

The Deputies' Council for Change

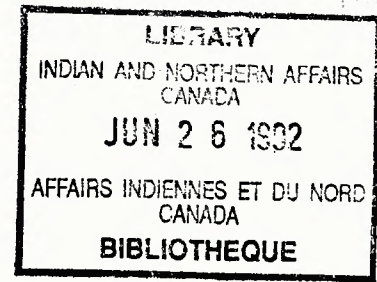
THE GREAT FATHER

A short history of the United States Bureau of Indian Affairs and American Indian policy; with some comparisons of the attitudes of Canada and the U.S. toward native people.

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The Great Father

Contents

Acknowledgement

- i) *Historical Background*
- ii) *An Administrative History of the Bureau of Indian Affairs*
- iii) *The Bureau of Indian Affairs and the Department of Indian and Northern Affairs - issues for the 1990s*

Select Bibliography

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The Great Father

i) Historical Background

The pristine isolation - the dreamtime - for the aboriginal or native people of North America, was abruptly and permanently shattered with the arrival and settlement of Europeans. From the moment of that first encounter, the native people were awakened to the cold reality that the dawn of a Christian civilization was to break upon them. The relationship between the native people and these technologically dominant newcomers has fluctuated ever since from the benign to the intolerable.

In the United States (the former British colonies in America), the management and administration of Indian Affairs, after a long and fractious period of colonial involvement, was formalized and centralized by the British Crown in 1755 with the appointment of (Sir) William Johnson as His Majesty's "sole agent for and superintendent of the six united nations of Indians and their Confederates in the Northern Parts of North America." Indian Affairs thus became the responsibility of the British Crown; and the resultant formation of the British Indian Department, the forerunner

of the present Department of Indian and Northern Affairs, provided the vehicle for implementing the various policy initiatives which emanated from Britain. Of particular significance was the issuance of the Royal Proclamation of 1763 which established a mechanism for extinguishing the Indian interest in specified land. In Canada, the Royal Proclamation is seen as the "magna carta" for aboriginal rights; and has been duly entrenched in the Constitution Act(s), 1867-1982, under Section 25.a.

But, as a result of the civil war and rebellion in colonial America (1775-1783), the British colonies in North America were politically severed to create British North America (Canada) and the new republic of the United States. At this juncture, the management, administration and policy directions in Canada and the United States relating to native people experienced a philosophical dichotomy. In large measure, the differing attitudes toward the treatment of native people reflected the different national characteristics of the two evolving and separate nations.

For instance, and in general terms, Canadians believe in "peace, order and good government." In Canada, therefore, a

formal, centralized and paternal approach has been taken in regard to relations with native people. The native people of Canada have been thus long accustomed to the controlling influences of large monopolistic corporations such as the Hudson's Bay Company and the federal government (Canada assumed responsibility for native people in 1860). The result has been the fairly steady and peaceful settlement of Canada, highlighted by the continued recognition of the Royal Proclamation which lapsed in the United States, treaty-making, the establishment of reserves, the formation the North West Mounted Police, the building of the CPR and a Gibbon Wakefield form of systematic colonization for the Prairies.

In Canada this paternalism is on-going. The federal government has jurisdiction for "Indians and Lands reserved for Indians" under Section 91.24 of the aforementioned Constitution Act. As well, the Indian Act(s), 1876-1951, provide the legislative base for the management and administration of the Department of Indian and Northern Affairs, now nearly 250 years old and the senior department in the federal government. Today, the department still intrudes on every aspect of the daily lives of the native people of Canada albeit by providing necessary programs and services.

There is evidence of relinquishing control, however, as the department now formally supports the impetus towards native self-government; provides funding and economic development opportunities for native initiatives; and advances the goal for ensuring the future welfare and autonomy of native people through the negotiation and resolution of land claim settlements.

Whilst Canadians appear comfortable with "peace, order and good government," with its steady control by the federal authority, Americans prefer "life, liberty and the pursuit of happiness." The United States, born of a violent revolution; and with the right to bear arms enshrined in its constitution, has therefore developed a rather different national character and personality than that of Canada. An emotional and overt patriotism, a distrust of big government, and periodic outbursts of bold and creative energy, are all traditionally part of the American persona. This pride, and conditioned use of arms, combined with an impatience and intolerance for those opposing the American dream have produced episodes of brutish

behaviour; and an all too frequent penchant by Americans for the indiscriminate mass slaughter of native peoples viz Gnadenhutten (1782), Sand Creek (1864), Washita (1868), Wounded Knee (1890); and by extension, My Lai (1968).

(ii) **An Administrative History of the Bureau of Indian Affairs**

The dynamism and violence in American society has been reflected notably in the history of American Indian policy. The government agent for managing, administering and providing damage control in response to these shifting policy directions which have experienced dramatic extremes from Jeffersonian philanthropy to cruel and bloody frontier Indian wars, is the Bureau of Indian Affairs. First formed in 1824, and now a part of the Department of the Interior, the Bureau, in conformity with a trust responsibility - a long established legal and moral obligation requiring the United States to protect and enhance the property and resources of Indian tribes, is responsible for the affairs of the native people in the continental United States and Alaska. Although the Bureau of Indian Affairs has no specific mandate, such as the Indian Act, to deal with native people, there has been a series of congressional acts over the years which form the basis for its legislative authority. These several acts also provide both signposts for the shifting nature and direction of Indian policy; and highlights of the administrative history of the Bureau of Indian Affairs.

The Removal Act (1830)

This piece of congressional legislation and the Marshall decision of 1831 set the standard, pattern and attitude for

government - Indian relations in the United States. The act had the net effect of dispossessing and dislocating the tribes of the eastern United States from their traditional lands to far and distant designated locations west of the Mississippi. The result was a diaspora of tragic human suffering, most remembered today by the trek of the "Five Civilized Tribes" on the "Trail of Tears." Many tribes protested their removal; and in the case of *Cherokee Nation v Georgia* (1831), Chief Justice John Marshall argued that the Indian tribes in the United States were "domestic, dependent nations," and as such were like wards to a guardian.

The Marshall decision was momentous and permanent. The United States government and its agent, the Bureau of Indian Affairs, assumed a trust responsibility on behalf of the Indian tribes; and managed and administered for the general welfare of the tribes on the basis of a persistent paternalism with an emphasis on Christianizing and civilizing the Indians. The omnipotent control of the Bureau over every facet of Indian life; and the manner of this domination which produced a patronizing and often arrogant attitude in conducting the affairs of the tribes, spurred among the Indian people, with just a touch of sarcasm, a special if not endearing name for the Bureau - the Great Father.

educational process of Christianization and civilization, Indians would become assimilated into the dominant society, attain citizenship (granted to all Indians in 1924), rid themselves from economic dependence on the federal government; and even become useful taxpaying Americans!

The Dawes Act was motivated by humanitarian good intentions; an act of faith by those private citizens, government officials and politicians who believed that Indians would be more healthy, happy and content, cultural deprivation aside, by becoming Americans. But assimilation did not materialize. Instead, the act resulted in worsening the economic conditions and cultural fabric of Indian society; and through the sale of surplus reservation lands and subsequently even Indian allotment lands, reduced the Indian land base from 128 million acres in 1887 to 47 million acres by 1934, when the policy was changed. The only assimilation which took place during this period was "the assimilation of a great deal of Indian land into white ownership."

The Indian Reorganization Act (1934)

The dismal failure of both the allotments and the assimilationist assumptions underlying the Dawes Act provoked an independent report, commissioned by the Secretary of the Interior, entitled The Problem of Indian Administration (1928), more commonly known as the Meriam Report. The Report, now regarded as the beginning of the modern era in Indian affairs in the United States, covered the entire spectrum of government - Indian relations; and was especially and highly critical of federal policy and the Bureau of Indian Affairs. As well, this in-depth study painstakingly detailed the desperate problems facing Indians in the areas of economics, health and education. The Meriam Report, combined with the increasing activity of reformers who supported Indian aspirations for preserving their own cultural and political autonomy, was the impetus for an Indian New Deal in the form of the Indian Reorganization Act of 1934.

The act contained four major provisions and implemented most of the recommendations of the Meriam Report. The four sections were concerned with: Indian Self-Government; Special Education for

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The Dawes Act (1887)

The first one hundred years of government - Indian relations in the United States featured the dispossession of tribal lands, broken-treaties, wars and the creation of huge western reservations. This era, known as the "century of dishonour," ended with the utter defeat, demoralization and dependency of the Indian tribes on private charities and the paternalism of the Bureau of Indian Affairs. The government response for alleviating the plight of the Indian people on the reservations was the enactment of the Dawes Act of 1887 (or more accurately, the General Allotment Act). The act primarily dealt with land; and was geared to destroy the reservation system and dissolve the "tribal mass." Indian heads of families were therefore allotted 160 acres of reservation land and 80 acre allotments were provided to single adults, all allotments to carry patents inalienable for 25 years. In other words, these lands were to be held in trust by the Bureau of Indian Affairs.

After this time period, the allotted land would become the property of the individual Indian, who would then be subject to all the normal state and federal laws. The intention was clear. Traditional tribal values and the communal sharing of land was to be replaced by individual ownership of land; and through an

Indians; Indian Lands; and a Court of Indian Affairs. This New Deal Indian reform, based on an appreciation for Indian culture, a concern for Indian self-determination and self-government and a movement toward tribal economic activity, ended the policy of individual allotment and the general alienation of Indian land. The act also, however, envisaged a more active role for the Bureau of Indian Affairs in planning and monitoring the various new policy initiatives. But at the same time, the act extended Indian preferential hiring at the Bureau. The enforcement of the Indian Employment Preference Act, a form of which existed as early as 1834 and which has been upheld in a Supreme Court decision in 1974, gave some assurance that qualified Indians would have a role in determining the destiny of their own people. The result has been that at the Bureau, native representation now stands at about 85 percent; whereas the number of native employees at the Department of Indian and Northern Affairs presently hovers at 19 percent. Whether the high native employee representation at the Bureau causes undue conflict of interest is a sensitive and debatable issue.

The Indian Claims Commission Act (1946)

The Indian Claims Commission Act of 1946 created a special court to deal with claims against the federal government for broken treaties or agreements, usually about land, with provision for

financial recompense if the claim proved justified. Hundreds of claims were heard in which the Indians often argued not for money but for the return of land. To accommodate the claimants, the act was extended at intervals until 1978 when it was permitted to lapse. The remaining cases were transferred to the United States Court of Claims. Of some interest perhaps to the Department of Indian and Northern Affairs, is the compensation claim of the Pottawatomie Nation in Canada who are still attempting to obtain redress through the U.S. Court of Claims of treaties made 150 years ago by their ancestors in the United States.

The Indian Claims Commission proved to be a major resource in terms of economic development, as approximately two billion dollars was awarded to various tribes in claims. But, the formation and operation of the Indian Claims Commission suggested another shift in government policy. Concerns were raised that if all claims could be settled, the federal supervision and control over Indians could be ended. These apprehensions were confirmed in 1953 with the passing of a House Resolution which was aimed at withdrawing all federal services to Indians. This short-lived termination policy which of course included the dismantling of the Bureau of Indian Affairs was seen by most Indians as an unwelcome abdication of the trust responsibility; and an attempt to re-introduce the assimilation process.

The termination policy faded by the 1960s. In July 1970, President Richard Nixon submitted a message to congress which enunciated an Indian policy of "self-determination without termination." Between 1972 and 1976 congress passed several acts improving its provisions of educational, health and financial assistance to Indians; and even returned lands to Indians. The impetus towards emphasizing and securing "Indian sovereignty" and tribal self-government has been entrenched in the Indian Self-Determination and Education Assistance Act of 1975; and by a series of Supreme Court decisions which have reinforced the power of Indian tribes to assert their economic, political and cultural authority. The successive and recent administrations of Reagan and Bush have made it clear that "Indians can become independent of Federal control without being cut off from Federal concern and Federal support."

(iii) **The Bureau of Indian Affairs and the
Department of Indian and Northern Affairs
- issues for the 1990s**

Today in the United States and Canada, both countries are struggling with the key issues of self-reliance and self-government for native people. There are differences, both historical and contemporary, but many of the challenges presently facing the Bureau of Indian Affairs and the Department of Indian and Northern Affairs are remarkably similar. Some indication of the sameness of the issues can be drawn from the 1989 Report of the Special Committee on Investigations of the Select Committee on Indian Affairs. United States Senate. For instance and in part, the Special Committee is concerned with: the overlap of responsibilities between the federal government and Indian governments which leave no clear accountability nor responsibility; the impact of federal government bureaucracy and procedures as an impediment to local decision making - "the micro management of tribal affairs;" the conflict over federal administration of natural resources and allegations of neglect resulting in major revenue losses (i.e. oil and gas) to Indians; the potential conflicts of interest within Indian governments and the lack of clear standards for holding office; the poor quality of housing on reservations; the quality of management and value for money in

programs and services; and the slowness of the federal bureaucracy to identify problems and initiate substantive changes to alleviate Indian conditions.

These issues for the 1990s represent important, tough and similar challenges for both the Bureau of Indian Affairs and the Department of Indian and Northern Affairs. In the United States, tribal sovereignty and self-determination have become entrenched and powerful forces; whilst in Canada, the impasse in the constitutional discussions on Indian self-government leaves the position of Indian governments in abeyance, although the department is supportive of the Indian desire for fuller political and economic autonomy, as seen in the recent Sechelt legislation; and in the on-going self-government negotiation process with several Indian communities.

For both the United States and Canada, the old days of the "vanishing American" and the "narrow vision" are over. Yet in the United States there appears an interest in reducing the Indian economic dependency on the public purse. In Canada, federal expenditures for native people are increasing. Both federal governments, however, share the goal of achieving a fuller degree of native self-reliance and self-government, through economic initiatives

under native control; and a general renaissance of traditional native values. But for the moment, the Bureau of Indian Affairs and the Department of Indian and Northern Affairs remain the chief government agencies for their respective countries for managing and administering the federal trust responsibility to native people. The Great Father thus endures (in Canada more appropriately, the Great Mother), and so long as this bureaucratic and autocratic paternalism and centralized power exists, the spiritual, political and economic autonomy of the aboriginal or native people of North America will not truly become a reality.

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