

November 2018

SPECIAL UPDATE

SELF GOVERNANCE & COMMUNITY PRIORITIES

Asserting our Sovereignty for the Benefit of our Nation, our Lands and our People

Message from the Chief and Council

We have been very busy since the election in August. The past two months have included extensive orientation sessions to bring the four new Council members up to speed on all our various projects, investments and activities. We have also been actively participating on committees to examine the various laws that our Nation needs to become more fully self-governing. We anticipate receiving formal responses shortly from Canada and Manitoba about our self-government negotiations.

As indicated in the June 2018 *State of the Nation Special Report*, we are on the road to prosperity and need to keep moving our Nation forward. As we begin our new term of office it is important that we hear directly from you, our Citizens, the most important resource our Nation has, about your vision for the future of our Nation. As always, we cannot accomplish what we need to do without your ongoing trust and support. We look forward to your input as we **CONTINUE MOVING OUR NATION FORWARD!**

– Chief and Council, Nisichawayasihk Cree Nation



(Top row, L to R) Councillor Ron D. Spence, Chief Marcel Moody, Councillors Jeremiah Spence, Willie Moore (bottom row), Cheyenne Spence, Jackie Walker and Vice-Chief Cheryl Moore





HISTORY AND VISION OF NCN GUIDES OUR PATH FORWARD

Over the past three decades NCN has taken major steps to assert our sovereignty and regain control over our lives. We began slowly in the 1980's by taking control over the education of our children. Our next step was in 1988 to take control over our membership but we were limited to the rules in the *Indian Act* so we were limited in what we could achieve.

The 1990's were very busy as in 1992 we entered into an Agreement in Principle to negotiate a resolution to the implementation of the Northern Flood Agreement signed in 1976. By 1996 we had concluded the Agreement, held a ratification vote and began implementing the Agreement. In 1998 ratified our Treaty Land Entitlement Agreement that significantly increased our land base. We also rejected the *Indian Act* form of governance that dictated how we chose our leaders and enacted our own Election Code. Since then we have been successfully running our own elections for the past 20 years.

In 1999 using the future development provisions in the 1996 NFA Implementation Agreement we began negotiations related to new hydro-development in our territory. By 2001 we had ratified an Agreement in Principle. In 2003 we developed a Summary of Understandings (SOU) to expand the terms to be included in an agreement. We were equal participants in environmental assessments and hearing processes. We finalized and ratified the Wuskwatim PDA in 2006.

Concurrently, we invested in a number of businesses (hotel, grocery stores, lumber and hardware store, gas station) to build own source revenues as governments were not providing adequate funding for our Citizens needs.

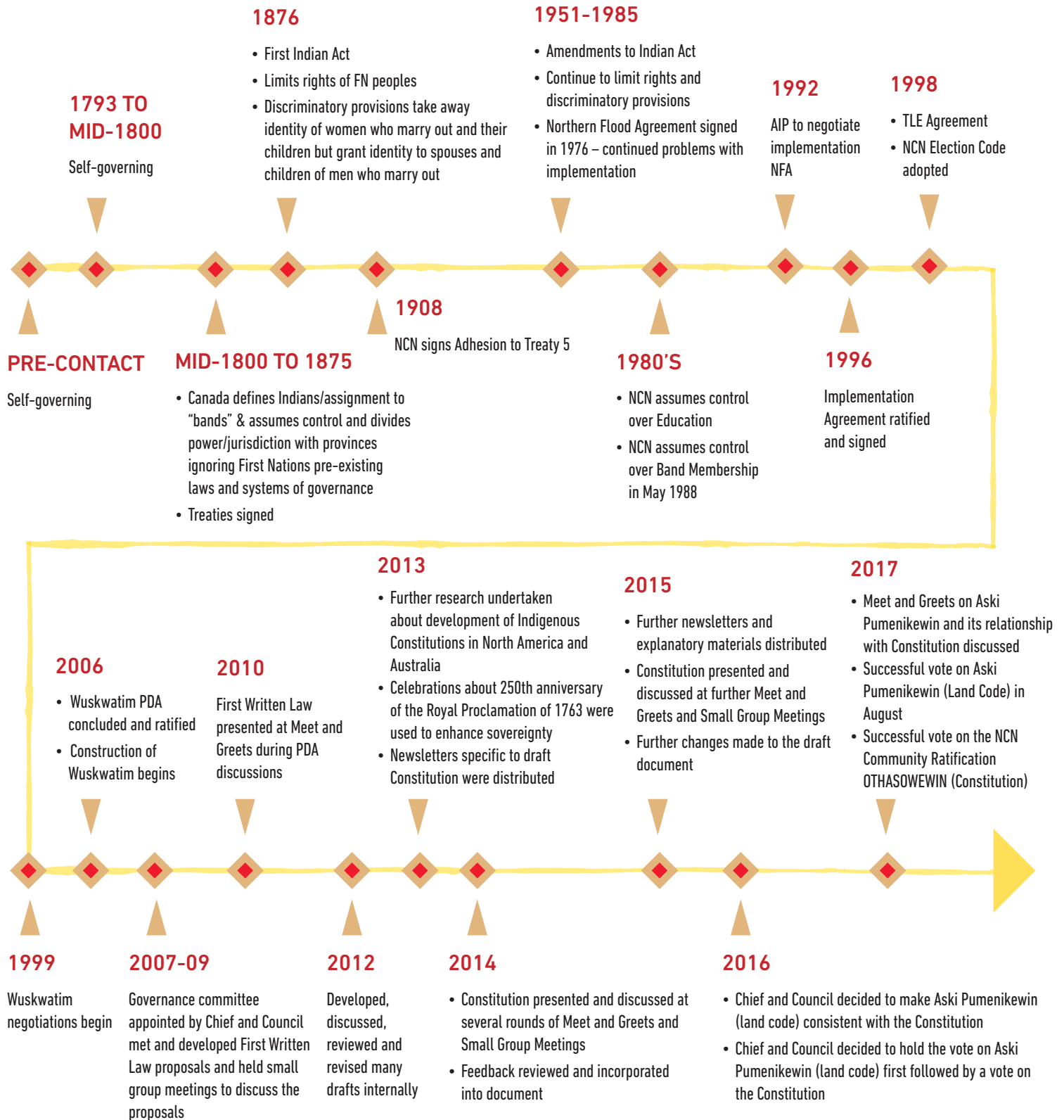
From 2013 to 2017, we took major steps to assert our sovereignty and improve our governance systems. In 2013 we amended our Election Law. In 2014 we amended the Wuskwatim PDA to secure ongoing benefits given changing global economic conditions. In 2016 our Mystery Lake Lands were finally converted to an urban reserve. In 2017 after a number of years of development and consultations, we approved our Aski-Pumenikiwin and our Othasowewin. In the meantime, we also embarked on the largest capital infrastructure program in our Nation's history.

In 2018 we began the process of enacting our own laws and gave notice to Canada and Manitoba that we want to enter into negotiations to develop new relationships with them to recognize our jurisdiction, clarify where we have shared jurisdiction, establish appropriate financing for self-governance, and preserve and implement our treaty and aboriginal rights to improve the lives of our Citizens.

All our discussions now include recognition of, and giving effect to Kihche Othasowewin (Great Law) and Nisichawayasi Othasowewina (Customary Laws).



TIMELINE – Our Path to Self-governance





SELF-DETERMINATION vs THE INDIAN ACT

OUR TRADITIONAL TEACHINGS AND THE GREAT LAW PROVIDE DIRECTION

Our Nation believes that whatever decisions we make today must take into consideration the impact seven generations from now. Today, we are the seventh generation from when the *Indian Act* was imposed on our people. Before the *Indian Act*, Kihche'Othasowewin (Great Law) and Kihche'Othasowewina (customary laws) guided our actions. We exercised Tipethimisowin (sovereignty) within N'tuskenan (our sacred lands) from Michimahch'ohci (time immemorial).

We protected our lands in accordance with our own traditions and our ancestral lands covered vast territories. Our children and grandchildren lived with us and were not taken away in accordance with the rules set by other people. We educated our children and looked after our elderly. We chose our political leaders and they governed according to the rules of our people. We had developed economies and traded with other Nations. We punished those that did not follow our rules, sometimes banishing them and forcing them to go live with others.

CONNECTIONS TO OUR SEVEN SACRED TEACHINGS AND CUSTOMARY LAWS

Our customary laws are based on the seven sacred teachings of our ancestors as represented by the animals to remind us of our connection to Mother Earth – love (eagle), respect (buffalo), courage (bear), honesty (loon), wisdom (beaver), humility (wolf) and truth (turtle). These laws which have been passed down to us orally and form part of who we are as Nisichawayasi Nehethowuk.

We have documented them in our Othasowewin. We must now take the next step to fully restore our sovereignty and negotiate agreements to terminate the negative impacts of the *Indian Act* so that the next seven generations will not have to suffer as our great-grandparents, grand-parents and parents suffered.

On July 30, 2018 (110 years after we signed the Adhesion to Treaty 5) our Nation gave notice to the governments of Canada and Manitoba that we want to enter into negotiations to establish a new Relationship with them. A relationship that recognizes our sovereignty and right to govern ourselves. We have received informal responses to our letter and we expect to receive the formal responses shortly.

YOUR INPUT IS IMPORTANT

Your input is critical as we begin to plan for these important negotiations. We would like you to consider the following questions:

1. What do you think self-government will do for NCN? (check as many as you want)

- Begin correcting historical injustices
- Allow us to improve the delivery of programs and services to NCN Citizens
- Increase our self-esteem and self-respect
- Help to reduce racism and improve the image other Canadians have of indigenous people
- Allow us to more fully participate in the Manitoba economy
- Protect and implement our treaty and aboriginal rights
- Provide badly needed additional financial resources
- Nothing
- Other (please list) _____

2. What do you think should be our initial priorities in the negotiations?

GOVERNANCE & LAW-MAKING

Since our Othasowewin and Aski-Pumenikewin were adopted, we have begun the important steps to develop written laws, based on our customary law principles, to govern ourselves. The development of laws is essential to move from a system where the laws of others dictated our lives. Since April we have approved amendments to our Election Law and approved a new Finance Law.

We are working on other laws to improve community safety and restore our views of our identity. As we have worked through the issues we have gotten stuck and need your input to move forward. Our plan is to have drafts of these laws ready for further discussion at the General Assembly on December 12th.

There are many other laws that we need to develop as part of our Nation begins to restore our sovereignty. We would like to hear from you which laws are important for us to prioritize for 2019.



What laws from the following list do you think we should prioritize for the next year?

- Education Law
- Child & Family Law
- Residency Law
- Banishment Law
- Election Law amendments
- Peacekeepers Tribunal for dispute resolution
- Emergency Measures – replacement of bylaw
- Curfew – replacement of bylaw
- Animal Control –replacement of bylaw
- Marital/Family Property Law – relationship breakups
- Marital/Family Property Law – upon death
- Land Rights and Interests Law
- Land Use and Zoning Law
- Environmental Protection Law
- Resource Laws
- Environmental Assessment Law
- Services/Utilities Laws
 - (i) Sewer
 - (ii) Water
 - (iii) Waste Management
 - (iv) Roads/Traffic
 - (v) Drainage
- Building/Fire Codes Law
- Land Tribunal Law
- Heritage Law
- Cannabis Law
- Business Licensing Law



STRATEGIC PLANNING FOR THE NEXT 4 YEARS

OUR ELECTION COMMITMENTS TO YOU

During the election we made a number of commitments to you and we are planning how to ensure we deliver on these commitments. Our commitments are to:

- Listen to the priorities of our Citizens and bring forth ideas for how we can achieve them particularly through self-government negotiations;
- Continue improving our housing and infrastructure;
- Reduce poverty by increasing education, training and employment opportunities and changing the social assistance program;
- Reduce violence and improve community health outcomes;
- Create more sports and recreational opportunities including enhanced athletic programs;
- Continue pursuing viable economic development to increase our revenues to meet our Citizens needs;
- Negotiate and implement the best possible self-government agreements with Canada and Manitoba.

YOUR INPUT IS CRITICAL

To carry out our election commitments we want to make sure that we listen carefully to the issues you would like to see us address to improve your own lives in the short term and the overall health of our Nation over the longer term. To start this process we would like you to answer the following questions:

1. What are the top three reasons you live at NCN?

- Raised here
- Family lives here
- Cultural activities
- Employment
- Good schools
- Affordable cost of living

2. If you do not live at NCN what is the main reason?

- Lack of housing
- Employment is elsewhere
- Poor schools
- Lack of activities/not enough to do
- Family lives elsewhere
- No child care

3. What is your vision for our Nation for the next few years? (check as many as you want)

- More programs & services
- Better housing
- Better infrastructure
- To become fully self-governing
- More local employment opportunities
- Improved incomes
- Better education & training
- Restoration of our culture & language
- More local food production & improved food security
- More economic development
- Local business opportunities
- Home ownership

4. What do you think are the three biggest problems facing NCN?

- Lack of activities & events
- Violence
- Crime

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- Drugs
- Lack of restaurants, stores & services
- Bad roads
- Poor housing
- Not enough housing
- Lack of jobs
- Lack of communication
- Lack of transparency & accountability
- Other

5. Which do you think are the three most important issues for Chief and Council to focus on over the next few years?

- Justice, Safety & Crime
- Housing
- Community Infrastructure (roads & buildings)
- Training, Employment & Business Opportunities

- Reducing Poverty & Replacing Social Assistance with a better model of income security
- Health & Social Services
- Recreation & Sports
- Food Security
- Other

6. What do you think will help to empower our Nation and enhance our Citizen's self-esteem? (check as many as you want)

- Governing ourselves
- More ceremonies and cultural activities
- Teaching our language
- Increasing our revenues
- Reducing poverty
- Getting an education
- Getting employment



	INDIAN ACT Self-Administration	SELF-DETERMINATION Self-Government
Legal Basis of Governing Authority	<p>FEDERAL LEGISLATION</p> <p>The Minister of Indigenous and Northern Affairs Canada holds primary decision-making authority. Primary accountability flows from Chief and Council to the Minister.</p>	<p>INHERENT RIGHT</p> <p>The Inherent Right of First Nations to govern themselves and their territories pre-dates European contact. These rights are recognized and affirmed by Canada's constitution, Supreme Court of Canada decisions and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Leadership governs under a citizen-supported constitution. Accountability flows between citizens and leadership.</p>
Governing Structures and Institutions	<ul style="list-style-type: none"> The Chief and Council structure is defined by the <i>Indian Act</i>. Custom elections are approved by the Minister. Other institutions, including economic development entities, health centres and education institutions may be created through provincial or federal incorporation. 	<ul style="list-style-type: none"> With the agreement of its citizens, the self-determining First Nation designs its own governing structures and institutions as defined by its constitution. The First Nation can develop institutions that match its culture. First Nations have an opportunity to reconstitute their nations.
Citizens	<ul style="list-style-type: none"> The <i>Indian Act</i> defines who is to be a band member. Band members are wards of the government. 	<ul style="list-style-type: none"> The self-determining First Nation decides on criteria for citizenship. Collectively, citizens are rights and title holders.
Law Making	<ul style="list-style-type: none"> The <i>Indian Act</i> confines and limits law making. Chief and Council have little direct authority. They can enact community by-laws. Disputes are resolved by the federal government through the Minister of Indigenous and Northern Affairs Canada. 	<ul style="list-style-type: none"> The self-determining First Nation develops its own laws and policies. First Nations have a "full box" of rights and jurisdiction over their territories. Enforcement of laws and dispute resolution determined by the First Nation. Overlapping and conflicting jurisdictions negotiated with other governments.
Lands and Resources	<ul style="list-style-type: none"> The Crown claims ownership of reserve lands. Chief and Council have limited ability to manage and develop reserve lands. The Crown has a duty to consult and accommodate First Nations about activities on its territories, but Chief and Council may not have the legal authority or mandate to negotiate on behalf of citizen rights holders. Almost all territorial land use decisions and decision-making processes are determined by federal and provincial legislation. 	<ul style="list-style-type: none"> The self-determining First Nation has the legal authority and a clear mandate to from citizens to develop its own laws and policies over its territory. There is meaningful and proper government to government consultation to reach accommodation. Negotiated agreements with other orders of government can lead to a variety of law-making authorities and arrangements relevant to the specific territory. The First Nation can negotiate extra-territorial and international agreements related to land and resource use.
Capacity	<ul style="list-style-type: none"> Capacity is largely determined by available funding from INAC and other government programs, and associated spending rules. Legislative and policy functions, enforcement and courts are rare. 	<ul style="list-style-type: none"> The self-determining First Nation makes capacity-building and resourcing decisions according to its own priorities and direction. Revenue sources open up from the exercise of jurisdiction over territory and resources. Effective self-governing institutions have legislative and policy capacity as well as ability to regulate and enforce own laws.
Finance and Economy	<ul style="list-style-type: none"> Type of funding, amount available, and transfer mechanisms for operational and program funding are determined by other governments. Some First Nations have established economic ventures to provide some own-source revenues Some First Nations can tax and collect fees through the <i>First Nations Financial Management Act</i> and the <i>First Nations Land Management Act</i>. 	<ul style="list-style-type: none"> The self-determining First Nation has a new fiscal relationship with Canada. The First Nation has a wide variety of revenue sources, including resource use, extraction and royalties, taxation, fiscal transfers, service funding agreements, fee for service, and own-source revenue through economic ventures.
Intergovernmental Relationships	<ul style="list-style-type: none"> Other governments decide on service delivery agreements, funding agreements and other administrative arrangements. Other governments decide on a range of policy, program and resource issues. 	<ul style="list-style-type: none"> The self-determining First Nation negotiates jurisdictional, service delivery and other agreements on a government-to-government basis, including internationally. There is joint decision-making where joint interests are involved.

CITIZENSHIP LAW TO RESTORE OUR SOVEREIGNTY

For thousands of years the Nisichawayasi Nehethowuk had our own identity, our own Nehethowewin language and our own culture. People from other tribes became part of our Nation. When others came from Europe they married into our community and they and their children were accepted as part of our Nation. All that changed with the *Indian Act* when governments took control and decided from 1876 onward who was and was not part of our Nation. We tried to take back some of this control in 1988 when the *Indian Act* was changed but the rules of the federal government continued to apply. Most notably, if one of our men married out, his wife and children were granted status but if a woman married out, she and her children lost their status and their identity. While Bill C-31 restored this somewhat, the problems remain.

As we develop our own laws, we must grapple with how to restore our sovereignty and our identity given the negative impacts of the *Indian Act* that has been defining who we are for over 140 years (the past seven generations). We must figure out how best to overcome the problems this has created so the next seven generations of our people do not suffer as the past seven generations have. To assist us in developing our law, please answer the following questions.

1. Do you agree that the following people should be considered an NCN Citizen:

- A person who was on the Band Membership List or was entitled to be on the list prior to the date our new NCN Law is enacted.
 Yes No
- The person is a descendant of a person on the Band Membership List.
 Yes No
- The person is an adopted child (whether by custom or under Canadian laws).
 Yes No

Other (please specify) _____

2. Should NCN Citizenship be granted to someone who is a descendant of an indigenous person who is not an NCN Citizen?

- Yes No
- A non-indigenous spouse of an NCN Citizen?
 Yes No
 - A non-indigenous spouse of an indigenous person?
 Yes No

3. Should Citizenship be granted to adults who are adopted if there was a genuine parent-child relationship between the person and the adoptive parent before the person turned 18?

Yes No

4. Should NCN be able to grant honorary Citizenship to people who are not NCN Citizens but who are recognized as having contributed significantly to our Nation?

Yes No



The Indian Act Said WHAT?!

The *Indian Act* was created to control and assimilate Indigenous peoples and their communities. Throughout history, a number of shocking and discriminatory measures have been in place.

1880

Though not a law but a policy, Indigenous farmers are expected have a **permit** to sell cattle, grain, hay or produce. They must also have a permit to buy groceries and clothes.

1885

Indigenous peoples are banned from conducting their own **spiritual ceremonies** such as the **potlatch**. A pass system is also created and Indigenous peoples are **restricted from leaving their reserve** without permission.

1914

Indigenous peoples are required to ask for official permission before wearing any **"costume"** at public events. Dancing is outlawed off reserve. In 1925, it is outlawed entirely.

1927

Indigenous peoples are banned from hiring **lawyers or legal representation** regarding land claims against the federal government without the government's approval.

1876

The *Indian Act* is created. Any existing Indigenous self-government structures at this time are **extinguished**.

An Indian is defined as "*any male person of Indian blood*" and their children. Provisions include: status women who marry non-status men lose status; non-status women who marry status men gain status and anyone with status who earns a degree or becomes a **doctor, lawyer or clergyman** is also enfranchised,

1884

Attendance in **residential schools** becomes mandatory for status Indians until they turn 16. Children are forcibly removed and separated from their families and are not allowed to speak their own language or practice their own religious rituals. The **sale of alcohol** to Indigenous peoples is prohibited.

1886

The definition of Indian is expanded to include "*any person who is reputed to belong to a particular band or who follows the Indian mode of life, or any child of such person.*" Voluntary enfranchisement is allowed for anyone who is "of **good moral character**" and "temperate in his or her habits".

1918

The Canadian government gives itself the power to **lease out Indigenous land** to non-Indigenous persons if it is being used for farming.

1960

Indigenous peoples are finally allowed to **vote** in federal elections. That is to say, for nearly a century, Indigenous peoples were denied the right to vote on land that had been stolen from them.

1969

The first Trudeau government announces its intentions to entirely eliminate the *Indian Act* with the **White Paper**. This draws great ire from Indigenous communities and the government abandons the idea.

1978

Canada issues a **report** which acknowledges the sexist **marrying out rule** which strips status women of their status and benefits if they marry non-status men. Sandra Lovelace challenges this rule in the late 1970s, petitioning to the UN Human Rights Committee in her quest. In 1981, the committee finds that the loss of a woman's status upon marriage violates the *International Covenant on Civil and Political Rights*.

1951

After the Joint Committee of the Senate and House of Commons looks at the Act again in the late 1940s, the bans on dances, ceremonies and legal claims are **removed**. Women are now allowed to vote in **band council elections**. Provisions that are still in place include compulsory enfranchisement through marriage to a non-status man; Indigenous peoples who receive a **degree** or become a doctor, clergyman or lawyer lose status. 1951 amendments now enact the **"double mother rule"** which removes the status of a person whose mother and grandmother were given status through marriage.

1961

Compulsory enfranchisement is removed.

1970

The Royal Commission on the Status of Women recommends that legislation be enacted to repeal **sexist** *Indian Act* provisions.

1973

The Supreme Court rules that **Indigenous rights to land** do indeed exist and cites the 1763 Royal Proclamation as proof. This translates into an actual victory in the following decade, when the Inuvialuit Claims Settlement Act comes into force in 1984, giving Inuit of the western Arctic **control over resources**.

1985

Bill C-31 comes into effect. The **marrying out rule** in the *Indian Act* is finally removed but further distinctions in status are created, with additional issues stemming from this distinction. Re-instated women are given 6(1)(c) status, while men retain 6(1)(a) status.

2010

Canada signs onto **UNDRIP**. This is the same year that the Liberal Opposition suggests the "6(1)(a) All the Way" amendment as Sharon McIvor brings her case forward. The Speaker of the House rules against the proposed amendment.

2011

Bill C-3 comes into place to fill the gaps in Bill C-31, granting 6(2) status to grandchildren of women who regained status in 1985, but who only passed 6(2) status onto their children.

2015

In the **Descheneaux** Case, the Superior Court of Quebec rules that several provisions under section 6 of the *Indian Act* violate section 15 of the Canadian Charter of Rights and Freedoms.

2017

The Ontario Court of Appeal rules in favour of Lynn Gehl regarding **unstated parentage**. She is granted 6(2) status, and the issue of unstated parentage is included in Bill S-3.

2017

Bill S-3 receives Royal Assent and covers issues related to the cousins issue, the siblings issue and the omitted minor child issue but leaves many other issues unaddressed.



YOUR COMMENTS ARE IMPORTANT TO US

Please let us know your thoughts, concerns and feedback on these and future plans. We hope to maintain a government that will listen to you and act only in your best interest.

Nisichawayasihk Cree Nation

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