

Complete the circled ones only.

The Indian Act: From Cradle to Grave

Directions: 1. Read the notes on the Indian Act. 2. Read the following scenerios. 3. Fill in chart that explains how the Indian Act effects First Nations people in each case from cradle to grave.

1. The year is 1975. You are the son of a Haida mother and a white father. You were born and raised in Vancouver. You wish to move back to the reserve in the Queen Charlotte Islands. Can you? What section of the Indian Act covers this issue? Paraphrase the main points of this section.
* Change the year to 1987. What has changed since 1975?
2. The year is 1950. Joe Thomas, a Cree, wishes to have a birthday celebration at his home on the reserve. He buys a few six packs of beer and invites his friends over. While buying the beer, the Liquor Store owner asks Joe if he is going to drink this on the reserve? Joe answers no. Why? What section of the Indian Act covers this issue? Paraphrase the main points of this section of the Act. Has it changed?
3. The Micmac people in the Atlantic wish to buy a few fishing boats to help find work for ten unemployed band members. They have the money to buy the boats. Can they do this? What section of the Act deals with this issue? Paraphrase main points of this section.
4. A Sarcee native of Alberta has been growing wheat in a small plot of reserve land. He wishes to sell his wheat to a bread factory in Calgary. He hopes that this crop will give him some money so that he can buy a tractor next year. Can he do this? What section of the Act deals with this issue? Paraphrase the main points of this section.
5. The Beecher Bay Band, who live near Metchoosin/Sooke border, wish to build a gambling casino on reserve land. It is hoped that this casino generates jobs and money so the people can get away from government dependence. Can they do this? What section of the Act deals with this issue? Paraphrase the main points of this section.
6. Donna Duncan, a member of the Kwa-kwa-ka'wakw Nation near Campbell River, B.C., hopes to have a new house built on her reserve. She hopes to locate the house in the same site her Grandmother's house used to be. Does she have the final say over where her home is located? Which section of the Act deals with this issue? Paraphrase the main points of this section.
7. The Pacheedaht, who live in Port Renfrew, may wish to build a marina near the Gordan River one day. Many fishermen could use the services if one was built. There is a chance much money could be made, jobs created. Are they allowed to do this? Which section of the Act deals with this issue? Paraphrase the main points made in this section.

8. The year is 1955. An Iroquois woman would like to vote for a Prime Minister who supports the idea of Native Sovereignty for all Canadian First Nations people. This is the first time she has heard a politician speak about any rights for natives, so she really wants to support this man. As she is about to enter the voting booth... What happens? Which section of the Act deals with this issue? Paraphrase the main points of this section. Did this change? When?

9. The year is 1962. You are a young Ojibway university graduate, looking for your first job. You move back to your reserve and wish to apply for your first house at the Band Office. When you tell them you just received your Bachelor's Degree from university, the Chief begins to frown. How Come? What other situations does this apply to? What is the intent of the Canadian government in putting this section in the Indian Act?

10. The Ahousat people near Tofino, B.C. Wish to invest the Band's money into an eco-tourism project of the local rainforest using Ahousat people as guides. The area has spectacular scenery, tourists flock to the area in the summer, the Band stands to make a lot of money, the Band Council voted 9 to 1 to go ahead with this project, most people on the reserve agreed that this was a good idea and support this project. Can they do this? Which section of the Act deals with this issue? Paraphrase the main points in this section.

11. The year is 1910. You are a member of the Bella Coola Nation in B.C. And you wish to hold a potlatch in honour of your daughter reaching puberty. This tradition has been held in your family since you could trace your ancestors. It is the way of making a covenant with the entire village, to show your pride, to establish your family's rank within the village, to honour your daughter at this special time in her life. Can you do this? What did the Indian Act say about this? Paraphrase the main points in this section. What could happen if authorities found you disobeying? Has this changed?

12. Your Tlingit grandfather has just passed away. Your family wishes to bury him next to the old cemetery near the salmon river that he spent most of his life around. The cemetery has not been used for many years. D.I.A. Says that this stretch of river may one day become a marina if the band wants it to be developed. Your Grandfather told your family that he wishes to be buried next to his wife in the older cemetery by the river. Which section of the Act deals with this issue? Paraphrase the main points of this section.

A) how did your group feel after you realize how many decisions the Indian Act takes away from First Nations people?

B) were you surprised at what this act controls?

C) Which section did you feel kept the most power away from the First Nations people?

D) Imagine you are a young Chief of a Band here in B.C. Hoping to change the way things operate on your reserve. How would you feel about the Indian Act?

E) What do you think the reasoning was behind the Canadian government putting the Indian Act into place as part of the B.N.A. When Canada was confederated in 1867? Is the goal the same today? Or, is it time the Act gets scrapped?

NOTES ON THE INDIAN ACT

THE NUMBERS

- 596 Bands
- 2,263 Reserves
- 5,983,072 Acres

The Indian Act is considered to be legislated discrimination, the last major revisions to this Act was in 1951. In 1985, Bill C-31 was introduced to amend the Indian Act. Most sections of the Act start with the words, "The Ministry May." Many of these sections give the Minister of Indian Affairs unrestricted power to decide what is in the best interests of the Band.

STATUS

Section 12-1

Indian is a person who is registered as an Indian. If you fit this definition, and were registered on the rolls of Ottawa, then you are considered to be an Indian.

Example: When a non-Indian woman marries an Indian man, she becomes a status Indian. But: when an Indian woman marries a non-Indian man she loses her status as an Indian. She no longer qualifies for the status Indian's privileges (health, education, home on the reserve, contact with family).

- Bill C-31 (1985) was passed to conform the Indian Act with the equality section of the Charter of Rights. Bill C-31 provided reinstatement of Indian Status and Band membership to women who had lost these rights because of marriage to non-Indian men. The children of these marriages received Indian status as well.

VOTING

In 1951 when legislated changes were made Indians were still not permitted to vote in federal elections, so they had no political say in the new revisions.

- this right to vote was not given to the treaty people until 1960.
- in 1958, a Blood Indian from Alberta was appointed to the Upper House, but he could not vote, he just sat in parliament as a senator (Alberta Indians could not vote until 1965).
- All Band by-laws must be approved by the minister before they become law. The minister has 40 days to decide whether the by-law will exist.

RESERVES

People believe that the reserves belong to Indians, but section 2:10 says, "Reserve means a tract of land, the legal title vested in her majesty, and the majority has been set apart for the use and the benefit of the band."

- but Governor in Council may determine whether any purpose for which lands in a Reserve are to be used for the use and benefit of the band.

Section 20

No Indian is lawfully in possession of land in a Reserve unless, with the approval of the minister, possession has been allotted to him by Council of the Band.

Land Dividing

Section 18:2 minister may authorize the use of land in a reserve for the purpose of Indian schools, administration of Indian Affairs, graves, Indian health projects.

ECONOMIC DEVELOPMENT

Section 28 states that Bands may not enter freely into contracts for use of their land by non-Indians unless the contract is between the ministry and the non-Indian.

Section 19

Minister may divide the whole or any portion of the reserve into lots of subdivisions and determines the location of roads.

Section 20

No Indian is lawfully in possession of land unless approved by the minister.

Section 20:4

Minister can deny band approved for allotment of land.

- Reserve land can be expropriated and has been (the same as non-Indians except for two things).
 1. when legislation was passed, Indians were unable to vote, like taking candy from a baby.
 2. Non-Indians owned land that they purchased.
Indians: Their reserves are only a small amount of what they originally owned but they do not have legal title to the land.

EQUAL RIGHTS

Are Indians citizens with equal rights?

Section 32:1

A transaction of any kind whereby a band or member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle, animals, hay, root crops, plants or their products from reserves in Manitoba, Saskatchewan or Alberta to a non-band person is void unless approved by an Indian agent.

DEATHS AND WILLS

Section 42-50

All jurisdiction and authority in relation to matters and causes testamentary with respect to the deceased Indians, is vested exclusively with the Minister of Indian Affairs.

- Minister can declare a will void, Indian Act has total control over a Native person until his/her death. They can even veto a Native person from being buried on a reserve.

ENFRANCHISEMENT

From 1955-1965

- 7,725 Indians were enfranchised

Enfranchised

- in order to have the right to vote
- in order to be able to marry non-Indian partners
- if you completed a university degree then you were automatically enfranchised by DIA

EDUCATION

Section 113-119

Indian children who quit school/are expelled/or don't attend are labelled as juvenile delinquents under the Juvenile Delinquents Act.

- The minister may: require an Indian who has attained the age of six years to attend school.
- The minister may appoint truant officers to enforce attendance. If parents don't abide by the order, they are guilty of an offense. (Fine or imprisonment not exceeding 10 days or both.)

DRINKING

1956

Most provinces now permit Indians to drink in public liquor facilities.

Section 94-96

- The Act stated that "Indians may not bring legal purchase home to drink, nor be caught intoxicated."
- 1967: Ended the prohibition on alcohol across Canada.

MANAGEMENT OF MONEY

Section 61-68

- Bands do not have the right to decide unilaterally how to spend its money.
- The minister may authorize the use of capital funds and revenue for "any purpose in His opinion will promote the general progress and welfare of the Band."

Section 69

Allows cabinet to grant permission to a Band Council to control, manage and spend all or part of its revenue money.

- Fewer than 12 of the 596 Bands in Canada have been given this permission.

POTLATCH LAW

From 1884 to 1951 the Indian Act contained a provision which meant that an Indian could be sent to jail for up to six months for holding a potlatch or a spirit dance. Records are available for the period January 1921 to April 1922 showing 53 convictions, mostly of the Kwakiutls for holding a potlatch. During the first week of March 1922, 29 Kwakiutls were tried and 17 convicted. Twelve of the accused were given two months in Oakalla prison. Many of the potlatching artifacts were seized and lodged in the National Museum in Ottawa.

LAND CLAIMS

From approximately 1928-1951 the Indian Act contained a provision making it illegal for anyone to solicit money for the purposes of pressing land claims.

Reference: Native People's Access to Justice and Legal Perspectives, Volume 14, No. 4, May 1990.