

# INTEGRATED LESSON PACKAGE

## INDIAN RESIDENTIAL SCHOOLS

for

# SS11



Photo courtesy of Mission Community Archives

A sound landmark building, St. Mary's Girls' residence was ready to accept girls into the school by 1868.  
This view overlooks the Fraser River. The walkway was eventually removed.  
— from *Amongst God's Own* p 81

# INDIAN RESIDENTIAL SCHOOLS INTEGRATED LESSON PACKAGE

## BCSS11

### First Nations Education and the Indian Act

#### TABLE OF CONTENTS

Lesson Outline (90 minutes) .....	11-1
Teacher Background Support Documents.....	11-2
Introduction Lesson (Teacher) .....	11-3
Teacher BLM #1 <b>Legal definition of “Indian” (Indian Act)</b> .....	11-4
Teacher BLM #2 <b>Brief review of legislation</b> .....	11-5
Student Black Line Master #1 <b>Intro Lesson</b> .....	11-6
Learning Experience #1 .....	11-7
<b>Examine Indian Act - Sections 114 and 115</b>	
Teacher BLM #3 <b>Indian Act – Schools – Sections 114 and 115</b> .....	11-8
Student Black Line Master #2a <b>Impact of Sections 114 and 115</b> .....	11-9
Student Black Line Master #2b <b>Impact of Sections 114 and 115</b> .....	11-10
Learning Experience #2 .....	11-11
<b>Impact of Indian Act Sections 114 and 115</b>	
Student Black Line Master #3 .....	11-12
<b>Developing criteria for positive &amp; negative impacts</b>	
Learning Experience #3 .....	11-13
<b>Discussion on impact of Indian Act on education</b>	
Learning Experience #4 .....	11-14
<b>Impact of Indian Act on lives of former students</b>	
Student Black Line Master #4a <b>Record interview information from book</b> .....	11-15
Student Black Line Master #4b <b>Record interview information from book</b> .....	11-16
Learning Experience #5 .....	11-17
<b>Impact of Indian Act on Education of Children</b>	
Student Black Line Master #5 .....	11-18
<b>Two essay questions on impact of Indian Act</b>	
Extra Lined Page .....	11-19
Constitution Act, 1867 <b>Section 91</b> .....	11-20
The Royal Proclamation, 1763.....	11-22
British North America Act, 1867 <b>Relevant section only</b> .....	11-29

## SS11 Lesson Outline

**LESSON TITLE:** First Nations Education and the Indian Act

**MATERIALS:** *Amongst God's Own, The Enduring Legacy of St. Mary's Mission*

Author(s): Terry Glavin & Former Students of St. Mary's

Publisher: Longhouse Publishing 2002

Curriculum Developer: Laura Smith, Abbotsford School District

**LESSON PURPOSE:** To examine the impact of the Indian Act, analyzing the experiences of students who attended St. Mary's Residential School in Mission B.C. as interviewed and recorded by Philomena Fraser (Douglas) and Terry Glavin in *Amongst God's Own*.

**LESSON OUTCOMES:**

It is expected that students will:

1. Identify major social policies and programs and their impact on Canadian Society.
2. Demonstrate awareness of the provisions of the Indian Act and its impact on the citizenship of Aboriginal Canadians.
3. Identify and clarify a problem, an issue, or an inquiry.
4. Defend a position on a controversial issue after considering a variety of perspectives.

**INTEGRATED LESSON PACKAGE CONTENTS:**

- an Introduction Lesson
- 3 BLMs for overheads
- 5 Learning Experiences
- 5 Student BLMs
- Teacher Background Support Documents:
  - Royal Proclamation 1763
  - British North America Act of 1867
  - Constitution Act 1867
  - Indian Act 1867
  - Indian Act 1951

# TEACHER BACKGROUND SUPPORT DOCUMENTS

Relevant excerpts are provided from the following official government documents:

- 1. The Royal Proclamation of 1763** **Teacher BLM#2**  
 Proclaims Aboriginal peoples as “nations or tribes”. Acknowledgement of possession of traditional territories until they are “ceded to or purchased” by the crown. **see also 11-22**
- 2. The British North America Act of 1867** **Teacher BLM#2**  
 Set the legal ground rules for Canada, and divided the powers between the provinces and the federal government. Federal government was given jurisdiction over Indians, and the lands reserved for Indians. **see also 11-29**
- 3. Constitution Act, 1867** **Teacher BLM#2**  
 The British North America Act was not repealed, but renamed the Constitution Act, 1867. Section 91(24) refers to Indians, and the Lands reserved for Indians. **see also 11-20**
- 4. Indian Act** **Teacher BLM#1 & Teacher BLM#2**  
 In 1876, the Canadian Government consolidated all Indian legislation into the Indian Act. This federal statute defines Indian status and authorizes the Superintendent General administrative powers over many aspects of Indian life. The provisions are rooted in colonial ordinances and the Royal Proclamation of 1763. The Indian Act was last amended in 1951. **see also 11-8**
- 5. Indian Act Sections 114 and 115 – SCHOOLS** **Teacher BLM#3**
- 6. The Royal Proclamation** **Teacher BLM#2**  
 October 7, 1763 **see also 11-22**  
 BY THE KING. A PROCLAMATION  
 GEORGE R.



## INTRODUCTION LESSON (Teacher)

Teacher:

- Brief History of the Indian Act  
Discuss the legal term “Indian” used to define First Nations people.

### **Indian Act, 1951 Section 2**

15 minutes

“Indian, a person who pursuant to this Act is registered as an Indian or is entitled to be registered”.

**Teacher BLM #1**

Teacher:

- Present a brief review of legislation, which evolved into the Indian Act 1876.

**The Royal Proclamation of 1763** proclaims Aboriginal peoples as “nations or tribes”. Acknowledgment of possession of traditional territories until they are “ceded to or purchased” by the crown.

**The British North American Act of 1867** set the legal ground rules for Canada, and divided the powers between the provinces and the federal government. Federal government was given jurisdiction over Indians, and lands reserved for Indians.

The British North American Act was not repealed but renamed the **Constitution Act, 1867**. Section 91(24) refers to Indians, and Lands reserved for Indians.

In 1876, the Canadian Government consolidated all Indian legislation into the **Indian Act**. This federal statute defines Indian status and authorizes the Superintendent General administrative powers over many aspects of Indian life. The provisions are rooted in colonial ordinances and the Royal Proclamation of 1763. The Indian Act was last amended in 1951.

**Teacher BLM #2**

- Have student record notes on core issues of each Proclamation / Act

**SEE Student BLM #1**

Legal definition of “Indian”

## **Indian Act, 1951**

### **Section 2**

“Indian, a person who pursuant to this Act is registered as an Indian or is entitled to be registered.”

Currently, the politically correct term used instead of “Indian” is “First Nations”.

## BRIEF REVIEWS OF LEGISLATION

**The Royal Proclamation of 1763** proclaims Aboriginal peoples as “nations or tribes”. Acknowledgment of possession of traditional territories until they are “ceded to or purchased” by the Crown.

**The British North American Act of 1867** set the legal ground rules for Canada, and divided the powers between the provinces and the federal government. Federal government was given jurisdiction over Indians, and lands reserved for Indians.

The British North American Act was not repealed but renamed the **Constitution Act, 1867**. Section 91(24) refers to Indians, and Lands reserved for Indians.

In 1876, the Canadian Government consolidated all Indian legislation into the **Indian Act**. This federal statute defines Indian status and authorizes the Superintendent General administrative powers over many aspects of Indian life. The provisions are rooted in colonial ordinances and the **Royal Proclamation of 1763**. The **Indian Act** was last amended in 1951.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## INTRODUCTION LESSON (Student)

### Legislation that developed into the Indian Act

Record your notes on the core issues of each Proclamation / Act:

**Royal Proclamation of 1763:**

**British North American Act of 1867:**

**Constitution Act, 1867:**

**Indian Act, 1876:**

**Indian Act, 1951:**

**Student BLM #1**

# LEARNING EXPERIENCE #1 (Teacher)

## Examine Indian Act – Schools – Sections 114 and 115

15 minutes

- Working in pairs, students discuss what effect the legislation within these sections of the Indian Act may have on families who live in Chilliwack and other communities in the Fraser Valley today.
- Students complete worksheet.  
**SEE Student BLM #2 & 2a**

Teacher,  
please note:

*Sections 114 to 122 only apply to Indians who are ordinary resident on-reserve or resident on Crown Lands [section 4 (3)].*

*Sections 114 to 122 will no longer apply to Nova Scotia for whom the Mi'kmaq Education Act, Sc.1998.c.24 is proclaimed*

*The 2006 Annotated Indian Act & Aboriginal Constitutional Provisions (Status of Canada Annotated). Shin Imai. Thomson Publishing*

<http://www.pubgouv.com/legislation/indianact.htm>

## Indian Act      Sections 114 and 115    SCHOOLS

14 (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreement on behalf of Her Majesty for the education in accordance with this Act on Indian children, with

- (a) the government of a province;
- (b) the Commissioner of Yukon;
- (c) the Commissioner of the North West Territories;
- (c1) the Commissioner of Nunavut;
- (d) a public or separate school board; and
- (e) a religious or charitable organization.

114 (2) The ministry may, in accordance with this Act, establish, operate and maintain schools for Indian children.

115 The Minister may

- (a) Provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools;
- (b) provide for the transportation of children to and from school;
- (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations; and
- (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## LEARNING EXPERIENCE #1 (Student)

### The Impact of Indian Act Sections 114 and 115

Discuss what effect the legislation within these sections of the Indian Act may have on families who live in Chilliwack and other communities in the Fraser Valley today.

114 (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreement on behalf of Her Majesty for the education in accordance with this Act on Indian children, with

- (a) the government of a province;
- (b) the Commissioner of Yukon;
- (c) the Commissioner of the North West Territories;
- (c1) the Commissioner of Nunavut;
- (d) a public or separate school board; and
- (e) a religious or charitable organization.

**Possible impact on families in the Fraser Valley:**

114 (2) The ministry may, in accordance with this Act, establish, operate and maintain schools for Indian children.

**Possible impact on families in the Fraser Valley:**

**Student BLM #2a**

(Continued from SBLM#2a)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## LEARNING EXPERIENCE #1 (Student)

### The Impact of Indian Act Sections 114 and 115

115 The Minister may

- (a) Provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools;

**Possible impact on families in the Fraser Valley:**

- (b) provide for the transportation of children to and from school;

**Possible impact on families in the Fraser Valley:**

- (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations; and

**Possible impact on families in the Fraser Valley:**

- (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school.

**Possible impact on families in the Fraser Valley:**

**Student BLM #2b**



## LEARNING EXPERIENCE #2 (Teacher)

### The Impact of the Indian Act Sections 114 and 115

10 minutes

Students share ideas in groups of four (4).

- Student groups develop a criteria for evaluating the possible impact of the Indian Act on families as either positive or negative.
- Record their criteria and list impact as either positive &/or negative.  
SEE Student BLM #3

definition

(from *Canadian Oxford Dictionary, 1998*)

**criterion** (*pl. criteria*) a principle or standard that a thing is judged by.

## LEARNING EXPERIENCE #2 (Student)

### The Impact of the Indian Act Sections 114 and 115

Working in groups of 4, develop a criteria for evaluating the possible impact of the Indian Act on families as either positive or negative.

Record your criteria and list impact as either positive &/or negative.

**Group criteria for evaluation of possible impacts of the Indian Act Section 114 and 115 as positive or negative:**

**Positive impacts include:**

**Negative impacts include:**

## LEARNING EXPERIENCE #3 (Teacher)

### The Impact of the Indian Act Sections 114 and 115

10 minutes

- As a class, discuss criteria and possible positive or negative impact of the *Indian Act* on the families and / or communities of the Fraser Valley.

**Students will use their completed Student BLM #3 from which to draw for their discussion.**

## LEARNING EXPERIENCE #4 (Teacher)

### Impact of the Educational Experience on Lives of Former Students

25 minutes

St. Mary's Residential School operated from 1863 to 1985

Have students read interviews of 29 former students of St. Mary's as recorded in Amongst God's Own pages 29 - 89

Using the grid, students will work individually to record interview information, indicating if the educational experience had a positive and/or negative impact on the lives of these former students. **SEE Student BLM #4**

## LEARNING EXPERIENCE #3

### The Impact of the Indian Act Sections 114 and 115

10 minutes

- As a class, discuss criteria and possible positive or negative impact of the *Indian Act* on the families and / or communities of the Fraser Valley.

**Students will use their completed Student BLM #3 from which to draw for their discussion.**

## Impact of the Educational Experience on Lives of Former Students

Read interviews of the 29 former students of St. Mary's as recorded in Amongst God's Own pages 29 – 89. Record interview information, indicating if the educational experience had a positive and/or negative impact on the lives of these former students.

Student BLM#4a

[illegible]

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Student BLM#4b

### Impact of the Educational Experience on Lives of Former Students

Read interviews of the 29 former students of St. Mary's as recorded in Amongst God's Own pages 29 – 89. Record interview information, indicating if the educational experience had a positive and/or negative impact on the lives of these former students.

Page	Name	Dates attended	Positive Impact (Benefit)	Negative Impact

## LEARNING EXPERIENCE #5 (Teacher)

### Impact of the *Indian Act* on the Education of Children

15 minutes

- Students analyze interviews pages 29 – 89, to answer these questions:
- Students write 150 words, validating their response with appropriate quotes from the text and/or *Indian Act*. Students will use their findings from SBLM#4 to support their opinions. SEE Student BLM #5

Section 115(d) of the *Indian Act* states:

**“The Ministry may apply the whole or part of moneys that would otherwise be payable to or on behalf of a child who is attending residential school to the maintenance of the child at the school.”**

1. In your opinion, should the federal government of Canada continue supporting residential schools for the education of First Nations students?
2. Reviewing what you have studied today, in your opinion, what is the greatest impact the *Indian Act* has had on the education of children of the Fraser Valley?



Name: \_\_\_\_\_

Date: \_\_\_\_\_

## LEARNING EXPERIENCE #5 (Student)

### Impact of the *Indian Act* on the Education of Children

Write an essay of at least 150 words answering the following questions, validating your response with appropriate quotations from the text. Use your findings from SBLM#4 to support your opinions.

#### Question 1:

Section 115(d) of the *Indian Act* states:

**“The Ministry may apply the whole or part of moneys that would otherwise be payable to or on behalf of a child who is attending residential school to the maintenance of the child at the school.”**

In your opinion, should the federal government of Canada continue supporting residential schools for the education of First Nations students?

#### Question 2:

Reviewing what you have studied today, in your opinion, what is the greatest impact the *Indian Act* has had on the education of children of the Fraser Valley?

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**Student BLM#5**

Name \_\_\_\_\_ Date \_\_\_\_\_ 11-19

Date \_\_\_\_\_ 11-19

11-19

Title: \_\_\_\_\_

# CONSTITUTION ACT, 1867

## VI. DISTRIBUTION OF LEGISLATIVE POWERS

### POWERS OF THE PARLIAMENT

#### Legislative Authority of Parliament of Canada

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1. Repealed. (44)
- 1A. The Public Debt and Property. (45)
2. The Regulation of Trade and Commerce.
- 2A. Unemployment insurance. (46)
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.

16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces. (47)

# The Royal Proclamation

October 7, 1763

BY THE KING. A PROCLAMATION  
GEORGE R.

Whereas We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris, the 10th Day of February last; and being desirous that all Our loving Subjects, as well of our Kingdom as of our Colonies in America, may avail themselves with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought fit, with the Advice of our Privy Council. To issue this our Royal Proclamation, hereby to publish and declare to all our loving Subjects, that we have, with the Advice of our Said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.

First--The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South end of the Lake Nipissim; from whence the said Line, crossing the River St. Lawrence, and the Lake Champlain, in 45. Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly--The Government of East Florida. bounded to the Westward by the Gulph of Mexico and the Apalachicola River; to the Northward by a Line drawn from that part of the said River where the Chatahouchee and Flint Rivers meet, to the source of St. Mary's River. and by the course of the said River to the Atlantic Ocean; and to

the Eastward and Southward by the Atlantic Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly--The Government of West Florida. bounded to the Southward by the Gulph of Mexico. including all Islands within Six Leagues of the Coast. from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi; to the Northward by a Line drawn due East from that part of the River Mississippi which lies in 31 Degrees North Latitude. to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

Fourthly--The Government of Grenada, comprehending the Island of that name, together with the Grenadines, and the Islands of Dominico, St. Vincent's and Tobago. And to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent Islands. We have thought fit. with the advice of our said Privy Council to put all that Coast, from the River St. John's to Hudson's Straights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and Inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council. thought fit to annex the Islands of St. John's and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to our Government of Nova Scotia.

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of Georgia all the Lands lying between the Rivers Alatamaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling of our said new Governments, that our loving Subjects should be informed of our Paternal care, for the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted. given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government: And We have also given Power to the said Governors, with

the consent of our Said Councils, and the Representatives of the People so to be summoned as aforesaid, to make, constitute, and ordain Laws. Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies; and in the mean Time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our Said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases. to appeal, under the usual Limitations and Restrictions, to Us in our Privy Council.

We have also thought fit, with the advice of our Privy Council as aforesaid, to give unto the Governors and Councils of our said Three new Colonies, upon the Continent full Power and Authority to settle and agree with the Inhabitants of our said new Colonies or with any other Persons who shall resort thereto, for such Lands. Tenements and Hereditaments, as are now or hereafter shall be in our Power to dispose of; and them to grant to any such Person or Persons upon such Terms, and under such moderate Quit-Rents, Services and Acknowledgments, as have been appointed and settled in our other Colonies, and under such other Conditions as shall appear to us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and settlement of our said Colonies.

And Whereas, We are desirous, upon all occasions, to testify our Royal Sense and Approbation of the Conduct and bravery of the Officers and Soldiers of our Armies, and to reward the same, We do hereby command and empower our Governors of our said Three new Colonies, and all other our Governors of our several Provinces on the Continent of North America, to grant without Fee or Reward, to such reduced Officers as have served in North America during the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject, at the Expiration of Ten Years, to the same Quit-Rents as other Lands are

subject to in the Province within which they are granted, as also subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer--5,000 Acres.

To every Captain--3,000 Acres.

To every Subaltern or Staff Officer,--2,000 Acres.

To every Non-Commission Officer,--200 Acres .

To every Private Man--50 Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all our said Colonies upon the Continent of North America to grant the like Quantities of Land, and upon the same conditions, to such reduced Officers of our Navy of like Rank as served on board our Ships of War in North America at the times of the Reduction of Louisbourg and Quebec in the late War, and who shall personally apply to our respective Governors for such Grants.

And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them. or any of them, as their Hunting Grounds.--We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure. that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida. or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments. as described in their Commissions: as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and



North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid.

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved. without our especial leave and Licence for that Purpose first obtained.

And. We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described. or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests. and to the great Dissatisfaction of the said Indians: In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do. with the Advice of our Privy Council strictly enjoin and require that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where, We have thought proper to allow Settlement: but that. if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie: and in case they shall lie within the limits of any Proprietary Government. they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to

give for that Purpose: And we do. by the Advice of our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever. provided that every Person who may incline to Trade with the said Indians do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of our Colonies respectively where such Person shall reside. and also give Security to observe such Regulations as We shall at any Time think fit. by ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade:

And we do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And we do further expressly conjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of Indian Affairs, within the Territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all Persons whatever. who standing charged with Treason. Misprisions of Treason. Murders, or other Felonies or Misdemeanors. shall fly from Justice and take Refuge in the said Territory. and to send them under a proper guard to the Colony where the Crime was committed of which they, stand accused. in order to take their Trial for the same.

Given at our Court at St. James's the 7th Day of October 1763. in the Third Year of our Reign.

# GOD SAVE THE KING

## The British North American Act, 1867

The *British North America Act*, 1867 (BNA Act, 1867) was passed by the British Parliament in 1867. It is the law that created the Canadian Confederation. Many other Acts called *British North America Act* were later passed, amending the 1867 Act, or adding to it.

A federation usually consists of at least two main levels of government - local states or provinces, and a federal government. Canada is no different. However, these levels can't share the same powers, as that would lead to direct competition and chaos.

The *BNA Act* was passed to set the legal ground rules for Canada, and divvy up the powers between the provinces and the federal government.

Section 91 of the *BNA Act* lists the powers the federal Parliament can exercise. Section 92 lists the powers of the Provincial Legislatures. Unless the parties agree otherwise, the federal government must not make laws dealing with matters of provincial jurisdiction, and vice versa. If one party does pass a law that intrudes on the jurisdiction of the other, the courts will strike it down.

Some of the key areas of federal and provincial responsibility are:

### **Federal**

- \* The Public Debt and Property.
- \* The Regulation of Trade and Commerce.
- \* The Raising of Money by any Mode or System of Taxation.
- \* Postal Service.
- \* Militia, Military and Naval Service, and Defence.
- \* Navigation and Shipping.
- \* Currency and Coinage.
- \* Banking, Incorporation of Banks, and the Issue of Paper Money.
- \* Indians, and Lands reserved for the Indians.
- \* Naturalization and Aliens.
- \* Marriage and Divorce.
- \* The Criminal Law.

## Provincial

- \* Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
  - \* The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
  - \* The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities.
  - \* Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
  - \* Local Works and Undertakings.
  - \* The Solemnization of Marriage in the Province.
  - \* Property and Civil Rights within the Province.
  - \* The Administration of Justice in the Province.
  - \* Generally all Matters of a merely local or private Nature in the Province.
- You may notice that religion isn't mentioned anywhere.

In 1982, the power to amend Canada's Constitution is repatriated - brought home to Canada from Britain - and the new Act is called the *Constitution Act, 1982*.

The *BNA Act* is not repealed, just re-named. It becomes part of the new Constitution as the *Constitution Act, 1867*.

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