed or amended. The federal franchise was granted in 1960 - although this initiative received a mixed reception in many Native quarters! Treaty rights and specific land claims issues were on the threshold of being addressed. These were significant policy developments when compared with the lack of political action in previous decades. However, many items on the Native agenda were achieved because representatives of the dominant society acquiesced and viewed them as levers and inducements to advance the non-Native integration agenda.

The twenty years from 1943 to 1963 were a learning experience for Native leaders and their fledgling rights associations. A new generation of Native leaders emerged (see following Table Twenty-nine) who gained practical experience and insights into dealing with

Table Twenty-nine

## INDIAN DELEGATES - INDIAN CONFERENCES - OTTAWA

February 28 - March 3, 1951	October 26 - 28, 1953	December 12 - 14, 1955
Chief S. Knockwood - Shubenacadie, N.S.	Chief S. Knockwood - Shubenacadie, N.S.	B.E. Christmas - N.S.
Chief T. Gideon - Restigouche Band, Que.	Chief M. Clement - Restigouche Band, Que.	Chief O. Polchies - N.B. and PEI
J. Beauvais - Councillor, Caughnawaga Band, Que.	Chief J. Beauvais - Caughnawaga Band, Que.	Councillor J. Omdo - Eastern Que.
A.C. Moses - Secretary, Six Nations Band Council, Ont.	Chief J. Powless-Six Nations Band, Ont.	Chief W. Cammarda - Northern Que.
Chief G. Mainville-Grand Council of Treaty No. 3, Ont.	L. Bruyere-President, Grand Council of Treaty No. 3, Ont.	Chief J. Beauvais - Southern Que.
Chief G. Faries-Moose Factory Band, Ont.	Chief M. Linklater-Moose Factory Band, Ont.	Councillor E. Herkimer - Southern Ont.
Chief L. Pelletier - Manitoulin Island, Ont.	Chief A. Trudeau - Manitoulin Island, Ont.	Chief E.P. Garlow - Southern Ont.
Chief G. Barker - Hollow Water Band, Man.	Chief T. Adams - Samia Band, Ont.	Councillor G. Whetung - Southern Ont.
J. Thompson - President, Indian Assoc. of Manitoba	G. Barker - President, Indian Association, Man.	Chief J. Beemish - Northern Ont.
J. Tootoosis - Cutknife Sask; President, Union of Saskatchewan Indians	J. Tootoosis - Cutknife Sask., Pres., Union of Saskatchewan Indians	Chief W. McGregor - Central Northern Ont.
Chief J. Dreaver - Mistawasis Band, Sask.	Chief T. Favel - Poundmaker Band, Queen Victoria Treaty	Chief M. Bruyere - Northwestern Ont.
Chief T. Favel - Poundmaker Band, Queen Victoria Treaty	Protective Assoc., Sask.	Councillor T. Chubb - Northern Man.
Protective Assoc., Sask.	J. Gladstone - President, Indian Association of Alberta	Chief G. Barker - Central Man.
J. Gladstone - President, Indian Association of Alberta	Chief Dan Manuel - Upper Nicola Band, B.C.	Chief S. Cameron - Southern Man.
Councillor a. Manyfingers - Blood Reserve, Alta.	W. Scow - President, Native Brotherhood of B.C.	Chief S. Linklater - Southern Man.
Chief D. Manuel - Upper Nicola Band, B.C.	Rev. P. Kelly - Native Brotherhood of B.C.	Councillor D. Greyeyes - Central Sask.
W. Scow - President, Native Brotherhood of B.C.	A. Paull - President, North American Indian Brotherhood	Chief N. Crowe - Southern Sask.
Rev. P. Kelly - Native Brotherhood of B.C.	J. Laurie - Indian Association of Alta., Advisor	Chief B. Gazon - NWT
A. Paull - President, North American Indian Brotherhood		Councillor D. Kappo - Northern Alta.
J. Laurie - Indian Association of Alta., Advisor		Chief J. House - Central Alta.
		Councillor M. McDougall - Southern Alta.
		Chief J.J. Antoine - Central B.C.
		Chief C.T. Johnson - Southern B.C.
		Andrew Paull - Southern B.C.
		F. Calder, M.L.A. - North Coast, B.C.
		Chief W. Scow - South Coast, B.C.
		C. Isaac - B.C.; Yukon

government officials and public interest groups.<sup>23</sup> But Indian bands and Native rights associations were poor vehicles for influencing government policy since they lacked the human and financial resources to sustain a persistent political lobby. Senior officials, such as Deputy Minister Hugh Keenleyside, questioned the representivity and political legitimacy of vocal rights association leaders such as Andy Paull and John Tootoosis. In government's view, these Native leaders - characterized by Keenleyside himself as "venal and self-serving" - were particularly obnoxious when they opposed pre-determined government plans by suggesting an alternate Indian policy agenda was equally legitimate.

A basic problem for Native rights associations was, of course, that adequate independent funding was virtually non-existent. In 1961, the National Indian Council, a government approved body, received a small amount of a core funding to facilitate member travel and meetings. But for the most part, Indian leaders and their political organizations had to rely on non-Native philanthropy, such as that provided by Saskatchewan farmer S.C. Kennedy, to sustain liaison and communication activities. Indeed, Indian political organizations did not receive regular government funding until the late 1960s when such assistance was made available to facilitate their participation in Indian Act consultation meetings.

During the 1940s and 1950s, Native organizations also tended to be of a local nature or, at best, claim provincial status. Even the North American Indian Brotherhood, supposedly a national Indian organization, was based in B.C. Sustained Native political activity generally

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23. See Table Twenty-nine, "Indian delegates to Indian Conferences, 1951, 1953, 1955."

occurred in response to a particular crisis or local issue. When Native rights associations were called upon to respond to complex government initiatives as in 1946-48 and 1959-61, the Native leadership approached non-Natives for support and advice. Reta Rowan, Ruth Gorman, John Laurie, Morris Schumiatcher, and even John Diefenbaker, in the early period, lent their support to Aboriginal causes. However, government officials set the Indian policy agenda, determined the location of meetings, and dictated the criteria for the selection of delegates; thus they could manage and manipulate Indian political expression. Branch officials used the Indian consultation meetings in the 1950s to inform Indian leaders of the government's intentions in regard to the integration program and to seek Indian concurrence or acquiescence in taking "their medicine". In these controlled exchanges, dissenting Indian views were carefully disguised and sanitized by officials in terms of statistics, indicating numbers for or against a particular government proposal. It was essentially a dialogue of the deaf - a bloodless exercise.

The twenty years from 1943 to 1963 left a considerable policy legacy in subsequent decades for both Natives and non-Natives. The hearings of the two parliamentary committees were recorded and the minutes were distributed nationally to an attentive audience. This was of critical importance. The participation of Native leaders in these national gatherings - the cross-fertilization of ideas and discussion of shared experiences - fostered an emergent pan-Indian movement. A new generation of Native leaders enunciated an alternate political agenda based on Aboriginal and human rights issues: the settlement of treaty rights and land claims, self-determination, cultural renaissance, and access to adequate resources to ensure social and economic security. These leaders were successful to a

considerable degree as government set in motion plans to settle claims issues; acknowledged that Indian people possessed certain treaty rights, and perhaps other legal advantages, non-available to non-Natives; and poured ever increasing resources into improving reserve conditions.

The post-war decades, particularly the Diefenbaker interlude, allowed Native people a tantalizing glimpse at power-sharing with non-Natives. After the demise of the Diefenbaker government in 1963 there was continued reason for Indian optimism. In 1964 and 1965 regional and national Indian advisory boards, a recommendation of the two parliamentary committees, were created to give local Native leaders a small measure of political power and a say in managing reserve activities and shaping government programs. The glimmering hope of greater power-sharing with Indian Branch officials was sustained when the federal government established the Hawthorn-Tremblay Commission in 1964 to investigate Indian education, local government arrangements, and economic development strategies.<sup>24</sup>

In 1967, the federal government launched another round of Indian Act consultation meetings which offered Native leaders the opportunity to press their drive for greater self-determination. Unfortunately, as Table Thirty indicates, a rapid succession of five Liberal ministers responsible for Indian affairs (Favreau, Tremblay, Nicholson, Marchand and Laing)<sup>25</sup> meant that Indian policy and administrative reform received uneven political attention from 1963 to 1968.

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24. A Survey of the Contemporary Indians of Canada. Vol. 1. Economic, Political, Educational Needs and Policies. 2 Vols. (Ottawa: Queen's Printer, 1967-68).

25. See Table 30 "Ministers Responsible for Indian Affairs, 1935-1968."

Table Thirty

MINISTERS RESPONSIBLE FOR INDIAN AFFAIRS, 1935-1968

GOVERNMENT	PRIME MINISTER	MINISTER	DEPARTMENT	DATE OF OFFICE	TENURE (APPROX.)
LIBERAL	W.L. MACKENZIE KING	T.A. CRERAR	INTERIOR	23 OCT. 1935 TO 30 NOV. 1936	13 MO.
			MINES & RESOURCES	1 DEC. 1936 TO 17 APR. 1945	9 YRS.
		J.A. GLEN		18 APR. 1945 TO 10 JUNE 1948	3 YRS.
	L. ST. LAURENT	J.A. MACKINNON		11 JUNE 1948 TO 31 MAR. 1949	9 MO.
		C.W.G. GIBSON		1 APR. 1949 TO 17 JAN. 1950	9 ½ MO.
		W.E. HARRIS	CITIZENSHIP & IMMIGRATION	18 JAN. 1950 TO 30 JUNE 1954	4 ½ YRS.
		J.W. PICKERSGILL		1 JULY 1954 TO 21 JUNE 1957	3 YRS.
PROGRESSIVE CONSERVATIVE	J.G. DIEFENBAKER	E.D. FULTON		21 JUNE 1957 TO 11 MAY 1958	11 MO.
		E.L. FAIRCLOUGH		12 MAY 1958 TO 8 AUG. 1962	4 YRS.
		R.A. BELL		9 AUG. 1962 TO 22 APR. 1963	8 MO.
		G. FAVREAU		22 APR. 1963 TO 2 FEB. 1964	10 MO.
LIBERAL	L.B. PEARSON	R. TREMBLAY		3 FEB. 1964 TO 14 FEB. 1965	1 YR.
		J.R. NICHOLSON		15 FEB. 1965 TO 17 DEC. 1965	10 MO.
		J. MARCHAND		18 DEC. 1965 TO 31 DEC. 1965	14 DAYS
		A. LAING	NORTHERN AFFAIRS & NATIONAL RESOURCES	1 JAN. 1966 TO 30 SEPT. 1966	9 MO.
			INDIAN AFFAIRS & NORTHERN DEVELOPMENT	1 OCT. 1966 TO 5 JULY 1968	21 MO.

The government's post-war social welfare agenda, put in place in the 1950s, was augmented in the mid 1960s. The publication of the two volume Hawthorn report in 1966-67 recommended that the Indian Affairs Branch assume an advocacy role for Native peoples, enhance existing social, health and education services, and view Natives as Canadian citizens possessing special rights which made them, in effect, "citizens plus".<sup>26</sup> The Hawthorn recommendations were well received by Native peoples, outside activists, and by officials in the newly formed Department of Indian Affairs and Northern Development. In the years 1966 to 1968 many recommendations were implemented and the report became something of a *raison d'être* for the activities of the new department. Indeed into the early winter months of 1969, Indian policy seemed to be on a focused trajectory that reflected the philosophical approach and social program content developed in the previous decades.

From the perspective of government officials, the events of the post-war decades proved it was strategically sound to include potential critics of policy in the deliberations of the Indian policy community than to have them outside "the tent", sniping. Branch officials gradually came to appreciate the fact that outside experts such as Dr. Harry Hawthorn of UBC could provide sound, useable policy advice, particularly when officials ventured into the tricky areas of Indian social integration and social adjustment. Indeed the expanded activities of the post-war Indian policy community paid off handsomely for the federal government in 1963 when the Glassco Report on government organization and administration officially "blessed" Indian integration as the goal of Indian policy and enthusiastically supported the

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26. See A Survey of the Contemporary Indians of Canada. Economic, Political, Educational Needs and Policies. Part 1 (Ottawa: Queen's Printer, 1966), 396.



branch's efforts to promote Indian self-reliance and citizenship through enhanced education, health, and social welfare programs.<sup>27</sup> Such general approbation was unheard of in previous decades and it encouraged senior branch officials to further the process of outside policy consultation with noted experts. Colonel Jones' battalion was no longer lost!<sup>28</sup>

In winter 1963, Col. Jones, retiring branch director, personally supported a research proposal put forward by the IODE as a Canadian centennial project, to investigate further ways and means to promote the integration of Indians into Canadian society.<sup>29</sup> This became the Hawthorn-Tremblay commission. A new generation of senior branch officials headed by R.F. Battle - now elevated to assistant deputy minister - worked tirelessly with Hawthorn's team of researchers, and as Dr. Sally Weaver has noted, officials were often ready to implement research proposals before they had been thought-through.<sup>30</sup> Despite this "policy thirst" and ever increasing sums spent on health, education, and social service initiatives during Pearson's "war on poverty", by the late 1960s branch officials were disappointed with the apparent lack of progress in Indian integration. Government officials seemed to have

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27. The Royal Commission on Government Organization (the Glassco commission) was set up in September 1960 and reported on 28 February 1963. The report suggested that the Indian Affairs Branch become part of either National Health and Welfare or Northern Affairs and National Resources. The Glassco report stated that Indian administration was on the right policy course, but should seek greater provincial participation in the delivery of social services to Indian people. (See Vol. 5, p. 47.)

28. During the 1950s officials in Northern Affairs and National Resources sarcastically referred to Indian Affairs officials as "Col. Jones' lost battalion".

29. S.M. Weaver, Making Canadian Indian Policy. The Hidden Agenda 1968-1970 (Toronto: University of Toronto Press, 1981), 20-24.

30. Ibid., 24.

reached a dead end with their integration program - a new policy and less costly strategy was required. In retrospect, and perhaps most fundamental, the two decades between 1943 and 1963 deprived Canadian Indian policy of its hitherto simplicity and homogeneity: policy fragmentation emerged which has had a profound impact on contemporary Indian policy discourse.

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Of course, a dramatic departure in policy was soon to come. The Statement of the Government of Canada on Indian Policy (White Paper) announced in June 1969 did not originate from the Indian Affairs Department: it was imposed on the Indian Affairs bureaucracy by the Privy Council Office and the Prime Minister's Office.<sup>31</sup> The Trudeau government's revised Indian agenda repudiated the post-war policy of Indian integration and, instead, opted for Indian termination: the elimination of Indian reserves, an end to Indian status, and winding up the operations of the Indian Affairs Department in five years. Indian people and their supporters responded angrily; they had been betrayed! Between 1969 and 1971 a flurry of "red", "brown", and "beige" Aboriginal position papers appeared in response to the government's White Paper. The Native responses presented in great detail the claims and rights agendas which had been articulated and developed in the years from 1943 to 1963. In the face of fierce Native resistance, Prime Minister Trudeau withdrew his White Paper proposals in July 1970. But irreparable political damage had been done. Historic Native mistrust of government intentions was resurrected and reinforced. A termination psychosis gripped Indian communities across Canada. When the White Paper was withdrawn, a hiatus

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31. Ibid., 75.

in government policy-making occurred that would persist into the 1970s.

The problem was compounded by the legacy of policy fragmentation from the period 1943 to 1963 which was now met by judicial activism: ironically, the courts had been a relatively quiescent actor in the sub-government sector of the post-war Indian policy community. In the 1970s, 1980s, and 1990s, the validity of the Indian Act, Indian status, treaty rights, the fiduciary obligations of the Crown, and the nature and scope of Aboriginal rights became subjects for expansive (and often confusing) judicial pronouncements.<sup>32</sup> Managing Native policy issues and Native expectations became more complex, risky, and costly for government officials. Indeed, in intricate and controversial areas of Aboriginal policy - defining Aboriginal rights and determining who should hold these rights - timid politicians and bureaucrats have abandoned their responsibilities for policy development and have relied on the courts to make difficult social policy decisions.

In the last thirty years a distinct body of Native case law has emerged which, for the most part, has been more favourable to Native interests than rulings of the earlier period. These judicial developments, coupled with on-going constitutional discussions, have spurred Native peoples, their leaders, and supporters to seek a greater share of political power and policy decision-making. A permanent Standing Committee on Indian Affairs, comprehensive

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32. Bradford W. Morse (ed.), Aboriginal Peoples and the Law. Indian, Métis and Inuit Rights in Canada (2 ed.). (Ottawa: Carleton University Press, 1991); also see J.W. St. G. Walker, "Race," Rights and the Law in the Supreme Court of Canada. Historical Case Studies (The Osgoode Society for Canadian Legal History and Wilfrid Laurier University Press, 1997). A useful source is Shin Imai, The 1999 Annotated Indian Act and Aboriginal Constitutional Provisions (Scarborough: Carswell Publishing, 1998), particularly pages 269-321, "Rights of the Aboriginal Peoples of Canada", and pages 331-345, "Selected Supreme Court Case Summaries".

land claims negotiations, discussions concerning the inherent right to self-government, joint Assembly of First Nations/Indian Affairs policy task forces, and program devolution hold out the prospect, if not the promise, of Native people gaining control over the destiny of their reserve communities. Indeed, Bill C-49, the "First Nations Land Management Act", now before Parliament, is specifically designed to give First Nations governments responsibility for the management and disposition of reserve lands.<sup>33</sup>

In the never-ending government quest to integrate Indian people into Canadian society an acrimonious public debate concerning the question of individual rights versus collective Native rights - derived from modern land claim settlements and self-government negotiations - has surfaced and threatens to poison Aboriginal relations with the dominant society.<sup>34</sup> Whether contemporary Canadian society - still imbued with liberal democratic values and principles - can accommodate collectivist Native aspirations is a moot point. Until this fundamental political and social policy issue is resolved, Indian policy will remain a highly contentious and problematic field of Canadian public policy.

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33. The origins of Bill C-49 can be traced to the draft "Committee Bill" on the Indian Act in 1948, and to Diefenbaker's proposed Indian Act revisions in 1962-63.

34. For example, see the National Post, 1 March 1999, "Treaty opposition strongest when in own backyard," A6.

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#### **G. Films**

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