

11

Towards Confederation for Canada, Towards Wardship for Indigenous Peoples

Chapter Outline

The purpose of the chapter is to examine the expanding administration of Indian Affairs as policy development continued towards Confederation. The chapter concludes with an analysis of the Red River crisis of 1869–70. In a process that has become so common in Canada today, the 1840s saw a number of what would be termed *Royal Commissions* with the intent of coming up with solutions for the “Indian problem.” The most influential of these was the Bagot Commission of 1842–44. Among other things, the Commission recommended the public announcement of the survey of reserves and the boundaries of such reserves, that all title deeds be registered, and that Indigenous Peoples be taught techniques of land management and be provided with such resources as livestock and agricultural implements. In 1850–51 the Canadian legislature approved two pieces of legislation, incorporating some of Bagot’s recommendations.

The most influential legislation was the 1851 Act for Canada East because it provided a formal definition of who an ‘Indian’ was under law. This definition would be adapted and become the definition that Canada would use until the present day. It introduced the concept of status versus non-status Indians. As the result of a formal definition, existing mechanisms were then put in place to remove a person’s status as he or she became assimilated. This would be accomplished through a process called *enfranchisement* and was first introduced in the 1857 Act to Encourage the Gradual Civilization of the Indian Tribes of the Canadas. However, the requirements that had to be met for enfranchisement were extremely high and First Nations also resisted the idea of reserve allotment that accompanied the process. By 1876, only one person had been enfranchised.

The chapter also examines the process of treaty-making and the establishment of reserve boundaries. Beginning with the Robinson Treaties of 1850, land cessions increasingly became the process through which Indigenous Peoples would lose their lands. Lands were surrendered only to the Crown, and reserves to be held in common were annexed to each treaty. First Peoples retained the privilege of hunting and fishing to those territories except for portions allotted for specific uses. These treaties marked the beginning of the government’s paternalistic position of viewing Indigenous Peoples as wards of the state.

With the creation of Canada in 1867, the administration and responsibility for Indigenous Peoples fell to the Canadian government under the British North America Act. The majority of legislation and policy would simply be carried on by the newly-formed Canadian government, with added portions of legislation where necessary. An example of this was the 1869 Act for the Gradual Enfranchisement of Indians, which impacted the Indian status of Indian women depending on who they

married. Beginning in 1869, if an Indian woman married a non-Indian man, she ceased to be a status Indian.

On the west coast, the gold rushes of the late 1850s and early 1860s overwhelmed Governor Douglas's ability to try to assert British authority, even by force. As mining activities led to encroachment and damage on Indigenous lands, the local First Nations began to send out war parties to attack road gangs. Indigenous insurgents received death sentences and jail time, and no Indigenous war developed in spite of such fears. However, the land policies of Joseph Trutch meant the reduction of reserve sizes, and ultimately, First Nations were left in a position of having to purchase land from non-Indigenous people. After Confederation, British Columbia retained control of Crown lands and refrained from signing any post-Confederation treaties in the province.

After only a short period of development, Canada was faced with its first challenge, namely, Métis recognition. The attempts at this recognition resulted in Louis Riel rising to prominence, as well as the Red River Resistance, as it was labelled by some. In addition, settlers as well as Indigenous Peoples were making it known that they felt they were being ignored by the Canadian government. The end result of the events of 1869 was the creation of Manitoba, with the passing of the Manitoba Act in 1870; however, it was not the end of discontent in the West, as waves of settlers continued to flood the North West and the issue of land disputes remained unresolved.

Learning Objectives

- To understand the impact of experimental and ad hoc 'Indian' policy developed during the lead up to Canadian Confederation
- To recognize how the Métis developed as a people and into a political force
- To understand the nature the role of Indigenous resistance in the relationship
- To understand the events that led to Manitoba entering Confederation
- To understand how the process of assimilation was implemented through legal definitions of Indigenous Peoples, including Métis, identities
- To understand how treaties influenced land cessions and the development of reserves

Key Terms, Figures or Sites

Bagot Commission (1842–4) Commission headed by Sir Charles Bagot (1781–1843) that examined “Indian administration” and affirmed the government's assimilation policy (p. 187).

Canada First Activist group that campaigned to annex Red River to Canada in the mid-1850s (p. 196).

Comité National des Métis (Métis National Committee) Association formed in 1869 with John Bruce as president and Louis Riel as secretary, and actively supported by Abbé Joseph-Noël Ritchot

(1825–1905) of St Norbert, for the purpose of negotiating with the federal government concerning the rights of the residents of Red River (p. 199).

enfranchisement Acquisition of the right to vote (p. 192).

Grant, Cuthbert (c. 1793–1854) Métis fur trader, North West Company employee, and political leader who advanced the concept of the Métis nation; killed Robert Semple, governor of the HBC-administered territories, near Seven Oaks (present-day Winnipeg) in a Métis route of HBC personnel (p. 195).

Klatsassin (d. 1864) An influential chief of the Tsilhqot'in people who, in the face of the British Columbia gold rushes and ongoing settlement, had their lives affected and threatened by disease, hostility and cheating. To defend their lives and protect their land, Klatsassin led a charge to oppose settlers by force to persuade them to leave. While on a particular mission, he was tricked into attending a meeting, which officials then deemed a surrender. He was subsequently executed by British officials, but he remains a powerful symbol of resistance and a heroic defender of a way of life that was under terrible threat (p. 194).

non-status Indians Indigenous Peoples who have not or whose ancestors have not signed treaties and so are not covered by the provisions of the Indian Act (p. 188).

reserves A tract of land, the legal title to which is vested in the Crown, set apart for the use and benefit of a band (p. 190).

Riel, Louis (1844–85) Métis leader, founder of the province of Manitoba, and spiritual leader of the 1869–70 Riel Rebellion and the 1885 Northwest Rebellion; hanged for treason on 16 November 1885. His father, Louis Riel Sr, had been a leader in the Métis community (p. 198).

Robinson treaties Two treaties negotiated by William Benjamin Robinson. Lake Superior chiefs signed the Robinson-Superior Treaty, 7 September 1850; chiefs from the Lake Huron region signed the Robinson-Huron Treaty, 9 September 1850 (p. 190).

status Indians Indigenous Peoples who have, or their ancestors have, signed a treaty with the government and are covered by the Indian Act (p. 188).

wardship The state of being under the care of another person or group of people. In the case of First Nations people, the term refers to the relationship between First Nations and the colonial or Canadian government (p. 191).

white man's burden A phrase first used by British poet Rudyard Kipling to describe what Britain saw as its role with respect to the Indigenous Peoples of the countries it colonized (p. 186).

Study Questions

1. What did the “white man’s burden” refer to?
2. What were the main recommendations of the Bagot Commission?
3. How was an ‘Indian’ defined under the terms of the 1851 Act for Canada East?
4. What is a status Indian?
5. What is a non-status Indian?
6. Why was the 1857 Gradual Civilization Act not successful?
7. What events led to the Michipicoten War?
8. What was the pattern of treaty-signing that developed since the 1763 Royal Proclamation?
9. Why was the legal category of wardship applied to Indigenous Peoples?
10. What is meant by the phrase “marrying out”?
11. Why is the “Fraser River War” ill-named?
12. On what basis was Riel able to proclaim a provisional government in Red River?
13. What was the result of the troops arriving in Red River ahead of the newly appointed Lieutenant Governor?

Essay Questions

1. Describe the various acts that eventually led to a legal definition of status and non-status Indians.

The first was the 1851 Act for Canada East which provided a fairly broad definition of who was considered an “Indian,” including persons who intermarried with Indians and lived among them. Given that this definition contradicted the aims of assimilation, it was further revised to exclude non-Indians living with First Nations and drew the first boundary between status and non-status, namely, status Indians were those who were officially registered. Furthermore, this revision stipulated that ancestry was determined by the male line. The 1851 Act was followed by An Act to Encourage the Gradual Civilization of the Indian Tribes of the Canadas in 1857. This Act introduced the provision that enabled Indians to give up their status in exchange for the right to vote. These Acts culminated in the first Indian Act which was passed in 1876 and continued to include various provisions aimed at enfranchisement (meaning losing status) and ultimate assimilation (pp. 188-89).

2. Discuss the case of First Nations north of Lake Superior who lobbied the government for the right to control the resources on their land.

In 1846, Chief Shingwaukonse of Garden River near Sault Ste Marie, as well as other Ojibwa leaders, insisted that the revenues from mining leases should be paid to them. These leases were granted without their permission or consideration. The Ojibwa also resisted land settlements that were granted in 1849 without their permission or consultation. These requests were met with a military response sometimes referred to as the Michipicoten War (p. 189).

3. Explain the implications of 'Indian' policy for the two Canadas (Upper and Lower) being administered from London until 1960.

Until 1860, 'Indian' policy was administered from London. In Canada, the lieutenant-governor of Upper Canada also served as the superintendent-general of Indian Affairs. This meant that he acted on behalf of both the Crown and First Nations. His dual role was in conflict since those interests were mutually exclusive. Furthermore, funding for Aboriginal affairs came from five different sources, further complicating support for Canada's Indigenous Peoples. The marginalization of Indian Affairs continued well into the twentieth century despite the transfer of control of Indian Affairs to Canada in 1860 (p. 186).

Additional Resources

Further Readings

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Websites

A Country by Consent - Red River Rebellion

- <http://www.canadahistoryproject.ca/1870/1870-05-rr-rebellion.html>

Gabriel Dumont Institute of Native Studies and Applied Research – Métis Culture

- <https://gdins.org/metis-culture/>

Donna Sutherland, Red River North Heritage – “First Nations and Métis People of Red River Settlement (pre and post Confederation)”

- <https://redrivernorthheritage.com/first-nations-and-metis-people-of-red-river-settlement/>

D’Arcy Rheault, Ontario Métis Family Records Centre - “Solving the ‘Indian Problem’: Assimilation Laws, Practices and Residential Schools.”

- <https://www.omfrc.org/wp-content/uploads/2016/06/specialedition8.pdf>