

THE INDIAN ACT, 1876

Since the Royal Proclamation of 1763, colonial governments had developed a variety of laws concerning First Nations. Some originated with British colonial governments and others with the Canadian government. After Confederation, and with the planned expansion west, the Canadian government wanted a single framework from which to deal with all First Nations. In 1876, it consolidated all previous legislation concerning First Nations in the *Indian Act*.

ASSIMILATION AND CONTROL

Although it was presented as a simple consolidation of existing legislation, the *Indian Act* in fact added many powers to the federal government and its ability to control First Nations people. In particular, the act furthered the government's assimilation policies set out in the 1857 *Gradual Civilization Act* and the 1869 *Enfranchisement Act*. The goal of assimilation was highly **Eurocentric**: it reflected a worldview in which European-based cultures and traditions are viewed as superior to other cultures and traditions. Colonial governments, as well as most Canadians at the time, believed that the best future for First Nations, Métis, and Inuit people would be one in which they gave up their own cultures in favour of European-based traditions. However, in the view of William Lathlin of the Opaskwayak Cree Nation, "assimilation is legislated genocide. Assimilation is the *Indian Act*, the *Indian Act* is government legislation, and government policies from this act are used to keep First Nations people from advancing and being part of Canada."

The *Indian Act's* powers were so far-reaching that the Canadian government could make changes to the act without consultation with or obtaining permission from First Nations. These far-reaching powers contrasted sharply with the spirit and intent with which the Numbered Treaties were being negotiated. In its approach to dealing with First Nations, the *Indian Act* is paternalistic. **Paternalism** is the policy or practice of governing a group of people by providing for their needs without giving them any rights, as a father might deal with his children.

For much of its history, the act had three main goals:

- to assimilate First Nations people through enfranchisement
- to manage First Nations communities and their reserves
- to define who could and could not be classified as a First Nations person

Figure 9-12 Jordan Bennett, a Mi'kmaq artist from Stephenville Crossing, Newfoundland, writes the words of the *Indian Act* on paper covering a tipi. Bennett wants people to be aware of how First Nations people continue to be treated under the *Indian Act*.



To read the *Indian Act*, go to the *Shaping Canada* web site and follow the links.

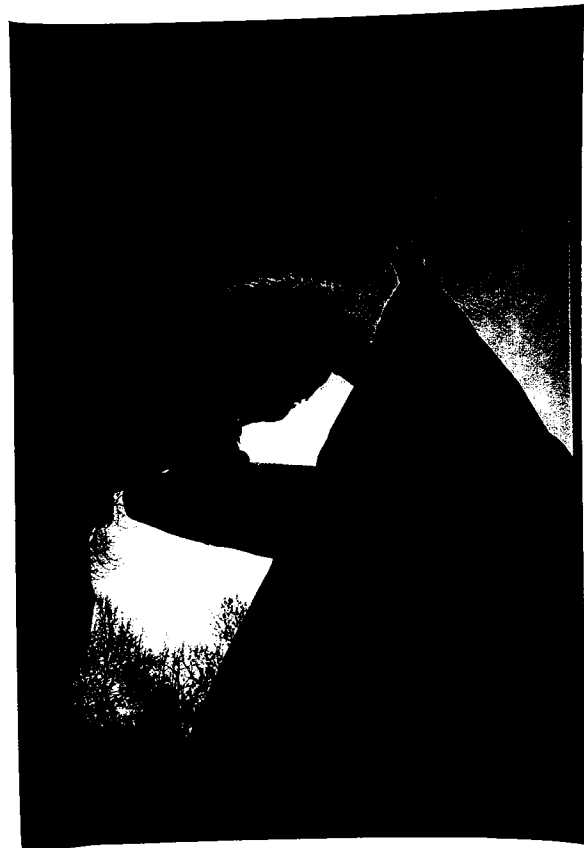


You learned about the *Gradual Civilization Act* in Chapter 4, and the *Enfranchisement Act* in Chapter 6.

VOICES

Because the Indian had no written records when the first white man reached this continent, he was dismissed by the white man as having no past.

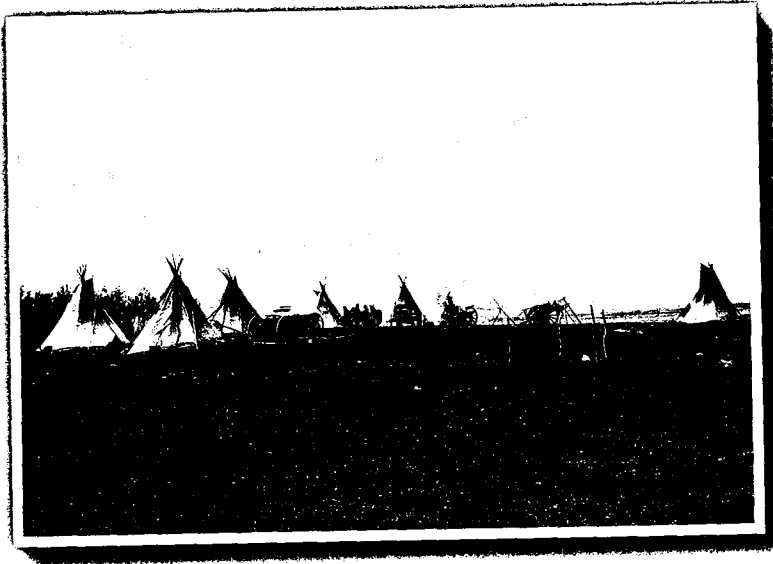
— George F. G. Stanley (1907–2002),
Historian, author, and the
25th lieutenant-governor
of New Brunswick



MAIN PROVISIONS OF THE INDIAN ACT

The *Indian Act* had several main provisions, including:

Figure 9-13 The *Indian Act* dictated who could live on a reserve, such as the Red Pheasant reserve near Battleford, Saskatchewan, shown here in the 1890s.



- First Nations people were made “wards of the government.” This meant that they were to be treated as minors or children and would not have the same rights of citizenship as Canadian citizens.
- First Nations leadership and government traditions were discouraged. Under the *Indian Act*, each reserve was to have a band council. *Band* was the act’s terminology for each First Nations group. Certain ceremonies and the traditional participation of women and Elders in First Nations governance was not allowed.
- The act defined who would have “Indian status.” A **status Indian** was defined as a person who belonged to a band that lived on a reserve or lands that the government had granted. Only status Indians would be eligible for the provisions under the act.
- Women who married non-First Nations or non-status men lost their status, and so did their children.
- First Nations people who obtained a university degree, joined the military, or became a member of the clergy were forced to give up their status.
- The government controlled most financial matters on reserves, especially the sale and rent of reserve lands. Reserve lands could not be mortgaged or taxed. Reserve lands could also not be sold without the majority approval of band members and could be sold only to the government.
- Children were required to attend **residential schools**, which were boarding schools for First Nations children. The schools removed First Nations children from their families and pressured the children to give up their culture and traditions and assimilate into Euro-Canadian culture.
- The manufacture, sale, or consumption of alcohol on reserves was prohibited.
- Some traditional First Nations ceremonies were banned.
- **Indian agents**, who were federal government employees, had authority to manage reserves and enforce the *Indian Act* provisions. Few, if any, Indian agents had First Nations backgrounds.

... SHAPING CANADA TODAY ...

Since its creation, the *Indian Act* has undergone over twenty major revisions, yet it still remains the principal legislation concerning First Nations in Canada today.

9-6 What do you think might be some of the consequences of the Canadian government making First Nations people “wards of the government” under the *Indian Act*?

IMPACT OF THE INDIAN ACT ON FIRST NATIONS

Because of the amount of control the *Indian Act* gave the government over First Nations, the act affected almost every aspect of First Nations people's lives and cultures.

IDENTITY AND REGISTRATION

One of the sweeping powers the *Indian Act* took was the ability to define who could and could not have Indian status. All status Indians were recorded as "Registered Indians" of Canada. The federal government, not individual First Nations, still has the authority to decide who may and may not be registered.

Depending on the terms of their treaty, status Indians may be eligible to

- live on a reserve
- have extended hunting and fishing seasons
- receive free post-secondary education
- have fewer restrictions on owning firearms
- be exempt from federal and provincial taxes on reserves
- receive a variety of other payments or benefits

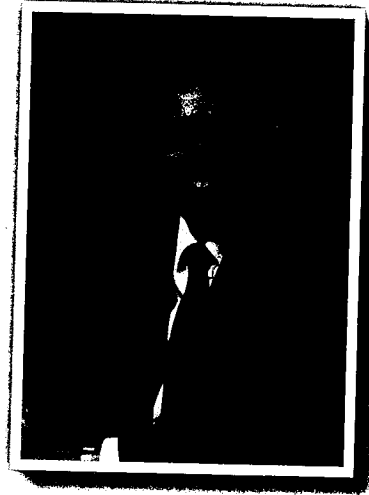
Because having Indian status allowed for some level of cultural protection, First Nations people often resisted government attempts to persuade them to become enfranchised and give up their status. However, the *Indian Act* gave the government the authority to take away Indian status from First Nations people who joined the military, obtained a university degree, or became a member of the clergy, with or without their permission.

A revision to the *Indian Act* in 1879 led government officials to encourage Métis people who had taken treaty and were living on reserves to give up their treaty status and take scrip instead. Living conditions on many First Nations reserves were so poor that many Métis people accepted the offer. The scrip was often sold immediately for much-needed cash to pay for basic needs, but at the cost of long-term security. Often the scrip was sold to land speculators for up to half its face value. Many speculators became wealthy in the process.

CHECKFORWARD

You will read about amendments to the *Indian Act* in Chapter 17.

Figure 9-14 In 1968, Leonard Marchand, a Skilwh (Okanagan) First Nation member, was the first status Indian to be elected to Canada's House of Commons. Until 1960, status Indians could not even vote in federal elections unless they became enfranchised and gave up their Indian status. Marchand also became the first First Nations person to serve in the federal cabinet, and he was appointed to the Senate in 1984.



Indian and Northern Affairs Canada / Affaires indiennes et du Nord Canada

CERTIFICATE OF INDIAN STATUS / CERTIFICAT DE STATUT INDIEN

Registration no./Numéro d'inscription: 9997001801

Family Name/Nom de famille: DOE

Given Names/Prénoms: MARY JANE

Alias/Nom d'emprunt: ANNE

Date of Birth/Date de naissance: 1980/01/13

Sex/Sexe: F

Date of Issue/Date de délivrance: 2010/02/03

Renew Before/Renouveler avant: 2015/01/13

Registry Group no. and Name/N° du groupe de registre et nom: 999 - BAND NAME

Figure 9-15 When people are registered under the *Indian Act*, they are issued a secure Certificate of Indian Status, more commonly called a Status card. The card entitles registered persons to certain programs and services offered by the federal and provincial governments.

GENDER DISTINCTIONS

The *Indian Act* was not only paternalistic in its approach to First Nations peoples, but was also discriminatory against First Nations women. In Chapter 1, you learned that many First Nations had strong traditions of gender equality. The *Indian Act* significantly changed the equality of women in First Nations.

In accordance with Euro-Canadian customs at the time, the *Indian Act* emphasized male lineage and defined the term *Indian* as any male person of First Nations heritage who belonged to a particular band, a child of such a person, or a woman who is or was married to such a person. As had been the case since the 1869 *Enfranchisement Act*, if a First Nations woman with Indian status married a non-First Nations man or a First Nations man without Indian status, she lost her status automatically, as did her children. However, the wives of status Indians, whether of Aboriginal background or not, gained Indian status along with their children.

Traditional First Nations practices often saw women involved in running the day-to-day activities of First Nations communities, as well as having roles in community governance. However, after the *Indian Act*, women were not allowed to be a part of any government or political process. This gender inequality reflected Euro-Canadian society at the time, where women were not permitted to take part in government or political processes.

Figure 9-16 The discrimination against women in the *Indian Act* caused some First Nations women, such as Jeannette Vivian Corbière Lavell, to fight for changes to the act. In marrying a non-First Nations man, Corbière Lavell lost her Indian status. In her 1973 court case against the Canadian government, she tried to show that losing her status was a violation of gender rights. Although she lost her case, Corbière Lavell inspired other First Nations women to also fight for gender equality in the *Indian Act*.



BAND COUNCILS

The *Indian Act* changed traditional forms of government for First Nations. The act made no accommodations for the different types and traditions of First Nations governments that had existed across the continent for thousands of years. Instead, the act imposed the same system of government for all reserves. Each reserve was to be governed by a band council, which consisted of a chief and council that were elected for a three-year term. Only adult males in each band could vote for council members. The chief and council were to be guided by the federal government and the Indian agent.

The concept of elections was foreign to First Nations. In First Nations traditions, leaders were often chosen by a number of factors, including their skills, experience, and hereditary status. The election process allowed this practice to continue, but with less flexibility and community participation than in many traditional governing processes. By imposing the election process, the government hoped that First Nations would give up their traditional systems of government and adopt European styles of governance.

020 From what you learned about traditional methods of governance among First Nations, how do you think the system of elections and band councils changed First Nations' traditions and ways of life? What traditional aspects continued?

CHECKBACK

You learned about traditional First Nations governance in Chapter 1.

PASS SYSTEM

During the North-West Resistance in 1885, the Canadian government was alarmed at the involvement of some First Nations and wanted to ensure that other First Nations would not support the resistance. To do this, the government created a **pass system** for First Nations people on reserves. Under the pass system, First Nations people were restricted to their reserve territory. If they wanted to leave the reserve, they had to obtain permission, or a pass, from the Indian agent. Although the pass system never became a law, it was enforced as one. It was a criminal offence for a First Nations person to be caught outside his or her reserve land without a pass. The North-West Mounted Police helped Indian agents enforce the use of passes, which remained a part of reserve life until 1951.

C-10 In what ways do you think the pass system affected the lives of First Nations people? What long-term consequences might the pass system have had?

THE INDIAN AGENT

In 1880, the Canadian government established the Department of Indian Affairs. Within this department, Indian agents were appointed to carry out the terms of the *Indian Act* on reserves. The role of the Indian agent was all-encompassing. He represented the Canadian government on reserves and had many judicial, economic, and social roles. He could arrest individuals and hand down sentences. He decided how reserve land was to be used and divided up, and he distributed the agricultural supplies promised in treaty provisions. First Nations people could not produce or sell any type of goods without the written permission of the Indian agent. The Indian agent could even decide how someone's property and goods were to be distributed when he or she died.

Indian agents sometimes faced organized resistance, especially when they tried to prevent traditional ceremonies. To control people on the reserve, Indian agents frequently withheld or awarded additional rations. Rations included flour, sugar, tobacco, tea, and meat. Indian agents ruled almost all aspects of the lives of First Nations people on reserves and were part of First Nations reserve life until the 1950s, when their role was slowly phased out.

Figure 9-17 This pass was issued by Indian agent Samuel Lucas to allow Big Prairie Head of the Tsuu T'ina (Sarsi) reserve in Alberta to leave in order to sell some chickens.

Pass
DUPLICATE. No.

Date *Sept 26th* 189*2*

at *Sarsu Indian Reserve.*

Deliver from Indian Supplies to

Big Prairie Head of Bull Head Band has on account of permission to go to Calgary for one day to work. This pass good until sunset.

Witnessed by S. B. Lucas, Indian Agent

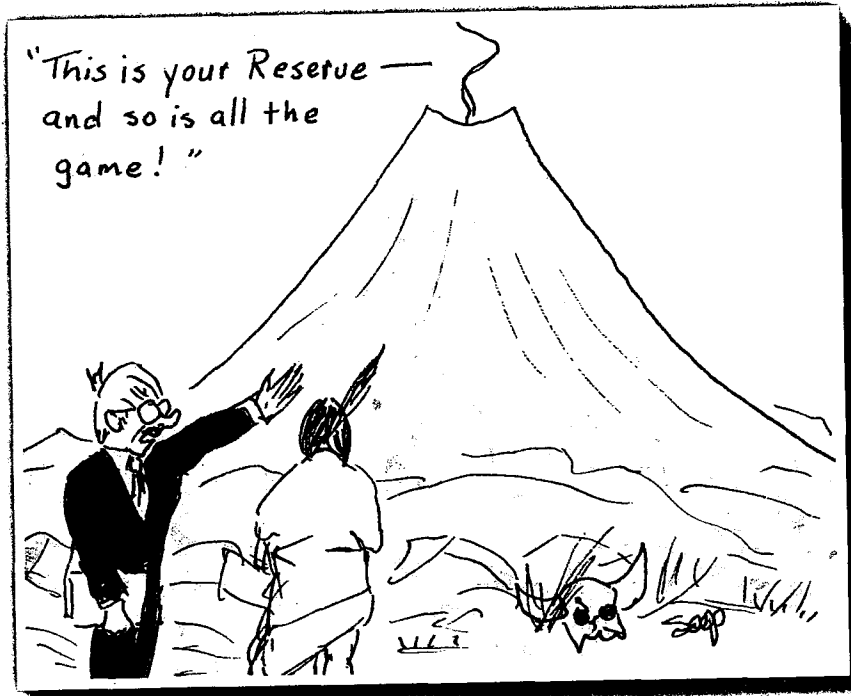
ARTICLES.	QUANTITY.
<i>Big P Head has 10 chickens to sell</i>	

Agent.

ECONOMIC AND POLITICAL MARGINALIZATION OF RESERVES

Some First Nations, usually in areas remote from Euro-Canadian settlements, were given reserves large enough or abundant enough in resources that they could continue many of their traditional ways of life. However, the main idea behind most reserves was to encourage First Nations people to adopt agriculture and other Euro-Canadian ways of life.

Figure 9-18 This political cartoon by Everett Soop was published in the *Kainai News* (from southwestern Alberta) on March 15, 1969. What point do you think Soop was trying to make about reserve land in Canada?



Despite this goal, the lands that were allocated to many First Nations were not always suited for agriculture. In the Ininew (Cree) language, the word for reserve is *iskonenkun*, which means land that is leftover, not good for anything. The *Indian Act* honoured the Royal Proclamation of 1763, which stated that First Nations land was the property of the British Crown, and First Nations' lands could be sold only to the government or Crown. Because of this, First Nations could not mortgage or sell their land to make money to invest in agriculture or other projects to develop their economies. Natural resources on reserve lands, such as lumber, also remained the property of the Crown.

Reserves were generally placed far enough apart to discourage groups of First Nations from forming alliances. This practice resulted from the government's fear that First Nations would resist government policies aimed at their assimilation. Reserves were also often far away from non-Aboriginal settlements, which led to isolation and alienation.

However, while the isolation of reserves had many negative aspects, it also had the positive effect of reducing some non-Aboriginal influences on First Nations cultures. In this way, the reserve system helped protect many First Nations traditions and helped communities continue to maintain traditional ties of families and clans.

VOICES

Instead of implementing the treaties and offering much needed protection to Indian rights the *Indian Act* subjugated to colonial rule the very people whose rights it was supposed to protect.

— Harold Cardinal, Sucker Creek
First Nations leader, writer, teacher,
and lawyer

RECALL... REFLECT... RESPOND

1. Describe and explain how the reserve system resulted in long-term challenges for First Nations people.
2. Eurocentrism had always been a part of European attitudes toward First Nations. Reviewing earlier

chapters of this book, find three examples of Eurocentric attitudes or behaviour. In what ways was the *Indian Act* a continuation of these attitudes? What made the act a change from prior policies?