THE SOCIAL WELFARE ASPECTS AND IMPLICATIONS
OF THE INDIAN ACT

by

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Thesis Submitted in Partial Fulfilment
of the Requirements for the Degree of
MASTER OF SOCIAL WORK
in the School of Social Work

Accepted as conforming to the standard
required for the degree of
MASTER OF SOCIAL WORK

School of Social Work

1961
The University of British Columbia
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Date May 5, 1961
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ABSTRACT

Because the Indian Act is central to any discussion of Indian Affairs in Canada, it forms the focus of this study. This is not intended to be a study of law or jurisprudence. It reviews the welfare implications of the Indian Act in as orderly a sequence as possible, and applies social welfare concepts to the Canadian Indian, which are not yet customarily applied when his status is being evaluated. To do this, it is necessary not only to review the present Indian Act, but the original Indian Act, and appropriate reports, surveys and studies of Indian affairs from 1875 to the present. Its primary focus, however, is on the Indian today who is looking to full citizenship as never before.

After an examination of the general background, the method is to evaluate the property rights and citizenship rights of Indians. An understanding of these rights is basic to any study of Indian affairs. Social assistance and child welfare are also perused and compared with existing standards of welfare. Chapter III deals with three fundamental social services: education, health and housing.

The results indicate continuing evidence of what is, in effect, second-class citizenship for the Canadian Indian. In several areas, typical services and treatment are below those afforded most other Canadians. Some guides to a new approach are indicated, aimed at stimulating underdeveloped skills, and enlarging opportunities, which will enable Indians to attain equality with their fellow Canadians.
ACKNOWLEDGEMENTS

Grateful acknowledgement is made to Dr. Leonard Marsh, whose advice, consultation and direction were indispensable in the completion of this study. Thanks are also extended to the staff of the Indian Commissioner's office in Vancouver for their help and cooperation.

To Mr. Bert Marcuse, who checked Chapters II and III, and whose knowledge and interest in Indian affairs contributed greatly, special thanks are due.

Greatest thanks are due to my wife Phyllis, who not only typed for me, but served as a constant source of inspiration and encouragement.
THE SOCIAL WELFARE ASPECTS AND IMPLICATIONS
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CHAPTER I

SOCIAL WELFARE AND THE INDIAN ACT

Throughout the history of mankind, the term "social welfare" has had a plethora of meanings for different people in various countries. Within most countries there has also been a continuous evolution in the understanding of the term "social welfare", as well as in the practice of social welfare. Although it is impossible to define social welfare in terms acceptable to all, the following definition most closely suits the purpose of this study.

Social welfare is the organized system of social services and institutions, designed to aid individuals and groups to attain satisfying standards of life and health. It aims at personal and social relationships which permit individuals the development of their full capacities and the promotion of their well-being in harmony with the needs of the community.¹

This definition reflects the attitude of many persons in the social work profession at the present time. Perhaps this goal has not been fully achieved by all citizens of Canada,

whether Indian or non-Indian; but it is reasonable to have the same goal in mind for both groups.

The social services are:

... those organized activities that are primarily and directly concerned with the conservation, the protection, and the improvement of human resources.¹

In spite of the generality of this statement, two features are explicitly denoted: the organized quality of the services, and the concern with human resources. Some examples of social service would be: social assistance, child welfare, mental hygiene, public health, education and housing.

The objective of social welfare has been defined by the writer already quoted as being:

... to secure for each human being the economic necessities, a high standard of health and decent living conditions, equal opportunities with his fellow citizens, and the highest possible degree of self-respect and freedom of thought and action without interfering with the same rights of others.²

The objective of social welfare in part is achieved individually, through work, marriage, etc. It is also enabled by such services as improved education, health, housing, 


² Loc. cit.
Welfare started with charity and for many years was synonymous with it. Even today, many people think of welfare in these terms. However, charity or humanitarian impulses, as expressed in human sympathy, have a difficult time in a society stratified by economic, class, ethnic, cultural or even regional differences. Because of this, modern welfare needs inevitably reflect social as well as individual responsibility. Social responsibility has been accepted by citizens in varying degrees. There are two reasons for this acceptance. The first is that individuals, or even groups, do not have the necessary resources at their disposal to meet social welfare needs. The second is because of the kind of social welfare problems in the twentieth century. For example, unemployment has been shown to be an economic and industrial problem, not a personal sin. As such, it becomes the responsibility of the whole society or nation, and not just of the individuals who are unemployed.

Concurrently with the increased acceptance of social responsibility, in this century, has been the widening significance to the concept of the "social minimum".

Politically, it may well be interpreted in terms of the extension of the franchise and other basic civil rights. Economically, it is the basic principle underlying the attack on poverty. At first, of necessity, applied to the primary necessities of living — indeed only to food — it has been progressively extended, for reasons which are
themselves of first-class importance — the resources available for improvement (the national income, in modern terms); the conscience, and information, of the community; the extension of the concept of democracy, really to include everybody, and changing comprehension of what is necessary for healthy, secure and productive family life.\footnote{1}

Social welfare is a dynamic concept, constantly changing according to the needs and desires of the people in any country.

These statements are, in many ways, merely compilations and clarifications of democratic thought and philosophy. Insofar as they are a reiteration of the beliefs and desires of many Canadians, including the social work profession, they serve as the basic frame of reference for this study. Their force becomes apparent when they are applied to Indians. There are many classes of citizens, based on differences of race, income, culture, environment, etc., among Canadians. There is all too much evidence that most Indians are in the dis-advantaged strata.

**Historical Background**

Although the foregoing has explicitly denoted social welfare as an organized system, this is a modern innovation.

The evolution of attitude and practice in social welfare is best seen within its historical context. Throughout the history of mankind, there have been varying degrees of concern exhibited by societies for their members. The early Greeks, Romans and Jews made efforts to help their poor. In feudalistic times, the feudal lord, or the Church, handled in his own way the welfare problems of his serfs and servants. The breakdown of feudalism and the depletion or seizure of Church property resulted in many welfare problems. Many people, deprived of their former sources of help, were forced to beg or steal in order to survive. Vagrancy and mendicancy assumed frightening proportions, and many European states adopted repressive and brutal measures to forestall or eliminate these problems. Both the motivations and methods of social welfare varied from humanitarian to punitive expectations and treatment.

In England, the first poor law arose as an aftermath of the "Black Death", the plague which killed two-thirds of the entire English population within two years. This caused a severe shortage of labor and consequently, far higher wages. To combat this, the Statute of Laborers was enacted in 1349 to keep the rural workers on the land and in their own parish. Not until the sixteenth century were any constructive measures attempted on a governmental level. Licensed begging was authorized in 1531, but did little to alleviate the situation. In 1536, the first relief under
government auspices occurred, but only as a means of controlling and encouraging volunteer contributions. Finally, in 1563, Parliament adopted compulsory contributions to finance poor relief, and in 1572, a general tax was levied for poor relief. The latter statute gave legal sanction to governmental responsibility to its poor.

Many statutes were enacted in England in an attempt to solve the problem of poor relief, but the two of most significance to this study are the Elizabethan Poor Law of 1601, and The New Poor Law of 1834. The former was primarily an amalgamation of previous poor relief legislation, although it extended familial responsibility to grandparents as well as parents. The idea of familial responsibility was paramount in the Poor Law, and no person could obtain relief if his relatives were capable of providing for him. Another important feature of this Act was that the local parish or community was responsible for its residents. This led to a strict formulation and interpretation of residence requirements. Long periods of time were required to establish "residence" in a local parish. Because many parishes were more concerned about the cost of poor relief than about the needs of individual applicants, they resisted admitting responsibility for destitute persons. As a result of this, many poor people awaited help while parishes disputed responsibility. Besides this, the free movement of able-bodied laborers was greatly restricted. Overtones of these aspects have continued to
the present day, and are especially noticeable in The Indian Act.

Between 1601 and 1834 in Britain there were many attempts to alleviate the situation of the poor. In 1782, an act was passed with the intention of mitigating the harshness of the workhouses, and less rigorous workhouses were proposed for unemployables. Due to war with France, and the changing economic scene, this plan was unsuccessful, and both poorhouses and workhouses became terribly overcrowded. An attempt to rectify this situation resulted in the most enlightened legislation of the times. In 1795, a Poor Law amendment allowed assistance to be given to people in their own homes. Unfortunately, this amendment was nullified by the Speenhamland Act, which, while well-intentioned, resulted in a deterioration of conditions.

The result of these measures was a minimal improvement for the poor, and highly increased taxation to cover poor relief. The New Poor Law was enacted, in 1834, more to eliminate corrupt and inept administration, and save money, than to help the poor. This entailed a return to the rigid and oppressive measures of the Poor Law of 1601. One means of making relief so distasteful that the destitute would not apply for help, was the "Principle of Less Eligibility". Following this principle, poor relief must always be less than the wages of the lowest wage-earner in the community. This principle is still quite widely applied at the present
time in public assistance practice. It is based on the theory that people would prefer to live on relief rather than accept low paid employment.

Throughout all poor law legislation one theme is prominent, and it seems to have been accepted by the enlightened as well as punitive persons of the times. The theme is that destitution is the fault of the individual alone. Karl de Schweinitz, in commenting on the report which preceded the Poor Law of 1834, said:

Poverty was regarded as essentially an indication of moral fault in the person requiring relief. He was held very little short of exclusively responsible for his condition.... The idea of a social obligation was not conceived in the thought of the times.¹

This attitude dies hard, and it was not until 1948 that England severed the last remaining ties to the poor laws, and fully accepted governmental responsibility for citizens in need. The idea that moral weakness is the cause of poor social functioning was incorporated in the laws of the colonies which eventually became Canada and the United States. Even at the present time, there are many individuals in North America who give little credence to the influences of economic or societal changes, which adversely affect the fortunes of

people living in the country. There is still a stigma attached to the receipt of public assistance as a sign of personal, moral failure, although the depression of the 1930's helped to mitigate this attitude somewhat.

The various statutes and programs active during these 1800's indicated a profound dislike and distrust of giving relief in cash. Many persons received their relief entirely in kind, while almost all were required to take at least half of their relief in food, clothing or fuel. This was done for two reasons. The first is that it was felt that this would be humiliating enough so that fewer people would apply for relief. The second was that, because poverty was the result of moral weakness or depravity, the recipients of relief were liable to squander or waste the money given to them. Few thought them capable of handling their own affairs even with help.

Another parallel, albeit loosely drawn, can be seen in the "poor law" view of citizen's rights. A person in receipt of relief was immediately dis-enfranchised -- in one sense he was no longer a citizen. Even when he became self-sufficient again, he had to prove himself over a certain period of time before he became eligible to vote. In England this penalty was abolished shortly after World War I, and has not been used since that time. The loosely-drawn parallel is seen in the Indian Act, where Indians were not given the Federal vote until March 1960 unless they gave up certain taxation
privileges. Further to this Indians have the provincial franchise in only four of the provinces of Canada. Although Indians were refused the vote for different reasons, they were still denied a fundamental democratic right.

Historically, poor law thinking in attitude and approach have been negative. The individual has been held responsible for his situation, and attempts to change the situation have been ameliorative, rather than preventive or constructive. Because of the individual's contribution to his condition, his family and relatives were expected to accept the responsibility of his care, regardless of their feelings for, or tie with, the individual. Since it was felt that kinship responsibilities were necessary and warranted, it followed naturally that local communities were responsible for their own. The resulting residence requirements left many people with no community to call their own. Another corollary to the attitude that individuals caused their own problems, was the "principle of less eligibility". Because it was believed that the poor were lazy, immoral and weak, their relief allotments must always be less than the income of the lowest wage earner. It was felt that the poor were inadequate persons, unable or unwilling to improve, and that the community's responsibility, if it had a responsibility, was to ensure that the problem was relatively contained and did not get out of hand.

In the twentieth century there have been innumerable advances in public attitudes towards social welfare, even
though some poor law thinking is still apparent. The complexity of our industrial society in North America has resulted in a greater recognition of the interrelatedness and interdependency of groups and individuals in day-to-day living. The depression of the 1930's forcibly exemplified that poverty and destitution could occur as a result of forces outside the control of the individual. The two world wars, and the many advances in technology and science, indicate that parochialism and provincialism are fast becoming a thing of the past. Not only are groups and communities accepting some responsibility for their own members in need, but wide-scale plans and programs are carried out for the benefit of other countries. Examples of the former are public assistance programs, child welfare programs and such categorical programs (in Canada) as Old Age Assistance, Disabled Persons' Allowances and Old Age Security. The interest and concern for the peoples of other countries is evident in such undertakings as the Colombo Plan, the Point Four Program (U.S.A.) and the many programs carried out by, or affiliated with, the United Nations.

One might ask why "poor law" thinking, something which presumably belongs to the eighteenth century, is relevant to the present study? There are two basic reasons. One is that modern social welfare, although radically transformed in the last twenty years in Canada, still contains many elements of this type of thinking. Some sections of public opinion are strongly in favour of these "poor law"
remnants. The other reason is that Indians, of all sections of the Canadian people, suffer from a number of disabilities not unlike second-class citizenship, and the situation of the eighteenth century pauper. Fortunately, the concept of "poor law thinking" no longer reflects the desires of the majority of people.

Many people, and even nations, believe that individuals or groups in need should be given the opportunity not only to maintain life on a subsistence level, but to do so on a satisfying and dignified level. They consider that not only is this desirable, but that it is a right. The most articulate, and quite possibly most influential, statement in this regard, in the twentieth century, has been made by the United Nations in the Declaration of Human Rights. Although it is not necessary to reiterate all thirty articles of this declaration, part of the preamble and Article 25 are relevant to the present thesis. The preamble declares:

... the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom....

One means of attaining this objective is to see that:

Everyone has the right to a standard of living adequate for the health and well-being of himself, and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.¹

A concrete example of how the United Nations have transformed their words into action is seen in the multifarious Technical Assistance programs and activities. Because of these programs many persons in the world have achieved a higher standard of living without loss of dignity.

The Indian Act

There is only one Indian Act and one Indian administration in Canada. Before Confederation, in addition to the old province of Canada, some of the colonies that now form Canada had Indian legislation and some administrative organization for Indian affairs. After Confederation, the federal government consolidated legislation in the Indian Act of 1876. This remained the basic Act, although amended and simplified, until 1951, when a new Act came into force.

The impact of European settlement on Indian culture, and the Indian way of life, has been well documented in several studies of the Indian-Canadian.² However, the author


² See, for example, two recent U.B.C. theses. The introductory chapters of each of these deal with Indian problems
thinks that these writings and those of others about Indians, as well as Indian legislation, seem to be based on a dubious assumption. This assumption is that one can postulate, with any certainty, the Indian problem as being equally applicable across Canada. Although anthropologists agree that Indians probably come from a common stock, they are not a single race. To begin with, there are ten basic language groups, and these are subdivided into numerous tribal groups with local dialects. Even within the tribal groups, there are widely differing physical and cultural characteristics. If there is, or was, an element of commonality in the Indian problem or situation, it would have to be considered as a meeting of a number of different cultures involving varying degrees of change in one or more of these cultures. In practice, however, the process of change or adaptation required by the various bands or tribes has been subject to a number of variables, including the attitudes of the settlers, the temperament and background of the tribes, and the socio-economic influences of the area. The fact that some of the Ontario bands were agriculturists before the white settlers came, and that the land continued to be used in this manner; that the British settlers and soldiers accepted them as equals; and that many of these same Indians were able to become successfully acculturated and

integrated, is no coincidence. Two of the pre-conditions which enabled this successful acculturation were the accepting attitudes of the non-Indians, and the ability to continue a known means of obtaining a livelihood. Not all bands or tribes have been so fortunate. Even the Ontario bands have not all been successful, and a certain amount of the blame can be attributed to the attitudes of the early legislators. There appeared to be a tendency to impute certain characteristics to all Indians, and to approach any measures concerning Indians in a stereotyped manner. Since agriculture had been a force which made dependent Ontario Indians relatively independent, it was assumed it should do the same for Manitoba Indians. By the same token, it was argued:

Industrial schools are the best adapted for Indian children, and were it possible to have all of them in such schools, the most beneficial and happy results would follow.¹

So runs a statement in a report from an Indian agent in Ontario in 1875. The sincerity of the agent need not be doubted; but the words clearly indicate his limited expectations of the Indians, and they illustrate the approach applied to all Indians.

Many legislators and Indian agents felt that not only was a single approach necessary and desirable, but that the

¹ Canada, Department of Indian Affairs, Annual Report, 1875, p. 10.
Indians were not capable of much improvement. A few exceptions to this common view can be found. The following statement from an Indian agent in New Brunswick supports this more optimistic viewpoint.

... if a commencement could once be made to educate them, there is nothing to hinder the Indian, in time, from taking a reasonable position, in point of civilization, beside his white brother.1

The same agent declared that the moral character of the Indians in his division was "good, considering their upbringing". The capability of the Indian to change and improve is accepted in a similar statement by the Honourable Mr. Laird, Superintendent General of Indian Affairs, in 1876:

Our Indian Legislation generally rests on the principle that the aboriginies are to be kept in a condition of tutelage and treated as wards or children of the State. The soundness of the principle I cannot admit. On the contrary, I am firmly persuaded that true interests of the aboriginies and of the State alike require that every effort should be made to aid the Red man in lifting himself out of his condition of tutelage and dependence, and that (it) is clearly our wisdom and our duty, through education and every other means, to prepare him for a higher civilization by encouraging him to assume the privileges and responsibilities of full citizenship. In this spirit and with this object the enfranchisement clauses in the proposed Indian Bill have been framed.2

1 Canada, Department of Indian Affairs, Annual Report, 1875, p. 27.
2 Ibid., 1876, p. 14.
In line with this optimism, one of the enfranchisement clauses of the Indian Act of 1876 declared that Indians who had attained the position of a doctor, lawyer, minister or graduated from a "University of Learning" were ipso facto enfranchised.

However, outside of the enfranchisement clauses there were few indications of optimism. The mood of the Act can partly be seen in Section 3, subsection 12, which states: "The term 'person' means an individual other than an Indian, unless the context clearly requires another construction."

That this is more than a question of terminology is seen in the rest of the Act, and in the annual reports of the Indian agents. In regard to the latter, a number of the agents did not bother to make an annual report, while others restricted their reports to a brief discussion of the improved liquor situation, and the general quietness in their area. The Act gave the bands few rights, no control over money matters, and only slight control over the management and sale of timber. This control was included in Section 26, subsection 3, almost as an aside, dealing with release or surrender of reserves and seems to have been rarely used. This subsection had been deleted by 1906. The chiefs were empowered to frame rules or regulations, subject to confirmation by the Governor in Council, about certain minor functions on the reserves. It appears that, in spite of the enfranchisement clauses, the legislators felt that the Indians were not capable of handling
their own affairs. This feeling permeated Indian legislation for the next seventy-five years in varying degrees.

Treaties

It is common knowledge that many of the tribes or bands negotiated treaties with the Crown. The extent and force of the treaties is not wholly understood, or accepted, by many Indians and non-Indians. Some bands feel that the treaties were negotiated between "nations", and should be of the same force and effect as a treaty between Canada and the United States. Others view them as merely agreements, but agreements where "what they surrendered they cannot recover, (but) what they retained can be encroached upon." There is much confusion in the area of treaties, which has resulted in a distrust of the motivation of the legislators. In this connection the Parliamentary Committee on Indian Affairs recommended in its Report to the Senate and House of Commons (1949)

... that a Commission in the nature of a Claims Commission be set up, with the least possible delay, to enquire into the terms of all Indian treaties in order to discover and determine definitely and finally such rights and obligations as are therein involved and, further, to assess and settle finally and in a just and equitable manner all claims or grievances which have arisen thereunder.

1 Indian-Eskimo Association of Canada Brief, prepared for the Parliamentary Committee on Indian Affairs, Ottawa, March 1960.
Although the judgements of this Claims Commission would never completely satisfy all Indians, it could clarify a situation which has been the cause of ill-feeling and mistrust for many years. To the author's knowledge the Commission has not been established as yet.

Although many of these questions can be answered in the Courts, few of the bands have been willing to undertake the financial commitments to obtain a ruling. However, in 1959 a segment of the Six Nations Indians in Ontario protested a surrender of reserve lands, and obtained a judgement in the Ontario Supreme Court. On September 3, 1959 Justice J. M. King concluded:

... that since the Six Nations Indians, in accepting the lands assigned them, had put themselves under the protection of the Crown, they 'owed allegiance to the Crown and thus became subjects of the Crown'....

This judgement has not been taken to the Supreme Court of Canada, and will undoubtedly influence the decisions of other cases on the same subject. It infers that the treaties are merely agreements, and are final only insofar as it pleases the Crown to let them remain final. Many bands will surely disagree with this judgement. Whether they will take action in respect to it remains to be seen.

Dependency

It has been asserted by many people that dependency is a trait so ingrained in the Indian personality, that any attempts to help them become self-sufficient or independent are self-defeating. It is their thesis that the only solution to the Indian problem is to abolish the reserve system, with all Indian privileges, qualifications and disqualifications, and demand that Indians take their places as ordinary Canadian citizens. That this drastic solution has not been espoused by any of the experts in Indian affairs is significant. Those knowledgeable in the problems of Indians are keenly aware of the complexity of the problems, and are probably the last to claim that any panacea is available.

The question of dependency continues to concern many persons vitally interested in Indians. If many Indians are dependent, how can they be helped to throw off the cloak of dependency and take advantage of the opportunities available to them? If more opportunities are made available to Indians, will this only intensify their already dependent nature? A more sophisticated view is: have Indians always been dependent, or has this trait been fostered and generated by the non-Indian people of North America?

Historians and anthropologists alike attest to the self-sufficiency of Indian tribes prior to the advent of the white settlers. Diamond Jenness, writing in 1932, argued that
dependency arose in the economic sphere, when the Indians were forced to adopt new means of subsistence.

... all alike found themselves inextricably enmeshed in the economic system forced upon them from without.¹

The old means of making a living were no longer available to them, and they became more and more dependent on the help of the whites. While the economic system of the Indians was breaking down, their social system was also being attacked. Missionaries fought their taboos and superstitions, others ignored them with impunity and others used them against the Indians. Diseases decimated and demoralized them, and also cast doubts on the effectiveness of their religion. Many of the tribes thus lost their unifying link, and became apathetic and discouraged. The process of adaptation was too difficult and too sudden for many of the Indians, and they put themselves completely in the hands of the whites. This indicates, as Jenness points out, that:

... success and failure in adaptation depend only partly on the external conditions, partly, also, on psychological factors that are not easily recognized or controlled.²

Not only did the Indians become economically dependent on the

² Ibid., p. 259.
new system, but they became psychologically dependent as well.

It appears that this dependency was encouraged to some extent, by those responsible for the Indians. Two reasons for this may be found. They are: the fear of the Indian, and the feeling that Indians were primitive, indolent savages who were not capable of attaining the heights of their civilized, white counterparts. The fear was that the warlike tribes would become aroused and attack the white settlers again. It also took some of the settlers many years before they would believe that the peaceful tribes could be trusted. The unusual effect of liquor on Indians only served to intensify the settlers' doubts about the intentions and capabilities of the various tribes. Most people, Indian agents included, were quite happy when the Indians were quiet and passive. Although this passivity was sometimes recognized as dependency, many people preferred the safety of passivity rather than the threat of activity and independence. That passivity was often recognized as loyalty and a thing to be desired, is clearly evident in this report of the Department of Indian Affairs:

Peace and contentment are reported by the numerous Indian superintendents and agents to prevail among the Indians from one end of the Dominion to the other, and even in the North-West where, as is generally known, much distress has prevailed during the past season and still exists, owing to the disappearance from the territories of the buffalo, the staple of life of the aborigines of that part of the Dominion, nothing but expressions of loyalty and devotion to the Crown are heard from the Indians; some of
whom were reduced to the extremity of eating mice, dogs, and even their buffalo skins, to preserve their lives, and some of whose relatives perished from hunger.

The confidence which the Indians have in the paternal care of the Government is undiminished, and the endurance and patience of those of the North-West, under the very trying circumstances in which they were placed during the past season, is deserving of all praise. Indeed, were whitemen to be placed in similar circumstances, it is questionable whether their conduct would have been as commendable.

This statement indicates that the tribes of the North-West were so dependent by 1879 that they barely complained about starving. Although the Superintendent General was pleased at this display of loyalty he did make some efforts to combat dependency. Instructions were issued to the effect that any of the above Indians given relief should be made to work for it. This was to be done both for the moral effect, and so that they would not always expect gratuities from the Government. This somewhat negative approach was mitigated, to an extent, by the deployment of thirteen farming instructors throughout Canada to teach the Indians a new way of life.

In spite of such positive features as farming instructors and an increasing emphasis on schooling, most Indian management and legislation has been based on the theory that Indians are not capable of handling their own affairs. While it seems obvious that many individual Indians and tribes

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1 Canada, Department of Indian Affairs, Annual Report, 1879, p. 6.
were highly dependent even in the late nineteenth century, the means of coping with this problem seem to have nurtured rather than lessened its prevalence and intensity. This attitude has continued into the twentieth century, and an outstanding example is seen in Family Allowances. The Government of Canada felt that many Indians were not capable of adequately expending the allowance, and included Section 1) part (d) to:

... provide that in the case of Indians and Eskimos payment of the allowance shall be made to a person authorized by the Governor in Council to receive and apply the same.1

In 1946, 21.8% of the Indian families receiving Family Allowances were being issued the benefits in kind. While there have been some beneficial side-effects such as improved clothing and food for Indian children, and improved attendance at school, the psychological effect of this "inadequacy label" may have more pronounced long-term influence.

In sharp contrast to most Indian legislation were the rights and privileges bestowed on Indian veterans. Indians were given the same rights as other veterans, and many of them took advantage of the opportunities available to them. In 1947 there were 390 grants totalling $771,780.11 in veteran's benefits,2 while the total welfare expenditure for all the Indians in Canada amounted to $1,230,868.05 for the same

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1 Canada, Department of Indian Affairs, Annual Report, 1946, p. 211.
2 Ibid., 1947, p. 218.
Why Indian veterans were felt to be more capable of change and improvement than other Indians remains an anomaly.

Although there were revisions and simplifications in the Indian Act of 1876 over the years, it was not until 1951 that a major change occurred. A special Joint Committee of the Senate and House of Commons made a study of Indian affairs during the Parliamentary Sessions of 1946, 1947 and 1948. The result was a repeal of previous legislation, and a new Act (15 Geo. VI, c. 29) was brought into force on September 4, 1951. The welfare aspects and implications of this Act form the body of this study. However, it appears in order to briefly mention some of the changes which this new Act incorporated. The new Act was:

... designed to bring the Indians, by progressive steps, in a position of social, political and economic equality with other Canadians by giving them greater powers over their own lands and funds and by decreasing the powers held by the Government.

While one might dispute that a master plan for the equality of Indians is contained in the new Act, it must be admitted that many progressive changes were made.

Indians now have some control over timber-cutting rights on Reserve lands, and the leasing of unused lands.

1 Canada, Department of Indian Affairs, Annual Report, 1947, p. 215.

Expenditures from Indian trust funds must, in most cases, be authorized by the band council. Bands may even be given complete control over their own lands and band revenue money. Band council elections have been changed, and women can now run for office and vote. Revolving fund loans have been extended, and restrictions on trade modified. Changes have been made in education, including permission to make agreements with provinces or local school boards for integrated schooling. Indians were given greater powers over their own lands and funds by this Act. The extent to which it has contributed to a solution of Indian problems will be examined in the continuing portions of this study.

**Method and Scope of Study**

This is an analytical study of the social welfare aspects of the Indian Act. The Indian Act cannot be properly understood or interpreted outside its historical context. To achieve proper perspective this study is, in part, a descriptive history of Indian affairs and legislation. Social welfare, as already defined, is "designed to aid individuals and groups to attain satisfying standards of life and health", and is not here restricted to public assistance and child welfare. This study is divided into two main areas; (a) the civil rights of Indians including property rights, citizenship rights, public assistance and child welfare, and (b), three fundamental social services; education, health and housing.
Although Indian economy underlies all Indian problems, this study shows that there is scope for substantial improvement in Indian affairs outside the economic sphere. Because of this, and also because the subject is so complex and differentiated in different parts of the country, Indian economy is not discussed in this study. Since this is not a legalistic interpretation of the Indian Act, and due to the length of the Act, no copy is attached to this study.
CHAPTER II

CIVIL RIGHTS AND WELFARE ELIGIBILITY

The existence of the Indian Act predicates that Indians are treated differently from other Canadians. But, as has been explained in the preceding chapter, this differential treatment was necessary, to some extent, in the early relationship between whites and Indians. Many of the tribes had been warlike, and the settlers required protection from them. Other tribes found the adaptation to a new economic, social and cultural system quite difficult, and were forced to depend on the paternalism of the Government. The original Indian Act was based on the assumption that Indians were not capable of administering their own affairs, and many subsequent amendments supported this view. The error seems to have been in the assumption that Indians would never be capable of handling their own affairs, or that an assumption of dependency, without constructive measures to combat it, would result in independence or self-sufficiency. Most of the Indians who have achieved self-sufficiency have done so in spite of, and not because of, the Indian Act and its influences. Progressive advancements were embodied in the Indian Act of 1951, and others have been brought into force
as amendments since that time. In this chapter an analysis will be made of (A) property rights, (B) citizenship rights, (C) social assistance, and (D) child welfare, of Indians to determine in what way the Indian situation differs from that of other Canadians.

(A) Property Rights

Although Indians are still not considered capable of managing their lands and funds alone, their consent is required in many cases. Now the council of the band must give its permission before licences to cut timber on reserve lands are granted. (Section 57(a))\(^1\) Previously, the Minister (of Citizenship and Immigration) decided whether this was in the interests of the band. Uncultivated and unused lands on a reserve may no longer be leased without the consent of the council of the band. (Section 58(I)) Perhaps a more important item in the struggle for independence in their property rights is seen in Section 60(I):

The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable.

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\(^1\) There will be many references to particular sections of the Indian Act in the next two chapters. So that the reader may retain some perspective, the sections enacted in 1951 will be undated, but subsequent amendments will be dated.
Even though sub-section (2) allows the Governor in Council to withdraw this right at any time, it seems to be a move to encourage bands to assume more control of their own affairs. In view of the value of timber lands and the importance of the forestry industry in general, these are vital matters which as yet require further change in law or practice.

That the powers of band councils are usually qualified is apparent in Sections 80, 81 and 82. Here councils were given expanded rights to make bylaws and money bylaws, but all of these bylaws are subject to the approval of the Minister or the Governor-in-Council. In fact, Section 82 requires that the Governor-in-Council declare that the band has reached "an advanced stage of development", before it may be allowed to make its own money bylaws. These bylaws must be approved by the Minister, and both the right to make money bylaws and the bylaws themselves, may be revoked by the Governor-in-Council. It is obvious that the legislators feel that there must be safeguards retained in the event that some councils use their powers injudiciously. One might be tempted to compare these qualified powers to those of the council of a municipality, where the electorate would decide on the actions of the council. This comparison would not be completely valid, since a number of the bands still adhere to the hereditary chieftain system. However, where band councils and chiefs are elected in a manner similar to the municipal leaders, the comparison would be valid. Since these sections are included in the Act, it
must be assumed that the legislators feel that either the councils are not capable of judicious management, or the members of the bands are not able to judge the capabilities of their representatives, or both.

This assumed inability of Indians to manage their own affairs is further exemplified in Section 61(1), which declares in part:

... the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for the use and benefit of the band.

One archaic procedure was not repealed until 1951 which allowed superintendents to pay lease or agreement moneys directly to Indians. (Section 63) Prior to this, the money had to go to Ottawa first, which appears not only inconvenient, but meaningless. Although the consent of the Council is required for most expenditures of Indian moneys, it is interesting to note that the action is almost always begun by the Minister.¹ In other words, the councils are not encouraged to initiate expenditures on behalf of their band. Further to this, the Minister may make expenditures out of the revenue moneys of the band to "assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased Indians of the band.

¹ It should be noted that the "Minister" or "Governor-in-Council" is, in practice, the Indian superintendent. Although he must obtain clearance from headquarters, he initiates almost all programs.
indigent members of the band...." without the consent of the
council. (Section 66(2)) This section infers that some
councils would be unwilling to aid destitute members of their
own band.

In spite of the fact that councils are not encour­
age to initiate expenditures on their own; "The Governor in
Council may by order permit a band to control, manage and
expand in whole or in part its revenue moneys, and may amend
or revoke any such order." (Section 68(1)) It seems that
this section provides Indian bands with the opportunity of
properly expending their funds. Once again this right may be
revoked, however, so the councils do not have full respon­
sibility. No such right is available in regard to capital
moneys, which are those "derived from the sale of surrendered
lands or the sale of capital assets...." (Section 62)
Revenue moneys are all Indian moneys other than capital moneys.
Perhaps if enough bands show that they can adequately expend
revenue funds, they will be given more control over the
expenditure of capital funds?

Although the powers of the band councils have always
been limited, the Indian Act of 1951 gave these councils more
opportunities to display their ability and effectiveness.
The introduction of uniform election procedures has resulted
in more efficient operation for many of the bands, which have
chosen this method of local government. The uniform procedures
have been explained to the bands by Indian Affairs field staff, and today well over half the bands in Canada use the elective system. In a ten-year period (1948-58) in the four western provinces, the elective system increased in use from 9 bands to 227 bands. Both election procedures and council meeting procedures were devised to help the Indian bands become more self-sufficient in band management. In order that this wish become more effective, the local superintendent is not to act as chairman for council meetings unless the majority of the council wish him to do so.\(^1\) Because many councils have inadequate experience at running meetings, they have requested superintendents to remain as chairmen. For the sake of expediency and efficiency, some superintendents have encouraged this continued dependency, and have made little or no effort to encourage the councils to discharge their duties alone.

Even though the new Act gave the councils expanded opportunities, the limited powers given them infers a lack of confidence in their ability. H. B. Hawthorn and associates deal with this by saying:

\[\ldots \text{despite this assumption of the Indians' ignorance, the role of the superintendent is not truly educative. He does things for people, instead of teaching them to do them.}\] \(^2\)

\(^1\) A more complete discussion of Elective and Procedure Regulations may be found on page 8 of the publication *A Review of Activities 1948-1958*, Indian Affairs Branch, Department of Citizenship and Immigration.

This has been the trademark of Indian administration for the past century, and illustrates the vast disparity between legislative edict and actual practice. The same writers continue:

The band council should be one of the most important and effective educational agencies on the reserve, and we believe that from every point of view the Indian people should be associated with the use of their monies at every stage. While we would agree that the Branch should continue to exercise its right of review, we believe that it has very little moral authority at the present time to interfere with the administration of trust funds which derive from the sale of Indian capital assets. Indians are not children, and though they may 'act unwisely' sometimes, they are in our opinion even overly anxious to preserve their capital assets. The administration has already educated the Indian people to a knowledge of the value of such assets.¹

These writers obviously believe that Indian councils are capital of assuming more responsibility in the management of their own affairs. These men also support the argument that, although many councillors lack experience, and may not be efficient at first, the only way they will gain experience is by doing their job.

(B) Citizenship Rights

Enfranchisement

Provision for enfranchisement was included in the

¹ Hawthorn, The Indians of British Columbia, p. 460.
original Indian Act of 1876, and continues to the present day. However, the concept of enfranchisement has evolved over the years. With the exception of those Indians who were automatically enfranchised because of their profession (doctors, lawyers, etc.), it was evidently assumed that Indians would seek a change of status without a change of residence or mode of livelihood. Enfranchisement was thought of as a means for an individual Indian to get his share of band funds and band property. Therefore, the legislation provided that, with the consent of his band, an Indian could be given temporary title to his reserve land. After a probationary period, he could be given full title to his land. In somewhat modified form these provisions are still included, although no figures are available to show how much they are used. Only minor changes were made in the enfranchisement provisions up to 1918.

In that year, provision was made to allow Indians who were:

... residing off reserves, were not following the Indian mode of life and who held no land on a reserve, to apply for enfranchisement. From that date on, the Indian Act provided for enfranchisement under two sets of circumstances; the one where the Indian was living on the reserve and would like to be enfranchised and receive title to his reserve holding, and the other where the Indian was living off the reserve and was simply interested in becoming enfranchised and receiving a share of band funds.  

1 A Review of Activities 1948-1958, p. 35. Some other references to the historic evolution of enfranchisement, not specifically noted, are taken from this same section beginning at p. 34.
Although there is no specific statement in this regard, it appears that, prior to 1918, Indians living off reserves were not entitled to formal enfranchisement.

In 1951, legislation provided for the enfranchisement of Indian women who married non-Indians. Before this, these Indian women could collect treaty money and share in band fund revenues, although they lost their Indian status. By the inclusion of Section 108(2), the Governor-in-Council was given the right to declare that Indian women marrying non-Indians, and their children, were enfranchised. This sub-section was repealed in 1956, so that the Minister was allowed some discretion about children who might live apart from their mother. The cleavage between Indian and non-Indian rights and capabilities is displayed in the enfranchisement provisions for women. According to Section 108(1), the Minister must be of the opinion that the Indian is capable of assuming the duties and responsibilities of citizenship before permitting enfranchisement of the Indian, his wife and minor children. No such judgement is necessary in the case of an Indian woman marrying a non-Indian. Although it may be agreed that the government has a responsibility to the Indian and the public, this same responsibility would appear due to the Indian woman. The only equitable procedure is that Indians should be granted enfranchisement on request, and not be subjected to the judgement of the Minister (which once again is in reality the local Superintendent).
Would this result in a rush of enfranchisement applications? To answer this question, one must examine the advantages and disadvantages of enfranchisement. As the Hawthorn report sees it:

Enfranchisement, in official terminology, is associated with full citizenship. But full citizenship is a very vague term, which must be broken up into various aspects of civic rights and duties before its advantages and disadvantages can be estimated.¹

One obvious advantage would be full liquor privileges, without waiting for specific provincial legislation to allow this. Another advantage is psychological -- the feeling that one is legally equal to his fellow Canadians. But there are disadvantages to enfranchisement as well. Once enfranchised, a person can never become an Indian again, and this usually results in a severing of ties, since the enfranchised person becomes subject to such restrictions as trespass on reserves. Indians also do have privileges not enjoyed by other Canadians, such as health services and taxation exceptions, and many of them are not willing to give these up.

Another viewpoint on enfranchisement is put forward by the National Commission on the Indian Canadian (now Indian-Eskimo Association of Canada). In an analysis of Indian briefs prepared for submission to the Parliamentary Committee on

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¹ Hawthorn, *The Indians of British Columbia*, p. 482.
Indian Affairs, August 20, 1959, the following statement appears:

One quotable reference to enfranchisement has a double significance. Not only does it seem to reveal one kind of tie-up within the Indian's mind, namely between enfranchisement and standard of livelihood, but it relates the Indians to the Metis who may be following the Indian way of life without the status of the Indian. The quotation says: 'When the Indian looks at the Metis and sees how pitiable their condition despite all the privileges of the white man, he is not tempted to want the privilege of the vote.' This is really another way of saying that the ballot box is no substitute for economic well-being.

Knowing that he does not have the skills to compete with non-Indians in our industrial society, the average Indian is unwilling to concede his few privileges for the franchise. The federal vote has never been much of an enticement towards enfranchisement for the Indian. The legislators finally recognized this, and repealed the restriction in 1960 (Section 86(2)). Senator James Gladstone, the first and only Indian Senator, commented on this legislation:

I must express a fear which exists in the minds of many of them (Indians). Too often in the past the government has given with one hand and taken away with the other. It has made the Indians suspicious -- and rightly so -- of any action which in any way changes their status....

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1 National Commission on the Indian Canadian, Unpublished Analysis of Indian Briefs to the Parliamentary Committee on Indian Affairs, Toronto, August 20, 1959, p. 4.
However, I feel that this is an honest attempt on the part of the government to bring our people to a greater level of equality with our fellow Canadians, but without any loss of our treaty rights.¹

This basic mistrust of the motivations of the legislators has been the source of difficulty in the past, and will probably continue to be so for many years.

Perhaps one of the reasons for distrust is that many sections of the Indian Act give the Minister or Governor in Council sweeping rights. For instance, Section 112 gives the Minister the right to appoint a committee, which can recommend enfranchisement of an Indian or a band, whether or not an application has been made. A majority recommendation is interpreted to be the same as an application by the individual or band concerned. Sub-section (4) of this section limits this forced enfranchisement to Indians or bands who do not have a treaty or agreement which would contra-indicate its validity. In the analysis of Indian briefs mentioned earlier, there was not a single favourable reference to enfranchisement, and it was suggested that compulsory enfranchisement should be eliminated. The Indian-Eskimo Association has said:

To 'force a person to be free' ... seems a contradiction in terms -- at least if we are dealing with adults who have committed

¹ The Indian News, May 1960, p. 3.
no wrong. And to force him in this way without his being heard seems contrary to natural justice.¹

It is fairly obvious that enfranchisement has little appeal to most Indians, and, although the number of Indians becoming enfranchised seems to have increased in the last twenty years, statistics do not tell the whole story. For example, in 1957-58, 673 Indians were enfranchised. Of these, 355 were Indian women who married non-Indians, and their children. Of the remainder, 169 were adult Indians, and the rest were their children. A wife, if living with her husband, automatically becomes enfranchised with her husband. Therefore, it would be theoretically possible that only 85 Indians out of 174,242 applied for enfranchisement:²

Position of Women

Historically, many societies have been slow to accord to women the same rights as men. This has applied to Indian as well as non-Indian women. In 1906 Indian wills were subject to the approval of the Superintendent General; they are now subject to the approval of the Minister. At the earlier date, the wife was eligible to receive one-third of her husband's estate "if she is a women of good moral character". (Section 26, 1(a) 1906). The Superintendent

¹ Brief, prepared by Indian-Eskimo Association for the Parliamentary Committee on Indian Affairs, Ottawa, March 1960, p. 25.

General was the sole and final judge of the morality of the women in question. (Section 26, 2, 1906) The position of the Indian woman has improved considerably since that time; but it was not until the new Indian Act in 1951 that they were allowed to vote in band elections. (Section 76(1))

Some inequality seems to exist in the enfranchisement clauses of the Act, whereby the wife and children of a male applicant automatically attain his status, unless the couple are separated or divorced. (Section 108) Of course there is some parallel to this with non-Indians, whereby wives have their husbands' domicile. The inequality shows more clearly in the case of an Indian woman separated from her husband, and who applies for enfranchisement. A previously quoted authority states:

... while the point is not covered in the Indian Act, the Department follows the policy of refusing an application for enfranchisement from an Indian woman living apart from her husband unless he consents to being enfranchised at the same time. However, consideration will be given to an Indian woman legally divorced from an Indian husband.1

The reason for this seems to be that the woman would not be able to live on the reserve if a reconciliation occurred after she became enfranchised. However, the opposite situation

1 Hawthorn, The Indians of British Columbia, p. 385.
could occur in the event of a separation between an enfran-
chised husband and wife. The quoted practice appears to
protect the wife's ties with her band, while Section 108
severs these ties.

By allowing women to vote in band elections, the
legislators not only rectified an unfair situation, but they
gave Indian women more status. Although women have often been
considered less than "persons" by many non-Indian cultures,
many Indian tribes were matrilineal and women were highly
considered. Since being given the vote, many of the women
have become activated, not only in the areas of health,
recreation and education, but also in local politics. By
May 2, 1960, there were ten women who had been elected as
chiefs and sixty-three as councillors. The recognition given
them by the above legislation has undoubtedly contributed
greatly to the increase in Indian Homemakers' Clubs. These
clubs, whose aims and objectives are similar to those of the
Women's Institutes, have significantly influenced activities
in many bands, and have given Indian women the opportunity
to display their capabilities, and to learn new skills.

**Liquor**

From the coming of the whites to Canada, Indians
were exposed to the influence of alcoholic beverages.
Because their cultural backgrounds did not prepare them for
the use of liquor, many Indians reacted strongly and strangely
to the "firewater". Because of alcohol's effect on Indians, a stereotyped image of the "drunken Indian" was created in the eyes of Indian and non-Indian alike. This stereotype has continued in more or less unchanged fashion to the present, and one still hears erratic intoxication described as "going Indian". The early settlers, missionaries and governors were quite concerned about the actions of Indians under the influence of alcohol, and used every measure at their command to control the sale of liquor to Indians. This amounted to total prohibition, and constituted the legal position of the Indian in regard to alcohol until 1951. In spite of the legal admonition against drinking, many Indians continued to obtain alcohol through bootleggers, white friends or enfranchised Indians. The attempted enforcement of total prohibition only contributed to the old concept of the Indian's inability to control his drinking.

Many Indians drinking overtly drink quickly, with resulting rapid intoxication. Indians believe that they are liable to a smaller fine if they are convicted of intoxication than if they are convicted of possessing liquor illegally; and many do not seem to be unduly worried about the possibility of conviction for intoxication. Since they cannot drink legally anywhere but in the beer parlour, their object is to consume as much as possible in the time available to them; in this sense the limitations of the law are a direct support of immoderate drinking.¹

¹ Hawthorn, The Indians of British Columbia, p. 379.
This statement was made after Indians were given the right to drink off reserves, if provincial laws allowed this; but it was even more applicable when Indians had to drink covertly. The liquor sections of the Indian Act have resulted in many arrests and added to the "lower-class" status of Indians.

As the above writers declare:

... offences to do with liquor constitute by far the bulk of Indian offences. This strikes us as being a thoroughly discriminatory blow at human liberties. Most Indian offenders, in other words, are indicted for offences that do not constitute offences for Whites.¹

The same writers deal with prohibition which has been advocated by some, including a substantial member of Indian leaders, as the only solution. In view of its ineffectiveness for the past eighty years, prohibition hardly seems a practical answer. It merely removes Indian drinking from public places, and does nothing to educate him or to assist him to adjust to the drinking habits of the non-Indian society.² On the contrary, it adds another burden to the Indian which makes him feel inferior. Undoubtedly, some form of social control will be required during their learning period, but this is something that Indians will have to learn eventually. In the same way that Indian councils will learn by their own mistakes, if

¹ Hawthorn, The Indians of British Columbia, p. 382.
² Ibid., pp. 382-383.
given more control over their affairs, individual Indians will have to face the consequences of their drinking activities. But they will be subject to the same laws and regulations as their fellow Canadians.

In 1956, after considerable pressure from Indian and non-Indian groups, Section 96A was added to the Indian Act, which permits provinces to grant full liquor rights to Indians on the same basis as for other Canadians. After the Attorney General of the province has made a proclamation, bands are allowed to vote, on a local option basis, whether they wish full liquor privileges or not. Ontario was the first province to take advantage of this new legislation (November 6, 1958), and by May 2, 1960, thirty-seven band councils had requested referendums. Apparently the legislators felt that this modified approach was more desirable than either total prohibition, or complete repeal of liquor sections in the Indian Act.

However, this moderate approach may be subject to the scrutiny of the courts in the near future. An important event relevant to this occurred this year (1961). On March 21, Magistrate E. Angman, of Lillooet, B. C., dismissed a charge under Section 94(a), dealing with possession of intoxicants off a reserve, on the grounds that the Bill of Rights superseded this section of the Indian Act. If this judgement withstands appeals to the Supreme Court of Canada, it appears that all sections which discriminate against Indians
It is not surprising that a number of Indian leaders have not favoured full liquor rights for Indians. The stereotype of the unreliable, drinking Indian, is envisioned as easily by the Indian as the non-Indian, and usually with more reason. Of six Indian briefs submitted to the Parliamentary Committee on Indian Affairs in August, 1959, only one asked that liquor discrimination be abolished. The other five were in favour of rigorous control. Many of the more responsible Indian leaders recognize the stereotype in the public mind, and wish to dispel this image. They seem to feel that educating their brethren to more acceptable drinking customs and habits would take too long, or that the educative period would only intensify the old stereotype, and interfere with Indian advancement in other areas.

Appeals

The Canadian Bar Association has made a study of the Indian Act, wherein it discusses certain aspects of civil liberties of Indians, which appear to retard the integration

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2 National Commission on the Indian Canadian, Unpublished Analysis of Indian Briefs to the Parliamentary Committee on Indian Affairs, August 20, 1959, p. 4.
of the Indian into Canadian life. The concept of "trespass" (Section 30) seems anomalous, and "has the effect of cutting Indians entirely off from the influence of their white neighbours whose presence upon the reserves from time to time would be likely to promote understanding between Indians and other Canadians." The Association felt that it was desirable to reconsider the concept of trespass on reserves. Section 32, which prohibits any transaction in the nature of a sale, barter or exchange of cattle, grain or other produce from reserves in Manitoba, Alberta or Saskatchewan without the approval of the Superintendent, receives special consideration. The statement declares: "At one time such a restriction might have been necessary to protect ignorant or gullible Indians. However, it would appear that the prohibition and restriction are today archaic and that Indians ought to be encouraged to enter into business transactions ... (this Section) places the Indian in the position of a second-rate citizen in that he can exercise virtually no civil rights in relation to property produced on the reserve without the concurrence of the Superintendent." The Association felt that this section should be removed immediately, but, pending removal, that appeals should be allowed by way of a summary proceeding. The sections in which "powers of a sweeping character" were exercised by the

1 Canadian Bar Association - Civil Liberties; Status of Indian Canadians. Unpublished, undated mimeograph received from the Indian-Eskimo Association, Toronto. Although undated, it is apparent that the sections considered are presently in force.
government, with little or no recourse to appeal by Indians, were Sections 30, 32, 34, 42, 43, 46, 47, 52, 64, 63 and 66. In some of these sections the government exercises the rights of a court, and in others exercises the rights of the Indians themselves. In the former case, the Association felt that the courts should be given their rightful duties; in the latter, that the bands should be invested with additional authority to accelerate integration.

(C) Social Assistance

Nowhere in the Indian Act does the federal government accept responsibility for the welfare of the Indians. There are a number of references which state that "the Minister may" authorize expenditures of capital or revenue moneys of the band for the benefit of the band. Section 66(2) allows the Minister to direct expenditures out of revenue moneys "to assist sick, disabled, aged or destitute Indians ..." without accepting the onus of responsibility. "Health and welfare services are offered to Indians as a matter of grace, and there is the expectation that Indians will look to their own community resources."\(^1\) In spite of the fact that the philosophy behind the Indian Act infers that Indians are not capable of handling their own affairs, and they must be protected from themselves and others, they are legally responsible for the

\(^1\) Hawthorn, The Indians of British Columbia, p. 387.
care of their own members. This contradiction in approach is mitigated by actual practice, but does little to clarify the situation of the Indian.

In the first chapter there were references to the thinking behind the Poor Laws of England. Some important aspects of this thinking were the concepts of familial kinship, and local responsibility, which also influenced residence requirements; moral weakness of the poor, inability of the poor to handle their own affairs, and the principle of "less eligibility". As mentioned above, the government expects that Indians will supply the necessary aid to their needy members. People versed in Indian custom would probably expect this more than others, since the kinship system had existed for many years with Indians. If the kinship system worked before, why is it not working now? Two reasons have been elicited. The first is that the Indian community is no longer self-contained and self-sufficient, as it was years ago. This allowed and encouraged kinship assistance. The second is that Indians have more and more observed and accepted the attitude and practice of other Canadians, that this responsibility lies properly with the local authority or the state. An insistence on kinship obligations has been destructive to the initiative of some Indians.¹ It seems fairly obvious that the concept of familial responsibility is tracing the same path with Indians,

as with non-Indians.

The legislators have predicated that the local authority is responsible for its members, if it has the necessary funds. This also seems to parallel public assistance growth in Canada. At the time of Confederation, there was little concern about welfare, and this responsibility was left with the local authorities. When welfare costs threatened local areas with bankruptcy, the provinces, and eventually the federal government, became involved. Because of the cost and complexity of welfare problems, local responsibility, which is just an extension of individual responsibility, became a social responsibility. Both the federal and provincial governments have in varying degrees, accepted the responsibility to help local areas, regardless of their assets. With Indians, the situation appears to be at the confederation level. If a band has sufficient funds, it is expected to pay for a large part of its welfare services. Although the poorer bands are supported in these services by the federal government, this is done as a matter "of grace", and not by a legislative acceptance of responsibility. Little wonder that the bands with assets feel they are discriminated against. This is "one source of the lack of ambition and responsibility so often noted." The idea of social responsibility must be accepted for Indians, both to improve the conditions of the poorer

1 Hawthorn, The Indians of British Columbia, p. 204.
bands, and to refrain from stifling the initiative of the more progressive bands.

The residence requirements in poor law times were varied, but all carried the implication that a community would not accept responsibility for other than their own. Indians have a similar situation, in that they must belong to a band in order to be helped by it. Length of residence is not a feature here, but when Indians move off the reserve they are faced with the residence laws of the province. In British Columbia, prior to the repeal of the Residence and Responsibility Act, residence of one year was required in a "local area", before a person became eligible for public assistance. This left Indians off the reserve in a very precarious situation. They were allowed, and in some cases forced, to return to the reserve, but often this defeated their attempt at integration into non-Indian life. Since the repeal of the Act the situation has not really been clarified. A person requires one year residence within the province, but apparently living on a reserve does not establish residence. Individual administrators continue to exert discretion in these cases, and no firm agreement has been made with the federal government in regard to responsibility. The author has been informed that negotiations are presently underway so that no Indian in need will be refused help. The prime concern here has been who will pay, and too often have needy persons been caught in the crossfire between local, provincial
and federal governments.

The concepts of the moral weakness of the poor, the inability of the poor to manage their own affairs, and the principle of "less eligibility" all seem to stem from a common core. This was discussed in the first chapter in the statement by Karl de Schweinitz which expounded that destitution was the result of moral depravity. This theory was expanded to state that the poor were lazy and shiftless, and would not improve even if given the chance. That this attitude has been prevalent, in varying degrees, in past relations with Indians should by now be obvious. More concern was exhibited about the moral life of the Indians than any other feature in the early reports of the Department of Indian Affairs. Partly because of this concern, Indians were not actively encouraged, or at times allowed, to manage their own affairs. Since it was assumed by others that Indians were not capable people, many Indians began to view themselves in the same way. This also occurred in Poor Law times in England, and it was not until a positive basis was enunciated -- that most of the poor could manage their own affairs -- that progress was attained.

In Canada the legislators have been loath to give relief in cash or by cheque. The main reason for this has been the fear that the recipient will waste his relief funds. For this reason relief was issued in kind for many years. The first inroad against relief in kind occurred in 1949,
when Indians over the age of 70 were given $8.00 a month, plus regular relief, if their income (inclusive of the allowance) was not over $400.00 per year. In 1950 this was raised to $25.00 a month, but relief was only given in emergencies. However, it was not until 1959 that relief in kind was finally discontinued, and this only after several pilot projects. In that year cash was given to 12% of relief recipients, and most of the remainder given "vouchers having a dollar value rather than vouchers itemizing specific quantities of food as formerly. The change will place more responsibility upon Indian parents and will do much to remove the stigma which was an inevitable feature of the former method." Improvement has been made, but the attitude still remains that the Indian must prove himself able first, and then he is given a chance to accept help with dignity. At the present time between 20% and 25% of relief recipients are being paid in cash.

"Relief", as applied to Indians above, means food assistance. It is rather difficult to make a comparison between the food allowance rates given to Indians, and that given public assistance recipients, because the latter varies from province to province. In other words, a comparison between levels of assistance to Indians and non-Indians in


British Columbia would not apply across Canada. The food allowance to Indians is uniform across Canada, and is not supposed to be higher than the public assistance rate in any province. Because the public assistance rate in British Columbia is higher than many provinces, the disparity between Indians and non-Indian levels of assistance will naturally be greater. However, the Indians of British Columbia do consider themselves residents of this province, and many of them undoubtedly feel the difference in rates to be discriminatory. Because the manner of classifying recipients for food allowances differs substantially, the only example which can be given is that of an individual recipient. Unfortunately, this is where the disparity is greatest. An Indian receives $22.00 a month for food while a non-Indian receives $34.00. This difference is certainly substantial when you consider that the non-Indian rate barely supports a person on a subsistence level.

Although this comparison may seem extreme it is validated to some extent by considering such categorical programs as Old Age Security, Old Age Assistance, Blind Person's Allowance and Disabled Person's Allowance. Indians are eligible for these programs on the same basis as non-Indians. It must be admitted that there is a disparity between the rates paid a non-Indian person of 64 and the non-Indian of 65. However, the disparity is far greater for an Indian than for a non-Indian. Little wonder that many Indians are confused and embittered by this situation.
In Poor Law times, and even to the present time, the principle of "less eligibility" has had many adherents. This principle enunciates that relief rates should never equal the wages a person might obtain by working, even at the lowest paid job. This principle is based on the theory that few men would work if they could attain a subsistence level without working. Hawthorn has some fears about this in regard to Indians.

The hazards of Indian life bring out issues in incentive not usually faced in the White community. The lack of opportunity to achieve equal living levels may breed defeatism and consequent reliance on unemployment assistance if it approaches adequacy.1

There is a danger that adequate allowances will cause further dependency. However, it is obvious that the past practice of trying to force people to support themselves by giving inadequate allowances also caused demoralization, as well as considerable suffering. This system did not work in Poor Law times, and shows little sign of success in application to Indians. A prominent American social worker discusses this subject in this way;

Experience demonstrates that the vast majority of the citizens prefer work, when it is available, to idleness, and are sufficiently influenced by the American mores, by their sense of family responsibility, by belief in the desirability of a high standard of living,

1 Hawthorn, The Indians of British Columbia, p. 394.
Indians are just as susceptible to these influences as non-Indians. If given proper encouragement, help and guidance, they are capable of attaining equality with their fellow Canadians. The analysis of their briefs to the Parliamentary Committee on Indian Affairs in 1959, previously mentioned, includes the following statement:

Secure to us the right to work and we will work. As grown-ups who have missed the better education now available to our children, do not write us off as beyond redemption or condemn us to a spasmodic employment and a pitiful Relief until we can be justified of our own children. It is all very well to say of our children that, with brains, luck and enterprise, they have the chance to educate themselves away from misery; but we cannot even raise these children or face the expenses of their higher education unless our own economic chances are sensibly improved.

Some period of adjustment will naturally be required, but after so many years of paternalism and second-rate treatment, Indians will require the faith and help of others, before fully gaining confidence in themselves.


(D) Child Welfare

There are only a few references to child welfare in the Indian Act, and there is no particular person responsible for the supervision of the welfare of Indian children. The references are primarily concerned with the education of children, guardianship of an Indian child's estate, and the support of children under certain circumstances. Otherwise, it is felt that Section 87 ("... all laws of general application ... in force in any province are applicable ... except to the extent that such laws are inconsistent with this Act....") should govern all other aspects of child welfare.

The prime facility used by the Indian Affairs Branch in child welfare is the residential school. In 1959 the Indian Affairs Manual stated:

Residential schools are particularly useful as a placement resource for neglected, abandoned, or orphaned children of proper age, as provincial resources for dealing with such children are limited.¹

Provincial resources for dealing with Indian child welfare problems are indeed limited, and many difficulties have been encountered in trying to place Indian or part-Indian children in white homes on a foster home or adoption-home basis.

It is not within the scope of this study to

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¹ Hawthorn, The Indians of British Columbia, p. 399. Both the quotation and the foregoing material come from the same source.
investigate all the ramifications of Indian child welfare. Because of the variety of child welfare programs from province to province, and because of the oblique references to child welfare in the Indian Act, it would be impossible to give a comprehensive picture as part of a study. In view of the importance attached to child welfare in Canada by the lay and professional public alike, serious consideration should be given to a separate study in this area.

It is possible, however, to make some cursory observations about Indian child welfare in this study. While provincial laws are felt to be in force in respect to child welfare, the decision of a stipendiary magistrate in Vernon, British Columbia, has cast some doubt as to the position of the unmarried mother. The summary of this case follows:

In Charlie v. Bonneau (1953), a paternity action, it was held that the Children of Unmarried Parents' Act, a provincial statute, was inconsistent with the intent and meaning of the Indian Act. The Court referred to Section 67(3) of the Indian Act which gives permissive power to the Minister to apply annuity or interest moneys of an Indian parent to the support of an illegitimate child. This was interpreted as a clear indication that the Indian Act makes provision for the maintenance of illegitimate children, and covers the same field as the Child of Unmarried Parents' Act.1

The same magistrate says that there is conflict between the

1 Hawthorn, *The Indians of British Columbia*, p. 400.
Indian Act and British Columbia's "Wives and Children's Maintenance Act" and the "Protection of Children Act", as well.\(^1\) This case, to the author's knowledge, has not been tested in a higher court. Considerable clarification might result if the judgement of the Supreme Court of Canada could be obtained. In the meantime, intergovernmental cooperation will certainly be necessary.

Until responsibility for Indian child welfare is specifically allocated, there are bound to be many instances where improper or incorrect procedures are followed. Both social workers and Indian superintendents are greatly overworked, and until they have a clear understanding of their duties and obligations, their activities will be relatively inefficient and ineffectual. One example of this is the indiscriminate use of residential schools as a child welfare resource. Some children can benefit immensely from a group environment, others may receive irreparable damage. The decision to send a neglected or orphaned child to a residential school must be made by the superintendent, a person untrained in such areas, and usually on the basis of expediency -- there is no other resource. Even if the choice is fortuitously correct, there is little guarantee that the officials in charge of the school are capable of providing

\(^1\) A Pilot Survey of Welfare Services to Indians in British Columbia - carried out jointly by Indian Affairs Branch and Social Welfare Branch in September, 1957, p. 21.
the proper environment. Undoubtedly, superintendents would be quite pleased to pass this responsibility on to more qualified persons. This situation occurs in non-Indian communities as well, but the ratio of social workers to clientele is far higher in the non-Indian communities. At present there are 9 social workers in Canada to look after over 179,000 Indians. Even if these social workers were exclusively involved in child welfare (which they are not), the level of service would be entirely inadequate.

This appears to be one of the reasons why Section 87 was included in the new Indian Act in 1951. One of the problems facing increased provincial participation in Indian child welfare has already been discussed. That there are other problems involved, seems to be indicated by the fact that only the province of Ontario has entered into any agreement to extend the services of Children's Aid Societies to Indian reserves (1956). Other provinces, such as British Columbia, provide child welfare services to Indians, but have not, as yet, entered into any agreement in this regard. In spite of these agreements, whether ad hoc or legislative, there is some suspicion that Indian children are still not receiving the same services as non-Indian children. Two examples are available to support this statement. The Executive Director of the National Commission on the Canadian

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Indian says:

In one instance I recall, a welfare agency not only was not doing what it had agreed to do, it hadn't sent any of its staff on the reserve. This was because they did not feel the per capita grant had been large enough.\(^1\)

Although this example is not very precise, the pilot survey in British Columbia previously referred to, substantiates that many Indian children are not being served.

Social workers and district supervisors are aware to some extent of this potential number of other Indian children requiring service but state they are unable, due to their very heavy case loads, to extend such services.\(^2\)

Many people, including social workers, feel that Indian children and adults alike, are, and should be, the sole responsibility of the federal government. Because of this, they are often loath to expend their already overburdened services to Indians. When the federal government insists on the efficacy of Section 87, the Indian is often left without adequate services.

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2 A Pilot Survey of Welfare Services to Indians in British Columbia, p. 87.
CHAPTER III

FUNDAMENTAL SERVICES: EDUCATION, HEALTH AND HOUSING

Education

In a participating democracy like Canada, education is an essential. Its importance, in the minds of Canadians, is exemplified by the fact that education has been compulsory for many years. It is a fundamental of any civilization, and considered a basic right of all Canadians. Most sections of public opinion assert that every person has the right to get as much education as possible. Too often, the desirability and necessity of education become merely verbal platitudes. The periods of unemployment encountered in the twentieth century are reflections of both inadequate educational facilities, and inadequate use of the facilities. Education promises more than economic equality, however. It can be a device which enables psychological security, with a heightened sense of self-worth, and a deepened understanding of self and others. It allows a person to actuate more of his potentialities in his struggle to find the most satisfying adjustment for himself and his community. These are vital matters -- without them a democracy will be hard-pressed to continue its existence.
As the twentieth century progresses, more and more persons will require technical competence and advanced training in order to make a living. More important than technical competence, both because of its inherent values, and because it is in danger of being submerged in technology, is the concept of "how to live". Both "how to make a living" and "how to live" will require the combined efforts of all Canadians in order that the democratic objectives of this country will be achieved. More and better educational opportunities and facilities must be provided, for non-Indian and Indian alike, to attain these ends.

While the future promises some difficulty for the non-Indian, the situation for the Indian is even more complicated. The average educational level for the Indian is far below that of the non-Indian. While a number of advancements have been made in Indian education, the gap is still wide. Although the Minister of Citizenship and Immigration said recently that "Canada could have a completely educated Indian people in two generations", Indian efforts will be subject to a double handicap. The first is that they are already behind non-Indians in educational attainments. The second handicap is that integration into the Canadian community, with its concomitant frustrations, disappointments and adjustments, will be occurring at the same time.

1 The Vancouver Sun, October 20, 1960.
Prior to the British North America Act, education for Indians was wholly provided by religious bodies. Even after the federal government was given responsibility for Indian affairs, residential schools, at least, remained under Church auspices. Although some of the annual reports of the Indian Affairs Department indicated an interest in education in the 1870's, it is not surprising that education was not considered highly significant. Many non-Indians were illiterate at that time, and education was not a requisite to successful enterprise. Of even more importance was the belief that the Indian race was vanishing, and that in a short time there would be no Indians to worry about. However, many superintendents have expended considerable efforts in encouraging education. Sometimes, it must be admitted, their efforts were thwarted by the Indians themselves.

It is necessary to consider several factors in order to understand the apathy and indifference about education displayed by many Indians, until recently. In most primitive societies, formal education is not a necessity. Mores, skills and attitudes are either handed down from generation to generation, or learned in day-to-day living. Indian cultures were well established in Canada prior to the advent of Europeans. Schooling was not required in order to earn a living, nor in order to know how to live. Settlement changed the Indian way of life, but it seemed to leave them in a "no-man's land". Old Indian cultures and economic activities
no longer sufficed; at the same time Indians could not, or would not, completely accept non-Indian ways. Doubts were cast upon the efficacy of old ways, but no satisfying alternatives were available. Formal education, as a means of solving this dilemma, was given little consideration. This was both because few people had much education, and because Indians were not felt worthy or capable enough for education.

This situation was compounded by the introduction of reserves, which effectively isolated Indians from the mainstream of Canadian life for many years. While reserves were serving as retreats and "isolation centers" for Indian adults, separate schools were serving the same function for Indian children. Until 1948, almost all Indian children were educated separately from non-Indian children. In other words, although education for Indians was considered desirable, they were not given the opportunity to get to know their fellow Canadians better, and become integrated as a part of their educational experience. The sense of separateness, and with it, a feeling of difference and inferiority, was therefore instilled in many Indian children at a very early age. Although many Indians were not cognizant of the fact that education is usually under provincial jurisdiction, most of them were aware that their children went to different schools, and were subject to different rules and regulations. This, coupled with other discriminatory measures, undoubtedly contributed to their feeling of being second-class citizens.
For many years, Indians were born, raised and educated apart from non-Indians. While the economy of Canada, as a whole, was changing from one of primary industry to one of secondary industry, Indians were still hunting, fishing or farming with outmoded methods and equipment. Often this was because of limited resources, but more often because of ignorance of the changes taking place in their country. Only as these changes have been experienced by Indians, and as they have wanted to share in some of the benefits of industrialism, have they been able to understand the necessity and desirability of education. Now, many Indian adults not only want improved education for their children, but want to supplement their own education as well.

Indian children were not only educated in separate schools, but they were subject to a different curriculum and many untrained teachers. Partly, this was because of the low expectations, by the educators and Indian alike, of many Indians achieving higher education. Partly it was because of economic considerations, resulting in the extensive use of unqualified teachers. For instance, in 1952-53, over forty per cent of the teachers in Indian residential schools were untrained. In 1954, the Department of Citizenship and Immigration began employing the teachers. Previously, they had been employed by church authorities, and in many cases, education was little better than "mission work", and not on line with regular schools. By 1958, untrained teachers still
composed 17.5 per cent of the residential school's staff.\textsuperscript{1} Although this is a considerable improvement, it is still a high figure. When one considers how often the residential schools are used as child welfare resources for orphans or children from broken homes, this figure becomes doubly significant.

One reason why difficulty is so often encountered in obtaining teachers for Indian schools, is that their salaries are lower than other teachers. Teachers are paid on a uniform salary scale across Canada while working in Indian schools, whereas there are wide wage differentials for teachers in non-Indian schools. Therefore, teachers in Indian schools will see a wide disparity in wages in some provinces and areas. Obviously, many of the teachers in Indian schools in these districts will not be as capable as those in non-Indian schools. This will likely continue until some form of decentralization takes place in the administration of Indian affairs.

For many years people have felt that, because of cultural differences, Indian teachers would be most suitable to teach their own people. Ostensibly, most of these teachers would have encountered many of the problems of integration, and would understand, better than most people, the difficulties their students would face as they grew up. The

\textsuperscript{1} \textit{A Review of Activities, 1948-1958}, p. 25.
practice of employing Indian teachers has been encouraged, and in 1959 there were 116 teachers of Indian status employed.\(^1\) This represents a considerable growth since 1953, when only 45 teachers of Indian status were employed.\(^2\) Although few figures are available to confirm the opinion, it appears that this program has succeeded in an uneven fashion. For example, in 1951, the principal and the eighteen teachers on the Six Nations reserve in Ontario were Indians.\(^3\) They represented nearly half the Indian teachers in Canada. In spite of the fact that the distribution of teachers of Indian status is uneven, the increase in numbers should be heartening. However, in case one might be inclined to feel that the use of Indian teachers is an innovation of enlightened modern thinking, it is only necessary to peruse the reports of 1875. In Region Four in Ontario, five of the fifteen teachers at that time were Indians.\(^4\) If this ratio had continued to the present day, the position of Indians would undoubtedly be altered.

In 1948, a special Joint Committee, of the Senate and House of Commons, on Indian affairs, recommended:

... the revision of those sections of the Act which pertain to education, in order to prepare Indian children to take their places as citizens. ... wherever and whenever

\(^1\) A Review of Activities, 1948-1958 (Supplementary Information May 2, 1960), p. 4.
\(^3\) Canada Year Book, 1951, p. 1158.
\(^4\) Canada, Department of Indian Affairs, Annual Report, 1875, p. 11.
possible Indian children should be educated in association with other children.\(^1\)

Since that time, considerable progress has been made, not only in the enrollment of pupils, but in the attitudes prevailing between Indians and non-Indians.\(^2\) Many Indian children compare favourably with their non-Indian peers in scholastic endeavours. This has not only been a source of satisfaction for the individuals concerned; it has served as an incentive for other Indian children.

There has been a substantial increase in the number of Indian children attending school in the past ten years or so. Total enrollment of children has almost doubled since 1948, and almost 25 per cent of these children are attending non-Indian schools. The Indian Affairs Branch seems to be aware of the importance of education, and has concentrated much attention on it. Although the percentage of Indian children receiving secondary education, vocational training, and professional courses is still extremely low, the trend is encouraging. To stimulate an interest in higher education, a number of scholarships are available to outstanding students.

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2 The writer has spoken to Indians and non-Indians in one reserve area where integrated schooling had been underway for some time, and was impressed with the mutual satisfaction and understanding expressed.
In discussing Indian education and increased enrollement in schools, it is necessary to mention Family Allowances. Many observers believe that the increase is entirely due to the Family Allowance requirement that children must attend school. To an extent, this is probably true. However, some Indian parents required the help of their children to meet family needs, and Family Allowances were an agreeable substitute to the efforts of their children. Others were willing to accept the compulsory aspect of Family Allowances in return for the money itself. Compulsion in regard to education generally has been long-standing in Canada, is not an issue in itself, and need not be discussed here. The fact that some Indian parents responded to Family Allowances as sort of a "bribe", to make their children attend school, is explained by their apathetic attitude towards education. It is to be hoped that, with increased education, and the opportunities and status concomitant with this, these Indian parents will cherish education for its own inherent values. It should surprise few persons, with good historical perspective, if this process takes several generations to run its course.

That many Indians have developed a deeper appreciation of the merits of education is seen in the considerable emphasis given adult education in the past few years. Adult education is not new to Indian affairs; in 1877, teachers, who were also knowledgeable in farming, were sent out to help educate Indian
adults in both practical and academic matters.\(^1\) Either these earlier programs were unsuccessful, or else they were abandoned for other reasons, because a survey in 1956 showed a considerable degree of illiteracy among Indian adults. Since that time, a specific program, based on UNESCO methods, has been adapted. This program was restricted to 11 centres on a trial basis. At the same time, numerous vocational training courses have been established.\(^2\)

From all reports, the Indian adults appreciate these advances, and the programs will probably be expanded as the need arises. However, a number of the bands have requested a different kind of adult education.

They want opportunities presented to them for a guided study of the Indian Act, with copies available to the members. They want to be able to understand, within the context of the wider Canadian society, the changes which are occurring; they want to ask questions about these changes and, with the help of background information, to be able to assess the answers which are given.\(^3\)

These Indians wish to know more about themselves, their status and their relationship with other Canadians. After requests

\(^1\) Canada, Department of Indian Affairs, *Annual Report*, 1877, p. 7.


\(^3\) National Commission on the Indian Canadian, Unpublished Analysis of Indian Briefs to the Parliamentary Committee on Indian Affairs, August 20, 1959, p. 3.
of such basic relevance, it almost seems facetious when only "selected bands" are allowed to form school committees, especially when responsibilities are limited to such things as truancy and care of school property.\(^1\) The continued use of "trial groups" and "selected bands", indicates that the Indian Affairs Branch still does not feel that Indians are ready for the "advances", which are a part of everyday living for most Canadians.

However, on the whole, the education program seems to reflect the desire of the Branch to help Indians progress to the point where they can fully assume control of their own affairs. Integrated schooling is a prime requisite in this regard, and further expansion should be continued. More encouragement and emphasis must be placed on higher education, and such aids as scholarships, bursaries and living allowances increased, so that every Indian student with the capacity and desire will be able to get as much education as possible. While vocational courses are important and more are needed, the variety in Indian skills and interests should be stimulated. Totem poles and native crafts attest to the cultural creativity of Indians; surely not all of these talents have been submerged by the dominant majority? Encouragement in the "Arts" could rejuvenate racial pride while providing an outlet for creative self-expression.

\(^1\) A Review of Activities, 1948-1958, p. 27.
The emphasis on education by both the Indians and the Branch augurs well for the future. However, optimism should be tempered by the following statement which applies equally to Indian-Canadians and Indian-Americans:

The problem of imbalance between land resources and Indian population makes it increasingly necessary for a large percentage of Indian adults to look for employment beyond their reservation.... However, the problem today is not merely finding a job but finding a job that matches outmoded skills. Because of lack of educational opportunities in their youth, or, in some instances, because of failure to take full advantage of the opportunities that were available to them in their youth, most Indian adults living on Indian reservations today are under-educated by comparison with the general population of the country. As industry becomes more and more one of automation, their chances become less and less.  

Although automation will significantly affect non-Indian unskilled labourers, there is an admitted gap between the average level of education attained by Indians and non-Indians. The gap is being closed but will require even greater acceleration in the next ten years.

Many people, including Indians, believe that only with improved education will the Indian ever attain equality with his fellow Canadians. This is undeniable, but the education will have to consist of more than formal schooling.

In the educational process, both Indian and non-Indian alike will have to foster a deeper understanding of themselves, and each other, before true equality will be achieved.

Health

Ever since settlement in Canada began, health and disease have been a major problem for Indians; and consequently for those who manage the affairs of Indians. Indians were highly susceptible to such diseases as smallpox, tuberculosis, diphtheria and typhoid, and staggering numbers of Indians died from these diseases. The depletion of the Indian population was so severe, and widespread, that Indians were thought of as "the vanishing race". By 1900, it was estimated that the Indian population was about half the total it had been when Jacques Cartier first came to Canada. In the twentieth century, this trend has been reversed, and the number of Indians in Canada is now approaching 180,000.¹

The reversal of this trend can be greatly attributed to the increase in the quantity and quality of Indian health services, which have made extensive use of the advances in medical science.

It was not until the 1920's that the new trend was particularly noticeable. This is commented on in a report by the Indian Health Services:

... efforts to develop a health service were sporadic up to 1927 when the present organization began to take form. Prior to that date, and from the first migration to this continent, commendable but uncoordinated efforts had been made to improve the health of the native peoples by good-hearted men and women, missionaries and the surgeons of the Imperial forces.¹

Undoubtedly, the decrease in infant mortality and deaths from such diseases as tuberculosis, smallpox and diphtheria can be attributable to increased organized health services. Unfortunately, it was two or three hundred years late in beginning. A Superintendent of Medical Services had been set up in 1905, but the venture had been unsuccessful.² Why this venture failed, and the 1927 effort succeeded, is not known to the author.

In 1945, Indian Health Services became part of the Department of National Health and Welfare. As such, it became involved in a national approach to health problems of Canadians, whether Indian or non-Indian. This resulted in constant interaction with other professional personnel concerned with health, and resulted in a mutual exchange of information and oftentimes, service. Relationships with provincial authorities were facilitated by the new Dominion-Provincial health programs. Two features seem to distinguish

¹ Indian Health Services, Annual Report, Department of National Health and Welfare, 1949, p. 104.
² Ibid., 1956, p. 84.
Indian Health Services from Indian Affairs Branch. The first is that health has been conceded to be a field in which professional training and competence are required. The second is that a considerable degree of decentralization has taken place, allowing activities to be based more on local conditions.

Although Section 72(g) of the Indian Act states that the Governor-in-Council may make regulations "to provide medical treatment and health services for Indians", there is no statutory obligation to provide these services. The health services were developed "as a voluntarily assumed moral obligation on the part of the government, to provide assistance to a more primitive people and to protect the new inhabitants from epidemics which might explode in a population not previously exposed to the diseases of Europe."[1] This moral obligation has always, in some degree, been accepted by the federal government. The response, arising out of this acceptance, has often been lacking in both quality and quantity of services. Even today, the service is not entirely adequate.

Some bands dispute that only moral obligations are involved. The Indians of British Columbia, for example, cite Article 13 of the terms of union by which British Columbia joined the Confederation. In this article the federal government agreed to take over Indian care. A spokesman for British Columbia Indians has stated; "We interpret the word 'care'

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as including medical, educational and welfare care."¹

According to Dr. P. E. Moore, Director of the Federal Indian Health Services, the justice department has ruled that Indians have no more right to free medical services than other Canadians.² However, many Indians and others interested in Indian affairs have indicated that this ruling will be appealed.

Public health measures, preventive medicine and health education are readily available to all Indians. There are, however, three criteria which determine eligibility for medical treatment. They are:

1. The person must be an Indian within the meaning of the Indian Act.
2. He must be following the Indian way of life, e.g. living on a reserve or away less than a year.
3. He must be financially unable to arrange appropriate treatment himself.

These criteria are taken from an Annual Report of the Indian Health Services, and are supported by the following statement:

It is the avowed intention of every agency of government to foster a sense of self-sufficiency and independence in these

¹ Kelly, Peter, Dr., Vancouver Sun, Jan. 30, 1961.
² Vancouver Sun, March 22, 1961.
people — to advance them to the stage where they can if they wish assume the full privileges and responsibilities of citizenship. On the other hand, there are many Indians who may be unable to arrange proper care for themselves and their families. The hospital and medical expenses of these people is considered a just charge on public funds, but a balance has been attempted between over-paternalism and rejection.¹

For this reason, Indians who are financially able to pay for treatment are expected to do so. Unfortunately all health service personnel and Indian superintendents do not interpret this statement in the same way. Since the Superintendent has the task of deciding eligibility, there are numerous complaints about favouritism and prejudice. The regulations governing Indian Health Services allow considerable flexibility. The discretion given local authorities has resulted in marked advancement in areas administered by progressive individuals; progress has been slower in other areas.

The Indian Health Service is justly proud of its efforts in detecting and treating such diseases as tuberculosis. Tuberculosis has been an anathema to Indians for years, and half the patient days in hospital are for the treatment of this disease. Since 1955, there has been a rapid decrease in the number of Indians under treatment for tuberculosis. In 1955 there were 5,900 Indians receiving treatment,¹

¹ Indian Health Services, Annual Report, 1957, p. 76.
while in 1958 there were less than 3,500. Obviously the efforts have been highly successful. One other criterion of this success, and of considerable significance, is that many tubercular Indians now request service.

Before the formation of Indian Health Services in its present form, many individuals and groups contributed significantly to the health needs of Indians. This non-departmental aid has been encouraged, and very effectively utilized, by the Indian Health Services. Because staff and bed shortages still remain, and because transportation difficulties are numerous in many areas, help from outside the Service is essential. This not only supplements the Indian Health Services, but could engender, in Indians, a feeling of equality with non-Indians in the area. In this regard, it would appear desirable to expand the use of outside services wherever possible.

Although Indian health services, on the whole, seem to be fairly adequate, there are some complaints. Recently a furor was aroused in northern British Columbia, when a department dentist made extractions without parental permission. The school principal said the treatment was in marked contrast to that given the white children. In another case an Indian was unable to obtain medical treatment for his sick

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1 Canada Year Book, 1960, p. 205.
2 Vancouver Sun, Jan. 1961.
child at two different hospitals. Although these may only be isolated examples, they highly influence the attitude of the public, in general, and Indians, in particular, towards Indian health services. Indians have become so accustomed to receiving treatment different from their fellow Canadians, that it is not surprising that they attach particular importance to these incidents.

Hawthorn recommends that comprehensive medical care should be given Indians. Although the reasons for this recommendation are not entirely convincing, the idea merits perusal. The reasons given are that this is an age of extension of medical care, the means test is difficult to administer, the administrative machinery is already set up for comprehensive medical care, and the hazardous health situation. Although all of these reasons have practical significance, the hazardous health situation, coupled with the general low income level of Indians, seems most important. Free comprehensive care for Indians would be a privilege not enjoyed by other Canadians. However, the Indian health situation is far worse than the general Canadian scene, especially in regard to communicable diseases. It would appear to be enlightened self-interest, on the part of all Canadians, to see the Indian health situation improved, even if this meant free medical care.

1 Vancouver Sun, March 22, 1961.
The question of privilege has some precedent in Veteran's Affairs, which generally enjoy public support.

**Housing**

Nothing more portrays the social and economic status of people than their housing, their neighbourhoods, and general amenities. On the whole, Indian homes display more vividly, and in a material fashion, the conditions under which they have been forced to exist. These houses reflect not only the despair and hopelessness of their inhabitants, but also the lack of respect and concern by those charged with the responsibility of caring for Indians. Because the public is generally aware that this responsibility lies with the Indian Affairs Branch, the condition of Indian housing is often directly attributed to the Branch. In recent years the government has become keenly aware of this, and has delegated great importance to improved housing on Indian reserves.

Because many Indian bands were originally mobile, housing occupied a rather unique position in their history. Since it was necessary for them to move from place to place in order to obtain necessities through hunting and fishing, permanency in shelter was not a factor. That their arrangements in regard to shelter were satisfactory, is seen in the way they taught the European newcomers how to survive in a primitive country. However, the depletion of natural food sources such as the buffalo, and the introduction of the
reserve system, rendered them relatively immobile. Having had little experience in the proper construction of houses, and attaching little importance to a permanent home, many Indians had quite inadequate shelter. Although a number of Indian agents tried to encourage Indians to adopt conventional housing, some of them preferred to live in tents or root-houses. On the whole, most Indian housing was relatively poor. Because of the declining population, housing was not considered a serious problem, and there was a tendency to "make do" with the present housing.

When the population began to increase, the situation became much worse. More and more people were crowded into the poorly built houses, and the rate of deterioration increased. These living conditions not only accentuated and contributed to a hazardous health situation, but also engendered a considerable debasement of spirit and morale. Too often have Indians been informed, by word and deed, that they were not worthy of the same consideration as other Canadians. To many people, the deplorable housing conditions were the epitome of all the discriminatory measures against Indians.

It appears that the Branch was virtually forced to improve services in this area. In ten years, after over eleven million dollars was spent on building over nine thousand new homes, and almost two million dollars expended on repairs to over twenty-two thousand houses; twenty-nine per cent of
Indian homes were still considered poor. It is obvious that housing was in a critical state at the beginning of this program, and that much improvement remains to be done. The housing situation is further compounded by a number of factors. The first is that the Indian population is increasing at the cumulative rate of approximately three per cent per year, which is considerably higher than the Canadian average. Another factor affecting housing, is that Indians are more and more accepting the custom, observed in other Canadians, of the conjugal family living apart from parents. A third factor is that many Indians look upon housing as an important indication of their standing, and are no longer satisfied with previous standards. Because of these factors, and because the present situation is quite unsatisfactory, housing is bound to occupy a position of considerable importance for a number of years.

For those who consider that Indian housing reflects the desires and the way of life of its inhabitants, there are several points to be considered. Since most reserves are unmarked, it is often impossible to distinguish between Indian and non-Indian homes where a reserve adjoins a village. In many cases, some of the Indian houses are far more presentable than non-Indian houses in the area. However, on the whole,

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1 A Review of Activities, 1948-1958, pp. 16-17.
2 Ibid., p. 2.
most Indian homes are of poorer construction and standard than non-Indian homes. The most important consideration, though, is whether these homes reflect the desires of the Indians who live in them. Because twelve people live in one room does not mean that they enjoy or want this type of accommodation. Most Indians would like better housing. Hawthorn comments on this:

> Many ... now hold as an ideal something like the middle-range White standards of comfort and furnishing.\(^1\)

Although some Indians are satisfied with rather primitive conditions, most of them desire standards comparable to that of non-Indians. Limited resources are as much a reason for poor housing on Indian reserves, as for poor houses in "blighted areas" in urban Canadian centres.

The Indian Affairs Branch has been highly cognizant of both the poor houses and the limited resources. The previously mentioned housing program is a reflection of this awareness. On the other hand, it has also been suggested that, by fulfilling the housing needs of Indians, dependency may be encouraged. The approach of the Branch is seen in the following statement:

> In the field of housing, financial assistance is provided for the construction of new homes

\(^1\) Hawthorn, *The Indians of British Columbia*, p. 43.
and for repairs. This supplements rather than replaces the contributions of the Indians themselves, the form of labour, materials and money, and the assistance available to them from their Indian Band Funds, Veteran's Land Act Grants, and other sources. In recent years, for every dollar contributed by the Indian Affairs administration, there has been on average an equal contribution from the Indian householders and the other sources noted above.

Although the aim of supplementing Indian contributions is commendable, it has not always been successful in practice. Indian superintendents have tremendous power and influence in certain aspects of administration within their agencies. Because individual attitudes differ, many different methods are used to ensure that Indians contribute in some way towards better housing. Some superintendents are mainly concerned with the appearance of the houses on the reserves; some are solely concerned with the present welfare of the Indians on the reserves; some are future-oriented and feel that poor housing is better than increased dependency and further paternalistic expectations. Because of the variety of methods utilized, many bands feel discriminated against when their housing program differs from that of a neighbouring band.

It is known that the Indians appreciate the improvements in housing, but the improvement in some houses has only

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1 The Canadian Indian, Department of Citizenship and Immigration, 1959, p. 16.
accentuated the condition of the remainder. This is com-
pounded by the fact that "though many old people on the
reservations now have decent homes, the younger married
couples with families do not, yet it is precisely this group
which is to make the future."¹ This indicates that Indians
feel they have a right to decent housing, and are concerned
about the future -- if this need is not met. Admittedly an
over-all approach is difficult, and will probably foster
further dependency on the part of some Indians. However, a
number of factors should influence the administration of the
building program.

One factor is that a substantial number of Indians
are living in poor houses. Some houses are so poor that
changes should be made whether the inhabitants become more
dependent or not. When ministering to a patient in critical
condition, a doctor rarely cares whether his patient will
become dependent. Some Indians have given up hope, and it
takes more than the promise of better housing to stir up a
desire for independence. It is to this group, the aged,
disabled and destitute, that the Indian Affairs Branch has
given top priority. These Indians are highly dependent now,
but they are still human beings. By helping them obtain

¹ National Commission on the Indian Canadian, Unpublished
Analysis of Indian Briefs to the Parliamentary Committee on
Indian Affairs, August 20, 1959, p. 2.
decent houses, some initiative could be encouraged. After many years of encouraged dependency, it is natural that some Indians will be incapable of becoming independent. As human beings, they are, at least, deserving of decent shelter.

Assuming that a decent, not ideal, level of housing is the right of Indian and non-Indian alike, there are still problems. Two factors of extreme importance are seen in the approach of the Indian Affairs Branch to housing; (a) the constant fear of fostering dependency in Indians, and (b) the lack of planning in the program. Some mention has already been made about the question of dependency in certain groups, such as the aged and disabled. However, the practice of "painting all Indians with the same brush" is even seen in housing. This negative approach is once again in marked contrast to the treatment afforded other Canadians. For example, almost all improved housing in Canada, since World War II, has been subsidized by government expenditures. The Defence Department builds houses at one hundred per cent cost to the government, and little concern is evinced that this is breeding dependency. Few people in Canada are in the position to pay cash for their homes, and subsidization in this regard has become an accepted fact.

The lack of planning is extremely apparent in the Indian housing program. In most cases, the approach is piece-meal in nature, with houses being repaired or built one at a
time. All housing experts agree that piecemeal planning is hopeless. There must be projects, and the plan must include more than merely housing needs. More than a building is required for a home, and more than a group of buildings is required for a community. Housing experts are highly cognizant of this. Amenities such as schools, churches and community halls, along with the basic utilities, contribute to the success of any community. A piecemeal approach will never achieve these aims or objectives.

Even when the Branch has allowed or encouraged development on a reserve as a whole, the lack of foresight and overall planning is evident. An excellent example of this occurred recently on the Mission Reserve in British Columbia.

The Squamish Indians ... voted some $175,000.00 from their band funds to be used for housing purposes. As a result a number of old and discarded wartime houses, formerly used by the shipworkers during the war, were purchased ... (A study) ... was done during the winter of 1954. When the results were compared, it became obvious that while individual families are somewhat more comfortable, the Mission Reserve is still a congested, overcrowded and disorganized community. The need for new housing, a new village, and a fresh approach still remains, unaltered by the expenditure of $175,000.00 of Indian funds.¹

This example is indicative of what occurs when a piecemeal

or unplanned approach is used — money is wasted, conditions are only minimally improved, and status and morale are further depressed.

What makes this example particularly significant, is that a plan was available, which could have given new houses to all these Indians as well as utilities, a school, a community hall, and a utility block, at approximately the same expenditure of band funds. The plan was submitted by Dr. Leonard Marsh of the School of Social Work at the University of British Columbia, based on a survey conducted in 1950-51.¹

The plan included provisions for the present and future needs of the inhabitants, and allowed for the program to be implemented in three stages. In reality, it was a blueprint to transform a conglomeration of dirty, dilapidated shacks into an attractive "live" community. Into this plan, was incorporated the idea that a housing project is more than a replacement of buildings, and that band and individual talents and abilities could be exercised and nurtured as part of the building plan. Band experience and responsibility would be built as well as buildings. Two methods of financing the project were offered, both of which required federal government participation. Neither of these methods required that the

federal government grant an amount equal to the contribution of the band itself. The project was unaccountably dropped, and the situation on the Mission Reserve remains poor to the present day.

The idea of requiring Indians to contribute to the housing program in the form of materials, labour and money, as a safeguard against dependency, also appears to suffer by the piecemeal approach. Many Indians, like many non-Indians, have no skill or experience in building houses. Consequently, many of the houses built in this way are little more than shacks, and the result is a perpetuation of the problem. A planned approach within reserves would allow for the utilization of both skilled and unskilled Indians. This would emphasize band cooperation and responsibility, and could result in increased participation and incentive. Dr. Marsh argues that:

If housing is really to be improved, it must be done thoroughly. The only hopeful method is one which (a) will ensure that a family starts a new lease on life in a well-built, adequately-equipped home; (b) will make clear that the house is part of a community, not an isolated cabin in the woods, and (c) will enlist the incentives of community solidarity, mutual aid, and competitive example.

The piecemeal approach, and the negative approach, can only result in superficial and short-range improvement. This has

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been borne out in experience in Indian housing. The only successful programs have been on reserves where band participation and cooperation have been enlisted and encouraged. Some superintendents have been quite successful in helping bands establish cooperatives, build saw-mills, and use band timber to alleviate housing conditions. In this way, not only is better housing obtained at a lower cost, but band participation and interest is stimulated. The building program results in increased independence rather than dependence.

This is not possible on many reserves. How can other Indians be helped to achieve the same results? This question might best be answered by considering how other Canadians acquire homes. Since very few people are financially in the position to pay cash for houses, the average Canadian either rents a house or buys his home on credit. The Indian is in a different position. Very rarely are there any homes to rent on a reserve, although an increased building program might make this possible. The only resources, at present, for Indians wanting credit to purchase a home, are band funds and Veteran's Land Act grants. These resources are not available to many Indians. Although a loan scheme to assist housing on Indian reserves has been discussed for years, it has not been established as yet. The author has been unofficially informed that legislation to this effect will be enacted this year, and it would appear to be highly desirable.
There are many Indians who, despite their limited resources, prefer to live in their present homes or wait for the creation of a loan fund, rather than request help from the local superintendent. For some Indians this is a matter of personality, but for many it is the desire for independence. The want to own their houses, and to have the freedom to plan, alter, and dispose of the houses as they see fit. Although Indians have full usufruct in houses built completely or partly by Branch appropriations, there are certain restraints. Houses built for aged persons usually revert to the Branch, for reallocation, on the death of the inhabitants. As far as is known, the Branch retains an equity in the other homes in order to control resale.\(^1\) The Indian is restricted enough in property matters (he only occupies his portion of the reserve, he cannot sell his house to a non-Indian) without this added control by the Branch. If more Indians could be encouraged to obtain full equity in their homes, a sense of ownership and self-respect could be stimulated. The author has spoken to a number of Indians about this. They have said that if they were able to take advantage of the National Housing Act, they would not be forced to "beg" for help from the Superintendent. These Indians felt that they were being compelled to accept charity, and that the housing program made them even more dependent on the whims of the Superintendent.

\(^1\) Hawthorn, *The Indians of British Columbia*, p. 239.
The object of the Branch is to alleviate substandard housing conditions. However, all superintendents are concerned with the question of dependency, and this enters into most decisions concerning housing. Unfortunately some Superintendents are more concerned about dependency than they are about housing. Because of their fear of creating more dependency, they are timid to new approaches to housing and community experiment which may be available. On the whole, the housing program represents an unplanned, piecemeal approach, based on negative precepts. Planning and an overall approach are essential, and the guidance and consultation of housing experts would be invaluable. Indian housing must be subsidized, but the program should be utilized to help the Indian attain, not only improved housing, but a more satisfying and meaningful life.
Any study of the Indian Act may be logically divided into two eras; from 1876 to 1951, and from 1951 to the present. The former era covers the period of time from the original Indian Act to the new Indian Act. The original Act was largely based on two postulates. The first is that Indians were primitive, backward people, who were not capable of handling their own affairs, and must be protected from themselves and others. The second postulate was that Canadian Indians were all the same, and that one Act could apply to all of them. These postulates were perhaps supported by a comfortable belief that passive, dependent Indians were safer to have in the country than active, independent Indians. Until the late 1920's, it was also believed that the Indian race would soon be extinct. It hardly seemed reasonable to expend much time or money in helping Indians achieve independence and self-sufficiency, when so few of them would be around to enjoy it.

However, when the Indian population began to increase instead of decrease, a dilemma arose. For many
years Indians had been encouraged to accept the paternalistic care of the government. After this heritage of paternalism, could Indians now be convinced that they would be better off without it? Even if they could be convinced of this, were they capable of assuming control over their own affairs, and adequately discharging the rights and duties of citizenship? If they were capable of controlling their own affairs, should they be encouraged to continue living on reserves, or should the emphasis be on integration with the rest of Canada? These questions, and many more, faced those charged with the administration of Indian affairs. There appears to have been some lag between the reversal of the population trend, and a changed approach to Indian problems. Partly, this may have been due to the depression in the 1930's, and to World War II; partly, it may have been the reflection of resistance to change in a well-entrenched institution. Whatever the reasons, it was not until the late 1940's that a constructive approach was begun.

In order to clarify the position of Indians at that time, and to make future plans, a special Joint Committee of the Senate and House of Commons completely examined Indian affairs during the parliamentary sessions of 1946, 1947 and 1948. Changes were required -- the old Act was repealed, and a new Act brought into force in 1951. The most significant feature about the new Act is that the legislators made allowances for bands to have more control over their own
affairs. But as this study has already indicated, there is a strong inference in the legislation that most Indians are not capable of handling their own affairs. Numerous restrictions in the Act testify to this. Attitudes die hard, but the legislation also concedes that some bands are capable of attaining an "advanced" position.

What have been the results of this new Act, in the ten years since its inception? Beyond question, great improvements have occurred in education, health, housing, and population growth, although Indians still lag behind non-Indians in these areas. There have been improvements in child welfare, public assistance, and an extension of the citizenship rights of Indians. Although all of these improvements may not be directly attributed to the new Act, or subsequent amendments, many of them reflect a more optimistic attitude towards Indians. In spite of the fact that Indian bands, or individuals, have to prove themselves worthy of some ordinary Canadian rights, there have been numerous requests by Indians for more responsibility in controlling their own affairs. They are willing to be tested, even though the average Canadian would rebel at any such suggestion for himself. Basically, the attitude remains that most Indians are not capable of managing their own affairs.

In this regard, some changes may be forthcoming in the near future. For the past three years another Joint Committee of the Senate and House of Commons has been
examining Indian affairs. Although the specific recommendations of this Committee are not known, a recent newspaper article indicates some areas of interest. One statement of relevance is:

The Indians generally demand a greater voice in the direction of their affairs through a transfer of authority and responsibility to band councils and a lessening of the control and authority of the governor-in-council, minister, and administrative staff.

Another runs:

It was also the consensus that the band councils ought to be given greater encouragement and opportunity for administration of band funds and that they should be allowed to make mistakes, for only in that way can real experience and responsibility be developed.

In order to prepare themselves for these responsibilities, Indians want leadership training; they seek courses in bookkeeping, sanitation, community planning and welfare matters. This would certainly indicate that Indians not only want more responsibility, but have some realization what this added responsibility entails. It is to be hoped that their requests will receive the understanding and support of the legislators.

Although the new Indian Act, and subsequent amendments, represent a somewhat enlightened approach to Indian

1 Vancouver Sun, April 18, 1961.
problems, there is room for improvement. It is not the intention of the author to submit a list of technical suggestions, which can be applied to such programs as health, housing, etc. These specific programs are often successful or unsuccessful, not because of their objective merits or demerits, but because of the way in which they are implemented. A new approach is required — an approach which is primarily attitudinal.

To begin with, Indians must be considered as human beings and worthy of respect and dignity as such. Secondly, they are Canadian citizens, and should be given as much consideration as other Canadians. To say that Indians must be considered as human beings may appear facetious, but the conditions under which many have been forced to live belie this. The pauperized condition of many Indians is not the result of free choice. The citizenship of Indians has been more preached than practised. They were not even given the federal franchise until 1960, and in many ways they remain "second-class citizens". Unless these basic considerations are given credence and acceptance, any program will only result in superficial gains by the Indians.

Another factor of pertinence is that there has been a tendency to stereotype Indians. The Indian Act applies to Indians across Canada, but even within one province, different bands and individuals have tremendously varying problems. There are as many differences between various bands
as there are between Indian communities and non-Indian communities. This is not to suggest that the Indian Act be abolished — this is neither possible nor desirable at the present time. It is merely to suggest that, when amendments are being considered, or policy formulated, the varying needs of different Indians be considered, and some allowance made for local conditions. This infers legislation in very general terms, which allows considerable discretion at the local level. Staff use of this discretion and influence on programs will be discussed later.

The negative approach of Indian legislation has been often mentioned in this study. A corollary to the attitude that most Indians are not capable of handling their own affairs, has often been that Indians don't even want to improve their condition. It does not require any special social work convictions or expert knowledge of psychology or education to assert that few people, Indian or non-Indian, are likely to improve in this kind of atmosphere. The non-Indian belief that Indians are incapable of improving on their own, and that they are low-status people, has been incorporated in the attitudes of many Indians. The improvement that Indians have made in the last ten years, and their demand for further responsibility, should indicate not only their willingness to assume more control over their own affairs, but their ability as well. Although some bands will establish effective control slowly, they should be judged not on their
ability to succeed, but their ability and willingness to learn and to try. Social work experience, with children of immigrants, has shown that many changes are possible within the span of one generation, if the incentive to try is stimulated and encouraged.

Indians have been highly influenced by non-Indian expectations of failure. Could they not be as highly influenced, in time, by non-Indian expectations of success? If Indian weaknesses can be thought of as undeveloped skills, then the logical approach is to help them develop these skills. If they are thought of as inherent racial traits, what positive steps are available? It must be remembered that this will not be accomplished in a short time, and allowance must be made for temporary failure. It is obvious that more has been done in the last ten years in Indian affairs than in the previous seventy-five years. Much of this has been due to a change of attitude, and the future holds many more gains if this attitude can be further liberalized. Incorporation of this positive approach into legislation, with its increased expectations, would mitigate the feeling of discrimination held by many Indians, and encourage them to face the future with higher dignity and greater hope.

Indian Affairs Personnel

Regardless of how enlightened legislation may
become, it undergoes a transformation in policy formulation and in practice. The intent behind enlightened legislation can be distorted in the hands of ultra-conservative administrators and policy-makers. By the same token, reactionary legislation can often be made human by sensitive and understanding administrators. In many cases, the present legislation is being interpreted on the basis of the attitudinal approach recommended above. However, other administrators and superintendents interpret the present legislation in its negative aspects. A well articulated, philosophical and attitudinal approach must be understood, and accepted, by all Indian Affairs personnel before the legislative intent will be fully realized.

While all members of the Indian Affairs Branch must adopt this new attitude, the most important persons are the Indian superintendents. Superintendents represent the government, and their attitude towards, and treatment of, Indians, reflects the government's regard and concern about Indians. Living on reserves, and being in intimate contact with the Indians, superintendents are in an excellent position to help Indians attain self-sufficiency and a degree of independence. It would be assumed that a superintendent approaching this task with positive feelings about the potential of Indians, would enable considerable improvements. Although the failure to make improvements in either the attitude or condition of Indians may be attributed to many
things, the Indians themselves sometimes misinterpret the actions of the superintendent, and resist them. At other times, the personal qualities of the superintendent antagonize the Indians.

However, there are other factors which seem to be far more important. Indian superintendents require no special qualifications to equip them for their positions. An interest in the outdoors, some experience in primary industries such as fishing, trapping and logging, and a high school diploma will often suffice. The following statement was issued in 1959 by a knowledgeable, national body, after a thorough study of Indian administration.

The Branch still looks upon this division as the work horse, and it considers the main task of the superintendent is to maintain an efficient office and carry out such inspections as are required.... It is indicative of Branch attitude that salary increases are determined by the size of the reserve, and do not, in any way, take into account the local problems. As it often happens, the most difficult reserves have the least experienced help. The training program is not really designed to improve the position of the superintendent in the eyes of the Indian; it is, rather, designed to improve office efficiency -- much time being given to new and elaborate filing systems and new devices for requisitioning filing cabinets and paper.¹

Many superintendents are so burdened with paper work and

clerical duties, that they do not have time to administer to the day-to-day needs of the Indians, much less plan for the future. The role of the superintendent is primarily clerical at present. Unless, and until, the Branch decides to exploit the educative functions of the superintendent's role, and insists on higher qualifications to meet this end, any enlightened legislation will fall far short of its objectives.

The Indian Affairs Branch seems to have an antipathy to the use and employment of professional personnel. Rarely are specialists in any field consulted, presumably on the assumption that Indian problems are different. Although trained social workers and teachers are now employed by the Branch, they are lower in rank and salary than the superintendent. Besides there are only nine social workers to serve close to 180,000 Indians. Needless to say, their efforts and activities are quite diffuse, and they function more as liaison persons than as social workers. In contrast, Indian Health Services, which operates from within the Department of National Health and Welfare, makes extensive use of specialists. Sickness and disease have been construed to be the area of competence for doctors and nurses. Because of the use of experts, the population trend has been reversed, and Indians enjoy better health conditions than they have had since the whites came to Canada. If the Indian Affairs Branch would adopt the same attitude, many improvements could be made in other areas of Indian life.
Other Resources

Even if the legislators and the Indian Affairs Branch were willing to accept a fully enlightened approach, they would need help. Although Indians are primarily the responsibility of the federal government, the cooperation of the provincial and local governments is essential to any progress. Too often Indians have been left in need, while governments are deciding responsibility. However, "... governments, out of their concern for the child, are able to manipulate their machinery, cumbersome and difficult as it may be, to serve the individual's best interest."¹ The cooperation that makes it possible to give service to children, should be applied to all Indian problems.

The use of voluntary organizations, whether lay or religious, must be expanded. A two-fold purpose is accomplished by voluntary groups. The first is that more non-Indians can become involved in helping Indians solve their problems. While doing this they are getting to know more about Indians; Canadians, on the whole, are abysmally ignorant of Indian cultures and heritages. The second purpose is that Indians will be enabled to see that they are welcome in Canadian communities. Perhaps, in time, the distrust of the past will fade, and Indians will be able to accept overtures from non-

¹ A Pilot Survey of Welfare Services to Indians in British Columbia, p. 25.
Indians without suspicion. Although the Indian Affairs Branch can do little to create voluntary organizations, they can help to coordinate the activities of these groups. If the Branch's prime interest is to better the conditions of Indians, the knowledge and experience of its members can be invaluable to lay or religious organizations.

It is not possible to discuss the many voluntary organizations who have exhibited an interest in Indian affairs. However, one organization of recent vintage has been very active in this regard and deserves special comment. This national organization is known as The Indian-Eskimo Association of Canada, and operates out of offices in Toronto. It began, however, as a study group in Ottawa in 1955. By 1957, it had become a standing committee of the Canadian Association for Adult Education, and was known as the National Commission on the Indian Canadian. Between this time, and its incorporation in 1959 as the Indian-Eskimo Association of Canada, numerous conferences and meetings were held. This group wanted to set itself up in a position of leadership -- to provide a national organization to coordinate the fragmentary approaches of the past. An indication of their success, in this regard, may be seen in that sixty people, representing thirty-three voluntary organizations and three government departments, attended a meeting in Winnipeg in May, 1958. A Brief was submitted to the Parliamentary Committee on Indian Affairs in 1960, which is probably more representative than ever possible before.
Research, Library and Information services have been established, both so that the present can be better understood, and that the future can be rationally planned. The objective of this organization is:

... to promote a concern for the total well-being of Canadians of Indian and Eskimo background; to work towards their full participation and acceptance as members of the Canadian community; and to seek to promote mutual understanding and co-operative action between these and other Canadians.¹

The bulletins of this association indicate not only a growth in membership, but a maturity and independence of thought. Constructive and well-informed criticism is being heard from it, and extensive research is underway. One very important area in which this association is helping is that it is serving as a pooling centre for fragmentary studies which may, hopefully, be correlated and integrated into a knowledgeable picture of the Indian situation.

Voluntary organizations have been invaluable resources in facilitating the integration into communities, of those Indians who choose to leave the reserve. Some of these groups are composed solely of Indian members, and others are a combination of Indian and non-Indian members. Their activities range from the provision of social centres to aid

in obtaining employment or accommodation. One study is available about the activities of the Coquileetza Fellowship in Vancouver, British Columbia.¹

Conclusion

This study has indicated that Indians have neither the civil rights nor the welfare services of the ordinary Canadian citizen. They have been born, raised and educated apart from their fellow-Canadians. Indians are not only considered in a stereotyped and different manner, but the stereotype is based on negativistic principles. Because of this, services have been rendered in a paternalistic or punitive manner, both of which have had a demoralizing effect, while inadequately meeting needs.

For many years, the living conditions of the Canadian Indian have been comparable to those of the pauper in 18th century England. Until very recently, they did not have the federal franchise; their housing is still very poor in many cases; they have been ravaged by disease; their educational level is low; they have been forced to accept jobs in low-status employment; different liquor laws apply to them; and they have been considered incapable of managing their own affairs. In effect, Indians have been in a state of "second-class" citizenship. Indians have had difficulty in adjusting

to the Canadian community, but "many of these difficulties ... have their origin in a way of life, not genuinely Indian, which has been imposed on them by the reserve system and by the social, economic and legal pressures of a dominant majority." In most cases, the conditions of Indian life do not reflect the desires of Indians, although many non-Indians are inclined to judge them on the basis of these superficial, external criteria.

The future of the Canadian Indian is of paramount interest to many groups and individuals in Canada. The problems of Indians at this time are so vast and obvious, that they can no longer be ignored. They are also so varied and complex that they will require extensive planning for the future. The cooperation and coordination of government and voluntary services is basic to improvement in Indian conditions. This must be supplemented by mutual understanding and acceptance between Indians and non-Indians in Canada. Regardless of the programs adopted, or services initiated, they must be founded on a fundamental precept that Indians are human beings and Canadian citizens, and worthy of the respect and dignity accorded any Canadian citizen. This is not fully accepted for all welfare services yet -- its acceptance will bring together concepts of "welfare" and "citizenship" for the largest Canadian minority, the native Indians.

APPENDIX A

BIBLIOGRAPHY

A. GENERAL REFERENCES

Books


Theses


B. SPECIAL REFERENCES

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b. Trends in the Administration of Indian Affairs Branch for the Past Ten Years, approximately 1959.

c. Canadian Bar Association - Civil Liberties; Status of Indian Canadian. All sections of the Indian Act discussed in this paper are still in force.

d. Analysis of Indian briefs prepared or in course of being prepared for submission to the Parliamentary Committee on Indian Affairs, August '20, 1959.

e. Bulletins; April 1957 - March 1961.


(ii) unofficial brief presented to the Human Rights Anniversary Committee for Canada, 1958.