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Ottawa 1982  
Volume 17, numéro 1, 1982

URI : [id.erudit.org/iderudit/030883ar](http://id.erudit.org/iderudit/030883ar)  
DOI : [10.7202/030883ar](https://doi.org/10.7202/030883ar)

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Éditeur(s)

The Canadian Historical Association/La Société historique du Canada

ISSN 0068-8878 (imprimé)  
1712-9109 (numérique)

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Citer cet article

Leslie, J. (1982). The Bagot Commission: Developing a Corporate Memory for the Indian Department. *Historical Papers*, 17(1), 31–52. doi:10.7202/030883ar

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## ***The Bagot Commission: Developing a Corporate Memory for the Indian Department***

**JOHN LESLIE**

In October 1842, Sir Charles Bagot, Governor General of British North America, launched a comprehensive investigation of Indian department operations in Canada East and Canada West. The intent was to ascertain what new administrative and policy reforms were needed to improve Indian living conditions and to examine ways of reducing current operational expenditures. Accordingly three special commissioners were appointed to review Indian department records, receive briefs from interested groups, and question local Indian Superintendents. As well, to a limited extent, the views of Indian leaders were to be canvassed.

Their final report was completed in January 1844 and forwarded to the new Governor General, Sir Charles Metcalfe.<sup>1</sup> The very comprehensive study contained three major sections. The first presented a chronological history of previous Indian policies, including a rationale for Indian treaty activity and a summary of the Indian civilization programme to 1839. The second part investigated Indian social and economic progress in Canada East and Canada West, recording statistical data on the Indian and half-breed populations, reserve acreage, agricultural advancement, health, schools, claims and grievances, temperance, and religious conversion. The final section looked closely at the organization and personnel of the Indian department.

As a result of this report, by 1850 the Indian department had been reorganized, new Indian policies were in place, and several pieces of new legislation were on the books. In retrospect, the Bagot Commissioners' report was the first major document in a lengthy policy review process which would see the Indian civilization programme investigated, evaluated, redefined and reiterated in the decades prior to Confederation. This report also was the first successful venture in developing a consolidated corporate memory for the Indian departments of both Canada East and Canada West — that is, a documented record of previous policies, an assessment of current conditions, and a rationale and philosophy for future action.

The need for such a report dated from 1830 when separate civil Indian departments were established in Upper Canada and Lower Canada and charged with the task of promoting Christianity and civilization among the Indians of Canada. This responsibility had been part of the management of Indian affairs in the lower province

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1. "Report on the Affairs of the Indians in Canada", App. EEE and App. T, *Journals of the Legislative Assembly of Canada* (hereafter JLAC Report), 1844-5 and 1847, respectively. The Appendices are not paginated.

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since the days of the French régime,<sup>2</sup> but from the time of the Conquest onwards, the principal consideration of Indian affairs in Canada had been military in nature. Indian policy, therefore, had been formulated and implemented to meet military needs.

Following the War of 1812 the traditional role of Indians as military allies to British regular forces in the Canadas declined gradually in importance. By the late 1820s the warrior image had been replaced by that of an expensive social nuisance.<sup>3</sup> Since Indian people were no longer needed as allies, Imperial authorities, particularly those in the Colonial Office<sup>4</sup> and Treasury,<sup>5</sup> began to question whether or not the Indian department should continue to exist.<sup>6</sup> Concurrently, other officials and interested persons and parties called not for abolition of the Indian department, but rather for a change in direction which would encourage the department to cease using the Indians for its own purposes and begin to assist them in achieving a degree of civilized living.

The search for new Indian policies and changes in the administrative structure of the department prompted an enquiry into Indian conditions by Major General H.C. Darling,<sup>7</sup> whose report of 24 July 1828 is regarded as "the founding document of the whole civilization programme."<sup>8</sup> Darling's report was forwarded to the Colonial Secretary, Sir George Murray, on 27 October 1828, who accepted his findings: settling Indian people on farms, providing education facilities and religious instruction and, at the same time, substituting farm stock and agricultural implements for the goods previously given to them as payment for their annuities. While the Colonial Secretary agreed with the new role for the department, he insisted that costs not escalate and to ensure this the department was transferred from military to civil control, where its

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2. C.J. Jaenen, "The French relationship with the Amerindians", Paper presented at the IV Convegno Internazionale dell'Associazione Italiana di Studi Canadesi, Università di Messina, Italy, March 25-28, 1981.
  3. R.J. Surtees, "The changing image of the Canadian Indian: An historical approach", *Approaches to Native History in Canada: Papers of a Conference held at the National Museum of Man, October, 1975* (Ottawa, 1977), p. 113.
  4. *Imperial Blue Books on Affairs Relating to Canada*, Vol. 5, (House of Commons, 19 March 1837), Viscount Goderich to Lord Dalhousie, 14 July 1827.
  5. See Treasury Minute No. 14412, 3 November 1829, in R.J. Surtees, "Indian Reserve Policy in Upper Canada, 1830-1845", (M.A. thesis, Carleton University, 1966), p. 25.
  6. As early as 1822 the Colonial Secretary, the Earl of Bathurst, had raised the question of reducing the size and expense of the Indian department. This economy theme, a constant factor in Imperial history, was again taken up in 1827 when Viscount Goderich, Colonial Secretary, wrote Lord Dalhousie, Governor General, questioning the need for an Indian department. Major Darling's report in 1828 on Indian conditions was the response to Goderich.
  7. Major General Darling replaced Sir John Johnson on 2 August 1828 as Chief Superintendent of Indian Affairs. The position of Superintendent General of Indian Affairs and Inspector General of the Indian department was abolished.
  8. L.F.S. Upton, "The Origins of Canadian Indian Policy", *Journal of Canadian Studies*, vol. 8, no. 4, (November, 1973), p. 57.

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budget could be brought under annual inspection by the British Parliament.<sup>9</sup>

Prior to the transfer, Murray asked Sir James Kempt, Administrator of Lower Canada and Sir John Colborne, Lieutenant Governor of Upper Canada to elaborate on the scheme outlined by Major Darling. The major features of Kempt's recommendations were:

1st. To collect the Indians in considerable numbers and settle them in villages with a due portion of land for their cultivation and support.

2nd. To make such provision for their religious improvement, education, and instruction in husbandry as circumstances may from time to time require.

3rd. To afford them such assistance in building their houses; rations; and in procuring such seed and agricultural implements as may be necessary, commuting when practicable a portion of their presents for the latter.<sup>10</sup>

Colborne suggested that the most economical way to civilize the Indians was to create "a fund for their future support by granting leases of their lands, and selling part of them." He criticized past policy as wasteful and one "which has occasioned an enormous expense without conferring any benefit on the Indians, or insuring their friendship." He concluded his report by citing American plans for Indian civilization which had succeeded in establishing "respectable establishments of missionaries, school masters, farmers and mechanics."<sup>11</sup> The effect of these reports in the late 1820s was a change in Indian policy: the Indian department was placed under civil control, the reserve system established, and civilization experiments were initiated at Coldwater and Sarnia.<sup>12</sup>

At this juncture, it should be noted that the civilization programme not only had its origins in the United States and the Canadas, but also was rooted in "philanthropic liberalism," the dominant political philosophy in Britain during the 1830s. This was a decade of rapid industrialization, social reform, and political radicalism, a period which saw the rise of the humanitarian movement and the concept of the "whiteman's burden" characterized by the Clapham Sect's campaign against the slave trade, the spread of missionary zeal, and a new attitude towards the aboriginal people in the colonies.<sup>13</sup> In 1836 the Aborigines Protection Society was founded and soon became a leading pressure group for Indian advancement and civilization.

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9. On 13 April 1830 the Indian department was split into two offices. In Upper Canada the Lieutenant Governor was placed in charge with the Chief Superintendent, Col. James Givins, reporting to him. In Lower Canada control remained in the hands of the Military Secretary, D.C. Napier, who moved from Montréal to Québec and assumed the title of Secretary for Indian Affairs. The Indian department had been under civil control between 1796 and 1816.

10. Public Archives of Canada (hereafter PAC), Records relating to Indian Affairs, RG10, Sir J. Kempt to Sir J. Colborne, 18 February 1829.

11. Robert S. Allen, *The British Indian Department and the Frontier in North America, 1755-1830* (Ottawa, 1975), Canadian Historic Sites: Occasional Papers in Archaeology and History. No. 14, p. 99.

12. Robert J. Surtees, "Indian Reserve Policy in Upper Canada", (M.A. thesis, Carleton University, 1966).

13. Klaus E. Knorr, *British Colonial Theories, 1570-1850* (London, 1968), pp. 377-84.

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Among Imperial figures, perhaps the most influential commentator on the "Native Question" was Herman Merivale, Professor of Political Economy at Oxford, who became permanent Under-Secretary of State for the Colonies in 1847, when he succeeded Sir James Stephen who had held the post since 1836.<sup>14</sup> Merivale believed that metropolitan control of Indian affairs in the colonies was essential in order to maintain law and order and "civilize" the native population. By 1841, he had developed four policy alternatives to solve the native question: extermination, slavery, insulation and amalgamation.<sup>15</sup> However, by the late 1830s the influence of the humanitarian movement had eliminated the first two options. Consequently, Colonial Office Indian policy for the Canadas consisted of "insulation leading eventually to amalgamation," an approach also designed to lower the cost of Indian administration.<sup>16</sup>

Although Merivale may have believed in the gradual "euthanasia" of Indian culture through amalgamation, he did not subscribe to the theory that the Indians would disappear because of an incapacity to develop like Europeans.<sup>17</sup> Indeed, Merivale promoted the idea that the Imperial government should protect native peoples through "a department of civil service," while permitting teachers and missionaries to awaken the Indians to the need for material progress.<sup>18</sup> This was a philosophy and approach he shared with Lieutenant Governor Colborne, Lord Glenelg and other senior officials at the Colonial Office.

While Merivale and other liberals were developing their theories, the programme to promote Indian civilization was being put in place in Canada. In particular, experimental settlements were begun at the Rivière Verte in Lower Canada, and as previously noted, at Coldwater and Sarnia in Upper Canada.<sup>19</sup> While innovative in their approach, these experiments did not appear to fire the imagination of cost conscious accountants at the Treasury in Britain. Five years after the initiation of the programme, a Select Parliamentary Committee on Military Expenditures passed a resolution recommending the commutation or abolition of the annual presents and a reduction of Indian department staff so as to reduce the annual £20,000 Parliamentary Grant.<sup>20</sup>

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14. David McNab, "Herman Merivale and the Native Question, 1837-1861", *Albion*, vol. 9, no. 4, (Winter 1977), p. 361.

15. David McNab, "Vacillation of Purpose. Indian Policies of the Colonial Office in British North America in the mid-Nineteenth Century", Paper presented at annual meeting of the Canadian Historical Association, University of Western Ontario, London, June 1978, p. 2.

16. *Ibid.*, p. 8.

17. David McNab, "Herman Merivale and the Native Question", p. 372.

18. *Ibid.*, p. 365.

19. This early reserve (1827) in Lower Canada involved the settlement of 30 Malecite families on 3000 acres. By 1837 the experiment had failed due to government neglect and the reserve was "abandoned".

20. In 1835 a Select Committee of the House of Commons renewed a demand that the Indian department be abolished. In Britain financial retrenchment was once again the dominant Imperial theme. However Lord Glenelg, Colonial Secretary, fought for continuation of the Indian department and its civilization programme, drawing heavily on Kempt's and Colborne's earlier rationales. See John S. Milloy, "The Era of Civilization — British Policy for the Indians of Canada, 1830-1860", (D. Phil. thesis, Oxford, 1978).

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As a result of this resolution, Lord Glenelg sent a dispatch on 14 January 1836 to the Earl of Gosford, Governor General, and to Sir Francis Bond Head, the new Lieutenant Governor of Upper Canada, requesting a progress report on Indian social and economic conditions. He also solicited proposals for future Indian policy.<sup>21</sup> Gosford, wise to the ways of bureaucratic administration, asked the Executive Council of Lower Canada to prepare his reply. Bond Head, on the other hand, after some careful thought chose to devise his own innovative policy and to put it into effect immediately, in the process rejecting the major principles and concepts of the existing civilization programme.<sup>22</sup>

Bond Head based his radical "Indian removal" policy on personal observations, American precedents, and previous knowledge of aboriginal people gained during extensive travel in Argentina. During the summer of 1836 Bond Head had visited practically every Indian village in Upper Canada to see how Indian civilization was progressing. He concluded that it was not. Consequently he proposed to remove all the Indians of Upper Canada to the islands of the Manitoulin chain where their last years would be spent in isolation from white settlers.<sup>23</sup> These isolated islands, Bond Head maintained, provided adequate soil and abundant game, berries and fish, and would not be attractive to white settlers.

To implement this policy, during the ceremony of issuing annual presents at Amherstburg in 1836, he obtained from the Hurons two thirds of their lands along the Detroit River,<sup>24</sup> and from the Moravian Indians, six square miles on the Thames River.<sup>25</sup> In the same year, while at Manitoulin Island, Bond Head also arranged for the Ottawa and Chippewa to surrender their title to the islands on condition that the land would be used to accommodate Indians from all of Upper Canada.<sup>26</sup> On that same trip, he convinced the Saugeens to surrender their title to 1.5 million acres of the Bruce peninsula just below the Saugeen River.<sup>27</sup>

21. "Copies or extracts of Correspondence since 1 April 1835, between the Secretary of State for the Colonies and the Governors of the British North American Provinces Respecting the Indians in those Provinces", *British Parliamentary Papers* (1839), Lord Glenelg to Earl of Gosford, 14 January 1836.
22. Bond Head had replaced Colborne as lieutenant governor of Upper Canada in November 1835. He was convinced that Colborne's approach was wrong and that Glenelg's faith in the Indian department was ill-founded.
23. John Milloy advances the thesis that Bond Head's plan was actually threefold. He would remove the Indian people of Upper Canada to Manitoulin Island thereby freeing large tracts of land to settlers and thus scuttling a plank of the reform party which protested the Crown and Clergy Reserves. The money obtained from selling these surrendered lands would also finance the expenses of the Indian department. See Milloy, "Era of Civilization", pp. 181-91.
24. Canada, *Indian Treaties and Surrenders*, vol. 1, Treaty No. 46, (Ottawa, 1891), pp. 113-4.
25. *Ibid.*, Treaty No. 47, pp. 115-6.
26. In reply to this news Lord Glenelg praised Bond Head's "vigilant humanity." In November 1836, Bond Head sent a second memorandum to Glenelg stating that the civilization programme was a failure and announcing additional purchases from the Hurons at Amherstburg and the Moravians on the Thames River. On 20 January 1837, Glenelg wrote to Bond Head approving both the policy of Indian "removal" and the second series of purchases.
27. Canada, *Indian Treaties and Surrenders*, vol. 1, Treaties No. 45 and 45½, pp. 112-3.

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Bond Head's policy outraged the Methodist missionaries in Canada.<sup>28</sup> In 1837 the Wesleyan Methodist Conference reported great unrest among the Indians of Upper Canada. Every Indian settlement was threatened and progress in religious conversion, civilization and assimilation was being slowed by the threat that their lands would be seized and they would be removed to the Manitoulin islands. The missionaries argued that only secure land titles would persuade the Indians to continue making improvements.<sup>29</sup> In England, the Aborigines Protection Society also rejected Bond Head's removal policy which had seen the exchange of 3 million acres of arable land for twenty-three thousand "barren islands." The Secretary of the Wesleyan Methodist Society, the Reverend Robert Alder, appealed directly to Lord Glenelg to reject Bond Head's policies.<sup>30</sup>

While controversy swirled around Bond Head's removal policy, the Executive Council of Lower Canada submitted its report on 13 July 1837,<sup>31</sup> prepared by a committee chaired by William Smith.<sup>32</sup> The report was a cautious document, in tune with the latest Colonial Office thinking. It also reflected accurately the different stage of development of the Indians in Lower Canada.<sup>33</sup> The Executive Council did not believe that Indian people were doomed to extinction, as Bond Head had maintained. The experiments in agricultural settlement had not failed in Lower Canada because many Indians had been farmers for generations. Rather than physical removal, the Executive Council urged that more reserve land be set aside near white settlements. Annual presents could still be issued to resident Indians, but European clothing and farm tools should replace trade goods to encourage agriculture. School attendance was also to be encouraged by linking it to the continued giving of presents to the children's parents.

Interestingly, the Executive Council's approach was similar to that suggested by the Aborigines Protection Society which had published its report several weeks earlier on 26 June 1837.<sup>34</sup> The Society's findings had a great impact in raising the public

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28. Milloy, "Era of Civilization, pp. 200-2.

29. *Ibid.*

30. *Ibid.*, p. 204.

31. *British Parliamentary Papers* (1839), pp. 255-99.

32. William Smith had been clerk of the legislative assembly of Lower Canada as well as Master in Chancery. From 1817 to 1837 he was a member of the executive council.

33. As Leslie Upton has pointed out the Indian situation was much different in Lower Canada. There were fewer Indians (3,000) and they had been in contact with whites for sometime. There were also fewer reserves and the dominance of the Roman Catholic church eliminated virtually any interference from Protestant missionaries or the government. There was little urgency for reform. See L.F.S. Upton, "The Origins of Canadian Indian Policy", *Journal of Canadian Studies*, vol. 8, no. 4, (November 1973), p. 55.

34. "Report from the Select Committee on Aborigines (British Settlements)", 26 June 1837, *British Parliamentary Papers* (1839).

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conscience about the plight of the native people in the colonies and had influence on Lord Glenelg's subsequent thinking.<sup>35</sup>

By early summer of 1838, Glenelg was convinced that the Colonial Office had made a mistake in endorsing Bond Head's approach and that the course recommended by Colborne, the Methodists, the Executive Council of Lower Canada, and the Aborigines Protection Society, was the right one.<sup>36</sup> On 22 August 1838, Glenelg sent instructions to both Lord Durham, Governor General, and Sir George Arthur, the new Lieutenant Governor of Upper Canada, outlining his views on Indian policy.<sup>37</sup> It was a comprehensive statement reiterating the 1830 commitment to civilize Indian people. "Wandering" Indians were to be settled on land; those who were settled had to become farmers. Indians were to be given a sense of permanency on their improved lands, with the title to their reserve locations assured under the Great Seal of the province. As well, reserve land would be protected from creditors and would be alienable only with the consent of the Governor General, principal Chief, and resident missionary. Since Indian education was also a basic aspect of Indian civilization every encouragement was to be given to missionaries and instructions were to be issued to Indian department officials to cooperate with them. Fundamental to British policy, Lord Glenelg concluded, was "to protect and cherish this helpless Race...and raise them in the Scale of Humanity."

Acting on Glenelg's dispatch, Sir George Arthur commissioned Justice James Buchanan Macaulay to prepare a long awaited report on Indian conditions in Upper Canada.<sup>38</sup> Arthur had informed Glenelg that the forthcoming report would be used in "remodelling" the Indian department; however, Macaulay was not adventuresome. He used the 1837 Executive Council report as a model to reiterate Glenelg's philosophy and approach, modifying the content to reflect Indian circumstances in Upper Canada. Macaulay's findings,<sup>39</sup> which amounted to a rejection of Bond Head's removal policy, were forwarded to the Lieutenant Governor on 22 April 1839.<sup>40</sup> He promptly referred them for comment to a former Indian department official, William Hepburn.

Macaulay's report reinforced the earlier findings of Lord Durham that administrative reform and increased autonomy for all colonial government departments was

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35. *Report on the Indians of Upper Canada, By a Sub-Committee of Aborigines Protection Society* (London, 1839), p. 50. It should also be noted that both Glenelg and Sir James Stephen were officials of the Church Missionary Society. As early as 10 April 1837, Glenelg had received protests from missionaries, parliamentarians and politicians concerning the Saugeen purchase.

36. *JLAC Report (1844-45)*, App. EEE. On 22 August 1838, Glenelg wrote to Lord Durham noting that "the Report of the Committee of the Executive Council leaves little to be desired...the sentiments and suggestions...coincide...with my views. I therefore authorize you to carry the proposed measures into effect".

37. *British Parliamentary Papers* (1839), Lord Glenelg to Earl of Durham, 22 August 1838, p. 233; see also Lord Glenelg to Sir George Arthur, 22 August 1838, p. 314.

38. *Ibid.*, Sir George Arthur to Lord Glenelg, 14 February 1839, p. 394.

39. PAC, RG10, vols. 718-719.

40. PAC, RG10, vol. 70, James B. Macaulay to John Macaulay.



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imperative if responsible government was to become a reality.<sup>41</sup> On 21 October 1839, the Legislative Assembly launched an enquiry into all departmental operations in Upper Canada, with Committee No. 4 looking into the Indian department.<sup>42</sup> In this second investigation, Macaulay was joined by William Hepburn and former Attorney General Robert Jameson. The purpose of the Committee was to determine the condition of the Indians "morally and politically" and to investigate the status of their lands and annuities. Proposals were also solicited to improve the organization of the Indian department.

The report of Committee No. 4 in January 1840 reflected Macaulay's earlier review. Indian living conditions were lamentable, but no modifications were suggested to the existing civilization programme. Most Indian superintendents were overworked and, lacking support staff, were engaged solely in dealing with daily exigencies. There was a deficiency in planning and no vision of the future. As well, current administrative structures were inappropriate. The Army Commissariat should cease issuing the annual presents. In the future sales of Indian land were to be conducted by the Indian department, not the Crown Lands department. Indian department record keeping also needed improvement and a proper accounting system established. While Committee No. 4 closely examined administrative shortcomings, wholesale organizational and personnel changes were not suggested.

Unfortunately, the administrative impact of these reports was reduced significantly by three major political events: the Rebellions in Upper and Lower Canada, the border raids by American Hunters' Lodges, and the Union of the two provinces in 1841. The calmer political atmosphere following the Act of Union permitted long-delayed plans for general administrative reform to proceed.

Out of this background came the report of the Bagot Commissioners. On 10 October 1842, Sir Charles Bagot, successor to Lord Sydenham as Governor General, appointed three Commissioners to investigate Indian department operations in both Canada East and Canada West. The first Commissioner, Rawson W. Rawson, an experienced British public servant, had arrived recently in Canada to assume the post of Civil Secretary.<sup>43</sup> The other Commissioners were John Davidson, a former Crown Lands Commissioner, and William Hepburn. Hepburn was now Registrar of the Court of Chancery and had participated in Macaulay's two earlier enquiries.

For fifteen months the Commissioners held public hearings, forwarding their findings on 22 January 1844. The evidence cited was so voluminous that publication in the *Journals of the Legislative Assembly* took two years. The final report included one hundred appendices which recorded statistical information on the various tribes, testimony of department officials, expenditures on Indian presents and annuities, statements of departmental accounts, and proceedings of numerous Indian councils.

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41. J.E. Hodgetts, *Pioneer Public Service. An Administrative History of the United Canadas, 1841-1867* (Toronto, 1955), p. 12. Hodgetts terms Durham's Report "a scathing indictment of the civil services of the two Canadas before Union."

42. "Report of Committee No. 4, on Indian Department", *Journals of the Legislative Assembly of Canada* (1847), App. T, App. No. 1.

43. F. Boase, *Modern English Biography*, vol. 6, (London, 1965).

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The report painted a depressing picture of bungled departmental operations, deplorable Indian conditions, and unresolved policy questions.

The Commissioners concluded that the Indian people of both Canadas, despite their diverse stages of development, shared similar difficulties: squatters on reserves, improper recording of land sales and leases, lack of progress in agriculture and education, inept administration of band funds, disappearance of wildlife, and excessive use of liquor.<sup>44</sup> The situation in Canada West was more acute due to its larger Indian population, numerous reserves, and its more recent adoption of the civilization programme.<sup>45</sup> As well, legislation to control liquor, protect reserve land, and prevent trespass had been evaded or ignored by the new settlers.

Previous investigations of the Indian department, while identifying major weaknesses,<sup>46</sup> had focused mainly on recording the progress of Indian civilization. For one reason or another, they had not produced a critical analysis of the programme's shortcomings, thus their recommendations were often vague, limited in scope, and never implemented. In most instances, they parroted information which would find acceptance at Whitehall, and with the exception of Bond Head's plan, were cast virtually in the same mold. More fundamental, these enquiries had failed to spell out how the Indian department and civilization programme could be financed economically. The interrelation and future role of the various elements of the programme such as education, presents, protection of Indian lands and resources, annuities, and the Indian department, were not assessed within a broad philosophical context, but reviewed in isolation from each other.

The approach of the Bagot Commissioners was different. They undertook their assignment with a view to evaluating each element as it related to the ultimate cost effectiveness and efficiency of the civilization programme. Consequently, at the outset the Commissioners did not hesitate to state their philosophical approach since this would determine ultimately how they would deal with the various questions before them.

Foremost, in their view, the Crown had a duty to retain its responsibility for Indian people, free from the influence of insensitive local authorities.<sup>47</sup> The continued

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44. *JLAC Report (1844-45)*, App. EEE, Section 2.

45. In Canada West the influence of Protestant missionaries with their emphasis on "works" as well as faith meant that the best Indians were those who had adopted Christianity and became farmers. Thus there were repeated attempts in Canada West to establish model Indian communities. In Lower Canada there was no urgency to transform Indian people into a "happy yeomanry." See Douglas Leighton, "Indian Administration in the Province of Canada: Attitudes, Philosophies and Actions, 1841-1867", Paper presented to the Canadian Sociology and Anthropology Association, London, June 1978, pp. 13-4.

46. PAC, RG10, vol. 717, Samuel P. Jarvis to John Macaulay, December 1838. Chief Superintendent Jarvis wrote to John Macaulay, secretary to Sir George Arthur, outlining in detail the chaotic state of Indian department and band accounts. He argued that the Indian department should have more control over these functions and until it did neither the department nor the civilization programme could be self-financed.

47. *JLAC Report (1844-45)*, App. EEE, Section 3, "Present Mode of Conducting Indian Affairs, with Recommendations for its Amendment".

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“faith of the Crown and every principle of justice” also counselled against Bond Head’s policy of Indian removal. Old hunting practices however had to be abandoned as game was becoming scarce and settlement was advancing. Indeed, Indians had to become Christian farmers, made self reliant, and prepared gradually to assume the responsibilities of full citizenship.

The civilization programme adopted in 1830 was viewed as paternalistic. It had “a tendency to keep Indian people in a state of isolation and tutelage and materially to retard their progress.” Instead, a new approach was needed which would instill in Indian people a thirst for knowledge, and the qualities of industry and self reliance.<sup>48</sup> There were, said the Commissioners, no racial barriers to Indian advancement, a process which could be accelerated by improvements in Indian education, protection of Indian land and resources, and a complete reorganization of the Indian department.<sup>49</sup>

A vital element to achieving Indian self reliance rested, in the long-term, with Indian education.<sup>50</sup> To date, experience with Indian day schools had not been satisfactory since the daily influence of the parents was pervasive. Also, attendance was irregular and few practical skills were taught. Citing school systems and curricula in Sierra Leone and Missouri,<sup>51</sup> evidence of which had been supplied to the Commissioners by various Canadian missionaries, several new initiatives were recommended. Indian boarding schools with attached farms should be established to teach Indian children animal husbandry, mechanical trades, and domestic economy.<sup>52</sup> Crops from the adjacent farms would also serve to make the schools less costly to operate. In addition, the Commissioners recommended that £3000 be set aside for the construction of four new manual labour schools. To provide practical work experience, Indian people were to be considered for such township jobs as timber rangers and pathmasters, while construction on reserves was to be carried out as far as practicable using Indian labour. In a significant departure, the Commissioners endorsed Glenelg’s view that all religious groups, including the Methodists, should receive cooperation from the Indian Department in implementing the new education policy.<sup>53</sup>

Of all the unresolved policy questions of concern to Imperial authorities, that of

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48. *JLAC Report* (1847), App. T, Section 3, “Part I — General Recommendations”.

49. There was a feeling among Imperial administrators like Herman Merivale that native people of the tropics were inferior, while those of northern zones were almost equals. The New Zealand Maoris and Indians of North America were regarded as possessors of an “ethic” which was similar to 19th century chivalric concepts. In short, native people did not lack intelligence, only character. See Douglas Leighton, “Indian Administration in the Province of Canada”, p. 5.

50. Nineteenth century Britons believed in education as a cure for most social ills. See *ibid.*, p. 10.

51. *JLAC Report* (1847), App. T, Appendices 30 and 38.

52. Already successful prototypes had been established at Christieville, Chateauguay, Brantford (Mohawk Institute), and at Rice Lake under the Reverend William Case.

53. *JLAC Report* (1847), App. T, Section 3, “General views as to the system of management”.

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annual presents was the most vexatious.<sup>54</sup> As previously observed, enquiries about their termination or commutation had begun in the early 1820s. After 1830, the annual British Parliamentary grant for Indian affairs was £20,000 of which, by 1836 £15,850 was spent on presents, and the remainder on departmental salaries and pensions.

The matter was complicated further by the special regard that Indian people had for presents. Not only were they practical, but presents were also symbolic of the Indians' historic relationship with the Crown. Indeed, at the time they were the only concrete affirmation of Indian status. Colonial officials were aware particularly of this situation and when canvassed by Imperial authorities about their termination, responded cautiously. In 1836, Bond Head had recommended that presents be continued for resident Indians, but terminated within three years for visiting American Indians. In the interim, their cost could be borne by revenue obtained from the sale of surrendered Indian lands.<sup>55</sup>

The Executive Council of Lower Canada, on the other hand, advised in 1837 that the giving of annual presents was symbolic of the Crown's "good faith and continued protection," and it would not be feasible to end the practice abruptly. Instead, they recommended that traditional presents such as guns, ammunition, knives, and needles be commuted gradually to such items as farm implements, seed and stock, articles designed to reinforce the agricultural orientation of the civilization programme.<sup>56</sup> No immediate action had been taken on these suggestions as the Rebellions and border raids by the Hunters' Lodges in the late 1830s shelved temporarily any contentious policy changes which might disrupt the practice of Indian conciliation. Thus the issue remained unresolved when the Commissioners researched their report.

The approach of the Bagot Commissioners to this question was a marked departure from previous colonial responses. They disagreed that Indian funds from land sales would be sufficient to cover the cost of presents, since this was escalating every year. In preparing their recommendations, the Commissioners reviewed Imperial correspondence and Indian department records. They also consulted with resident Indians at St. Francis, Caughnawaga and Lake of Two Mountains.<sup>57</sup> The Indians urged that the presents should continue in the form of clothing and blankets, and not be commuted to cash payments which would only attract brandy merchants to the reserves.

The Commissioners' proposals were innovative and provide a distant echo of subsequent legislation in later decades dealing with Indian status, band membership and enfranchisement. To limit immediately and eventually abolish presents, a census was proposed of all resident Indians in the province. Once completed, band lists would be prepared and maintained in the Civil Secretary's office and no additions could be made to them without the Governor General's approval. Only Indians on the official lists would receive presents. Neither halfbreeds nor their descendants, where "the

54. James A. Clifton, "Visiting Indians in Canada", Manuscript for a booklet to be issued by Fort Malden National Historic Park, Parks Canada, 1979, pp. 37-9.

55. *British Parliamentary Papers (1839)*, Sir Francis Bond Head to Lord Glenelg, 20 November 1836.

56. *JLAC Report (1847)*, App. T, "Presents".

57. *Ibid.*, "Presents. Description and Statistics".

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difference is clearly marked” would be eligible, unless “they be adopted by the Tribe with which they are domiciled and live, as Indians among them.”<sup>58</sup>

The question of presents to Indian women and school children also received attention. Perhaps foreshadowing later band membership legislation, the Commissioners noted:

[The] principle has been lately sanctioned by the Governor General, who has directed that no Indian women living, married or otherwise, with a whiteman shall receive presents.

With respect to Indian children, “any children educated in Industrial schools would not receive presents.” Presents had simply become an expensive anachronism.<sup>59</sup>

The Commissioners also suggested a change in the nature of the presents in keeping with strict economy and anticipated changes in Indian lifestyle. Unsettled or partially civilized Indians would continue to receive ammunition and blankets. Civilized groups engaged in agriculture would get clothing, shoes, kettles, seed and farm implements. Thread, needles and combs would be distributed every second year. Tobacco would be cut out completely. Flags and medals would be distributed only on special occasions.<sup>60</sup>

The Commissioners dismissed the Chief Superintendent’s complaint that the system for the order and delivery of presents was inefficient. In their view, annual shortages would not occur once band lists were kept upon which accurate forecasts could be based. To reduce costs further, it was recommended that the presents be distributed immediately upon the Indians’ arrival, that no outside visitors be permitted at the distribution ceremony, and that Indian travel rations be reduced.<sup>61</sup>

Another area of major concern was protection and management of Indian reserve lands and resources.<sup>62</sup> Basic to this question was the precise nature of Indian land “title” and “tenure.” The Crown claimed ownership of Indian lands as part of their “Territorial Estate and eminent domain.” The Royal Proclamation conferred on the Indians a “right of occupancy” and a “claim to compensation for its surrender.”<sup>63</sup> The Commissioners felt that the “peculiar” Indian title kept Indian people in a sheltered state and excluded them from the political franchise, statutory labour, taxation and debt liability. These were all vital elements of full citizenship.<sup>64</sup>

Also detrimental was the nature of existing Indian land tenure. Indian people held their reserve land in common and although each family had a plot which they could improve, no permanent security was afforded as there were no individual title deeds. In the words of the Commissioners:

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58. *Ibid.*

59. *Ibid.*, Parts 4 and 5.

60. *Ibid.*, Part 6.

61. *Ibid.*

62. *JLAC Report* (1847), App. T, “Lands”.

63. PAC, RG10, vol. 718, Macaulay Report, 22 April 1839, pp. 360-2.

64. *JLAC Report* (1847), App. T, “Lands — Titles”.

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...distinct ideas of separate property...must necessarily precede any considerable advancement of industry and civilization; because no man will exert himself to improve his lands and procure the comforts of life unless his right to enjoy them is exclusive and secure. The American Government at an early period adopted this view.<sup>65</sup>

The Commissioners examined previous recommendations. In 1830, Sir James Kempt had suggested conditional granting of individual location tickets.<sup>66</sup> In 1839, Justice Macaulay had commented that the quasi-corporate system of land tenure should be replaced “as an object of policy” by one based on fee-simple ownership of individual lots.<sup>67</sup> On the other hand, Chief Superintendent Jarvis was opposed to granting individual titles and suggested “a licence of occupation in perpetuity...not transferrable to a white man, which, retaining the Fee in the Crown, would protect them from alienation...”<sup>68</sup>

The idea had been tried by T.G. Anderson on Manitoulin Island and apparently struck the 1842 investigators as being the most sensible way to promote Indian advancement as it supported the principle “that it is desirable to release the Indians from their present state of tutelage as soon as they are competent to take care of themselves; that to postpone this emancipation until the whole body is advanced to that stage would be the most effectual way of retarding that desirable event...” Thus title deeds for one hundred acres, recorded in the office of the Provincial Registrar, might be granted to each Indian family on condition that the deed not be alienated to non-Indians. As well, official diagrams of each reserve were made and recorded, indicating individual reserve holdings.<sup>69</sup>

Linked to the granting of individual deeds were recommendations pertaining to annual presents and Indian education. When a family received its title deed then a once-for-all gratuity of farm implements should be made “in commutation of all further claims to presents.” As well, if Indian department officials found an Indian advanced in the “arts and customs of civilized life” and ready for education, he would be eligible to receive a patent for the land he was cultivating, not to exceed two hundred acres.<sup>70</sup>

Turning to an examination of Indian land management, the Commissioners observed that the system “...has been throughout defective and injurious to the interest of the Indians.”<sup>71</sup> There had been many abuses and irregular practices. Chief among these was that neither the Commissioner of Crown Lands nor the Chief Superintendent of the Indian department kept any accurate account of land sales which recorded money owing to each band. Only the Six Nations had a separate account; the rest were

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65. *Ibid.*, “Lands — Tenure”.

66. PAC, RG10, vol. 5, Sir J. Kempt to Sir J. Colborne, 18 February 1830.

67. PAC, RG10, vol. 718, Macaulay Report, p. 368.

68. *Ibid.*, pp. 364-5.

69. *JLAC Report* (1847), App. T, “Lands -- Recommendations on Titles and Tenure”.

70. *Ibid.*

71. *Ibid.*, “Lands -- Management”.

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lumped under the entry "Sundry Tribes."<sup>72</sup> Also, the land management costs assessed against the administration of Indian lands were excessive and bore no relation to actual monies received nor services performed.<sup>73</sup>

How could the system be improved? One option that Chief Superintendent Jarvis had recommended was to consolidate the operations of the Commissioner of Crown Lands, Army Commissariat, and Surveyor General in one department.<sup>74</sup> However, the Commissioners opposed this suggestion. The duties would be too much for one department head and he would soon require additional staff. This approach also assumed "the continuance and extension of an expensive Department which Her Majesty's Government is desirous of abolishing, and which is not adapted to carry out the objects of the Government."<sup>75</sup>

The second option of leasing Indian lands to obtain revenue was also rejected. Leasing went against the policy of encouraging individual ownership of land and would serve to perpetuate the current "quasi corporate character of the Indian communities" which was an obstacle to Indian advancement. Good agricultural land in Canada was scarce and large sections held by Indian bands would soon fall prey to unscrupulous speculators.<sup>76</sup>

The Commissioners' proposals for improving the system of land management focused ultimately on the need for maintaining accurate records and accounts and delineating clear functional responsibilities between departments. In their view, the management of reserve surveys and land sales should be the responsibility of the Surveyor-General and Commissioner of Crown Lands, who would keep separate records for each tribe. Previous land sales accounts should be audited, approved by the Executive Council, and then closed.<sup>77</sup> The 10 per cent land management fee was to be reduced to 5 per cent and economy adhered to in charging fees for reserve surveys and land valuations.<sup>78</sup>

In future, all monies received by the Commissioner of Crown Lands should be forwarded to the Receiver General for deposit in a separate Indian account.<sup>79</sup> This money could be invested by the Receiver General for the benefit of the tribes so long as all investments were reported to the Governor General and recorded in the Indian Office. No money could be withdrawn without the approval of the Governor General, who was to receive an annual accounting. As well, a statement of accounts was to be

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72. Although the Six Nations possessed a separate band account, revenues from land sales often could not be accounted for. See "Petition of Chief and Sachems of the Six Nations residing on the Grand River", 4 December 1843, *JLAC*, 7 *Vic.*, App. MM.

73. PAC, RG10, vol. 10018, Matheson Papers, "Extract from Report of Commissioners Macaulay, Jameson and Hepburn", January 1840.

74. PAC, RG10, vol. 717, S.P. Jarvis to John Macaulay, December 1838.

75. *JLAC Report* (1847), App. T, "Lands — Management".

76. *Ibid.*

77. *Ibid.*

78. PAC, RG10, vol. 717, order in council, 15 April 1845.

79. *JLAC Report* (1847), App. T, "Lands — Management".

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shown annually to the Chiefs who would initial their approval.<sup>80</sup> Ominously for Samuel Jarvis, instruction was given to turn over promptly to the Receiver General all money from previous land sales and to provide an accurate accounting of the money spent allegedly on behalf of the various tribes.<sup>81</sup>

In the past, the physical protection of Indian land in Upper Canada had proven almost impossible. In 1840, the Legislative Committee investigating the Indian Department ventured an opinion that adequate protection would be assured once Indian people received individual title deeds and could then seek the protection of the courts.<sup>82</sup> Current legislation had often been ignored. Evils persisted in the form of corrupt squatters, illegal timber cutting, and destruction of reserve game and fisheries. The Bagot Commissioners acknowledged a continuing responsibility for the Crown, since the Crown retained “fee simple” ownership of all reserve land and intruders could be ejected as trespassers. However, this was difficult because many reserves were in isolated areas, and the Indians themselves had not helped matters by their lack of vigilance.<sup>83</sup>

In their final analysis, the Commissioners were convinced that Indian people were encountering “the uncontrollable force of those natural laws of society to which every Government must bend....”<sup>84</sup> In Lower Canada, “respectable” whites living on Indian reserves had produced little evidence of any harmful effects on the Indian population.<sup>85</sup> Indeed, in many instances they set a good example for Indians to emulate. However, to curtail flagrant abuses, Crown Lands officials should be stationed close to reserves and a system of Indian Rangers, similar to that of the Georgia Cherokees, could be created to patrol reserves.<sup>86</sup> In addition, Indian department and Crown Lands officials were to be dismissed for encouraging illegal settlements on reserve land and individual Indians should be punished for selling their lands while intoxicated.

The resources of the reserves also merited attention. The destruction of reserve fisheries was considered unfortunate for they were a valuable source of food;<sup>87</sup> however, the disappearance of game “might be ultimately more beneficial to the Indians,” as it would compel them to rely on agriculture.<sup>88</sup> As for timber, the major reserve resource, the Commissioners recommended that the Commissioner of Crown

80. PAC, RG10, vol. 502, Col. J. Givins to John Macaulay, 20 September 1838. Givins' report to John Macaulay constitutes one of the early warnings that records of land sales and band accounts were less than adequate if the Indian department was to become an efficient guardian of Indian property.
81. PAC, RG10, vol. 505, Samuel P. Jarvis to T. W. C. Murdock, Provincial Secretary of Lower Canada, 23 July 1841. Even before the Bagot enquiry got underway questions were being raised in regard to Jarvis' handling of tribal money.
82. *JLAC Report* (1847), App. T, App. No. 1, “Report of Committee No. 4 on Indian Department”.
83. *JLAC Report* (1847), App. T, “Lands — Protection of Reserves”.
84. The Bagot Commissioners were reluctant to seek legislative solutions to social problems involving the natural laws governing society.
85. *JLAC Report* (1847), App. T, “Lands — Recommendations as to Squatters”.
86. *Ibid.*, App. T, App. 100.
87. *Ibid.*, App. T, “Lands — Recommendations as to the protection of Fisheries”.
88. *Ibid.*, App. T, “Lands — Recommendations as to the preservation of the Game”.



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Lands issue timber cutting licences. Proceeds from timber licences were to be accredited to individual band accounts. Indian Timber Rangers would enforce the law and prosecutions would be made under existing legislation. Finally, the Commissioners recommended that 1839 legislation entitled, "An Act for the protection of Crown Lands from trespass..." should be amended to omit the limitation in the first section which excluded from its ambit Indian lands surrendered to the Crown.<sup>89</sup>

Another problem causing administrative confusion was that of annuity payments.<sup>90</sup> Prior to 1829 these had often been paid in goods similar to the annual presents. That year however, Sir John Colborne directed that the annuities be applied towards the purchase of farm stock and implements, as well as to the establishment of experimental civilization settlements at Coldwater, the Narrows, Munsetown, and the St. Clair River.<sup>91</sup>

The change opened the annuity system to abuse. It was necessary to credit yearly each band with the amount of its annuity and then for Indian department officials to direct appropriate expenditures. On occasion, this practice led to a limited consultative role for some Chiefs, as the general practice was to let the Indians decide how funds were to be spent, then apply to the Indian department for the sums required. However, accurate accounts were not kept and often became overdrawn.<sup>92</sup>

The annuities, like the presents, originally derived from the grant of the Imperial Parliament. In 1834 the procedure changed and annuity money was drawn from the provincial Territorial Revenue Fund. As the result of an oversight, the 1841 Act of Union contained no provision for payment of Indian annuities.<sup>93</sup> A legal opinion was obtained and an order in council passed ensuring that the annuities would be covered eventually by proceeds from Crown revenues, or by a special vote of the provincial legislature.<sup>94</sup>

The Commissioners made several recommendations. All future annuity payments were to be made by the Receiver General with the approval of the Governor General. The Commissioner of Crown Lands was to give the Receiver General all money accruing from Crown Revenues, and this was to be deposited in a new account, the "Indian Annuity Fund." No cash advances were to be made to any tribe with a deficit account. All previous transactions were to be closed and proper amounts credited to each band.<sup>95</sup>

In the future, at the beginning of each year, the Receiver General would then keep the Indian department informed of all balances and advances. Any warrants for expenditures had to be sanctioned by the band Chief, resident agent, or visiting officer, and approved by the Governor General. No payments were to be made in cash. All

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89. *Ibid.*, App. T, "Lands — Recommendations as to cutting Timber".

90. *Ibid.*, App. T, "Annuities".

91. *Ibid.*

92. *Ibid.*

93. J.E. Hodgetts, *Pioneer Public Service. An Administrative History of the United Canadas, 1841-1867* (Toronto, 1955), p. 205.

94. PAC, RG10, vol. 710, order in council, 7 February 1843.

95. *JLAC Report* (1847), App. T, "Annuities".

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accounts and receipts relating to annuities were to be kept in the Indian Office and forwarded each year to the Governor General. In addition, the Chiefs were to be given a yearly explanation of how their annuities were spent.<sup>96</sup>

The final section of the Bagot Commissioners' report reviewed Indian department activities in the previous decade.<sup>97</sup> They noted that in 1828, Major H.C. Darling had urged the department to exercise "more vigor, vigilance and activity" in Lower Canada, but with the exception of the abandoned Rivière Verte experiment and the establishment of a few schools, little evidence could be found of any constructive activity. The only noteworthy achievement was a numerical reduction in departmental staff and a reduction in operating costs.

In Canada West the situation was different. The duties of the Chief Superintendent and local resident agents had become more complex and onerous. The Commissioners commented that:

the Government has directed its attention more effectively to improvement of the Indians and the services of the Department...have been of a more extended nature, and have in some instances been more beneficially applied. Nevertheless, the progress made has not been such as might have been expected from the number of officers employed, under a better system and more efficient control. The Chief Superintendent, in fact, exercises little or no control over the Resident Superintendents. It has not been the practice to require any periodical reports from them, nor any accounts of the monies entrusted to them for distribution.<sup>98</sup>

They could only conclude "that either the surveillance of the Chief Superintendent over so many detached tribes cannot be efficient, or that the services of so many Resident Superintendents are not required. Your Commissioners are inclined to the opinion that both propositions are a great measure true..."<sup>99</sup>

While the organization of the department was criticized for inefficiency, the Commissioners were also opposed to its continuance on philosophical grounds because it served to maintain the Indian people in a state of tutelage and "it tends materially to perpetuate the helplessness of the Indians and their habit of dependence upon the Government."<sup>100</sup> The system of resident superintendents made the situation even worse because the Indians had

a person of superior intelligence at hand, to whom they can have recourse in the most trifling difficulties, have no incentive to the exercise of their own intellectual powers; they are not led to feel their want of education — of knowledge — of capacity. On the three grounds, therefore, of expediency as regards the future welfare of the Indians — of efficiency in promoting their social elevation — and, in a minor degree, of economy, your Commissioners are in favour of an entire change in the present system of the Department.<sup>101</sup>

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96. *Ibid.*

97. *Ibid.*, App. T, "Indian Department".

98. *Ibid.*, App. T, "Indian Department — Observations and Defects".

99. *Ibid.*

100. *Ibid.*

101. *Ibid.*

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The Commissioners' plan for reorganizing the Indian department went further than any previous proposals. They recommended that the Civil Secretary be placed in charge of the department to enable closer scrutiny of its operations by the Governor General. The two branches of the department were to be reunited with all records, correspondence, and business managed by a Chief Clerk who would be situated at the "Seat of Government." In Upper Canada, the Office of Chief Superintendent and the establishment of local officers were to be reduced, and three "Indian Visitors" appointed. Each Visitor would be assigned to a district, one for Canada East and two for Canada West.<sup>102</sup> With these changes, the Commissioners were convinced that the Indian Department could become an instrument for directing change and implement effectively the new approach to Indian policy.

Sir Charles Metcalfe received the final report of the Bagot Commissioners in January 1844. His initial reaction was that the Commissioners were overly optimistic in assessing the benefits that would result from the changes in policy. Experience had taught him that "it is always more easy to imagine good results than to realize them."<sup>103</sup> Nevertheless, as he wrote to Lord Stanley, Colonial Secretary, on 11 June 1844, he was "fully...prepared to carry them into effect."<sup>104</sup>

Lord Stanley reacted positively to the report of his Governor General. However, he was sceptical whether the Colonial Office could manage successfully its implementation in distant Canada. On 30 January 1845, Stanley wrote to Metcalfe, giving him authority to proceed:

In a matter involving so much detail, and requiring, even in the principles to be adopted, so much knowledge of the peculiarities of Indian habits and feelings, as well as the condition of the Tribes and Settlements, it is obvious that the execution of any general plan of reform must be left in the hands of local Authorities.<sup>105</sup>

Thus implementation of the new Indian civilization programme was delegated to the Indian department and, as it turned out, to a rapid succession of Governors General: Sir Charles Metcalfe (1845-46), Earl Cathcart (1846-47), and finally Lord Elgin (1847-1854). They would soon encounter difficulties in implementing all the proposed changes, particularly when many directly affected the lives of Indian people, their expectations and traditional practices. Nonetheless, despite some problems, significant progress was made in many policy sectors by 1850.

The Indian department was the first institution to be reorganized as it was regarded as the culprit for the failure of the civilization programme since 1830. Also, it was estimated that £2000 could be saved by the reorganization. Since Indian concurrence in the proposed administrative changes was not required, reform could proceed at a pace determined by the government. On 27 April 1845, Metcalfe reported to Lord Stanley that the first stage of Indian department reorganization had been completed.<sup>106</sup> Departmental offices had been moved from Kingston to Montréal and a

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102. *Ibid.*, App. T, "Indian Department — Recommendations".

103. Milloy, "Era of Civilization", p. 245.

104. *Ibid.*

105. *Ibid.*

106. PAC, CO 42/525, Sir Charles Metcalfe to Lord Stanley.

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Chief Clerk had been placed in charge of all records and correspondence. The Resident Superintendents had been instructed to correspond directly with the Civil Secretary, bypassing Chief Superintendent Jarvis, who was to assume an advisory role to the Governor General.

About a week before Metcalfe's dispatch to Stanley, J.M. Higginson, Civil Secretary, informed Jarvis that the position of Chief Superintendent would be abolished on 1 July 1845.<sup>107</sup> As well, three long time departmental officials in Canada West were given dismissal notices, William Jones, James Winniett and J.W. Keating. In Canada East, James Hughes and S.Y. Chesley were released. They were replaced by three "Indian Visitors," as had been proposed by the Commissioners.<sup>108</sup>

Metcalfe had acted swiftly, and within a year the department had been reorganized and much "dead wood" removed. It was a remarkable performance considering that the Indian department had been impervious to change for decades. By way of contrast, such swift action was not characteristic of policy changes requiring either Indian concurrence, compliance, or participation. Implementation of proposals for terminating annual presents, granting individual title deeds to reserve land, and improving Indian education met with varying degrees of success.

The Commissioners' suggestions for terminating the annual presents were not implemented owing to Indian opposition and increased international tensions involving the dispute over the Oregon boundary. This crisis preoccupied Metcalfe's successor, Earl Cathcart, and made him reluctant to pursue any recommendations which might cause Indian unrest and affect adversely the policy of Indian conciliation. Steps were taken to make the presents more practical and a significant reduction in the distribution of ammunition and guns was achieved. However, a provincial Indian census was not compiled and annual presents were not terminated completely in Canada until 1858.

The proposal to grant individual title deeds to reserve land also met with opposition from tribal leaders. Originally the scheme was viewed as a means to end Indian dependency, encourage individual initiative, and to provide legal protection for reserve lands and resources, without recourse to legislation. On virtually every reserve the scheme was resisted, since it ran counter to tribal custom of communal ownership of reserve land. Only Thomas G. Anderson at Owen Sound made progress in this regard for in 1852, Colonel R. Bruce, Civil Secretary, received a petition from the Indians requesting assistance in subdividing their reserve.<sup>109</sup> Faced with general Indian intransigence, the matter was shelved for the time being while other problems were addressed.

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107. *JLAC Report* (1847), App. T, "Indian Department".

108. T.G. Anderson became Central Superintendent stationed at Toronto. George Ironside became Northern Superintendent and was transferred from Amherstburg to Manitoulin Island. Joseph B. Clench at London became Western Superintendent and responsible for all of the southwestern portion of the province. Colonel D.C. Napier supervised Indian Affairs for all of Canada East, remaining Indian Secretary in the Civil Secretary's Office. Meanwhile, James Winniett at Six Nations was replaced by David Thorburn.

109. PAC, RG10, vol. 195, 8 March 1852.

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Offsetting the failure to encourage subdivision of reserves was the success in achieving significant reforms in Indian education. This was achieved because all parties — Indian people, missionaries and the Indian department — acted in a cooperative spirit and with a unity of purpose not evident since the inception of the civilization programme in 1830. In 1846, tribal representatives in Canada West were summoned to regional meetings at Orillia and Munsee Town on the Thames River.<sup>110</sup> At these regional Indian councils, Central Superintendent Thomas Anderson obtained permission from virtually every tribe to apply one-quarter of their annuities for a period of twenty five years towards the construction and support of new industrial schools at Alnwick, Owen Sound and Munsee Town.<sup>111</sup>

With the assistance of Egerton Ryerson, the new Superintendent of Education for Canada West, a plan was devised for a cooperative approach to Indian education involving the Indian department and Methodist missionaries.<sup>112</sup> This agreement placed the Wesleyan Methodists in charge of the industrial schools and responsible for providing books, supplies, and teachers' salaries. The missionaries were also to supply the farm stock and farm equipment for the attached model farms. For its part, the Indian department agreed to maintain the school buildings and provide an annual per capita subsidy to defer food, clothing and general education expenses. By 1851, two new industrial schools had been established at Alnwick and Munsee Town (Mount Elgin) and reports from school authorities indicated progress in teaching agricultural skills, animal husbandry and mechanical trades. Whether this momentum could be maintained and the ultimate goal of Indian civilization achieved was quite another matter.

By 1850, the protection of Indian reserves, resources and property had reached crisis proportions. The decade of the 1840s witnessed an influx of one million British immigrants and Canada West underwent a minor industrial revolution particularly in lumbering activities, mining ventures, and manufacturing. Increasingly, Indian land and resources came under pressure from white settlers and entrepreneurs who, in many instances, had little use for Indian people and viewed their reserves as a "terrible nuisance."

In their report, the Bagot Commissioners had remarked how ineffective provincial legislation had been in protecting Indian lands and had expressed doubt whether such action could be effective in the face of "the uncontrollable force of...natural laws." However, Lord Elgin, the new Governor General, was faced with an immediate crisis as there had been a violent clash between Indians and miners on the north shore of Lake Superior.<sup>113</sup> To find a solution, Elgin turned to the report of the Bagot Commissioners.

Acting on Elgin's instruction, the Legislative Assembly on 10 August 1850 passed two pieces of legislation, "An Act...for the better protection of the Lands and Property

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110. PAC, RG10, vol. 160, Part 1, "Anderson's speech to Council at Orillia", 30 July 1846.

111. PAC, RG10, vol. 158.

112. PAC, RG10, vol. 188. See also E. Ryerson, "Report on Industrial Schools, 26 May 1847", *Statistics Respecting Indian Schools* (Ottawa, 1898), pp. 73-9.

113. Arthur G. Doughty, ed., *The Elgin Grey Papers, 1846-1852* (Ottawa, 1937), Elgin to Grey, 21 November 1849, vol. 2, p. 549.

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of Indians in Lower Canada,” and “An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury.”<sup>114</sup> Each act differed in its approach to the problem of protecting Indian land and property. In Canada East, a Commissioner of Indian Lands was appointed to safeguard Indian interests. He was also empowered to sell or lease Indian lands. Most noteworthy, however, was the first legal definition given an “Indian” and, to an extent, it reflected the Bagot Commissioners’ findings on Indian conditions, as well as their recommendations for the future eligibility of those who could receive annual presents:

First. All persons of Indian blood, reputed to belong to the particular body or tribe of Indians interested in such lands and their descendants.

Secondly. All Persons intermarried with any such Indians and residing amongst them, and the descendants of all such persons.

Thirdly. All persons residing among such Indians, whose parents on either side were or are Indians of such Body or Tribe, or entitled to be considered as such:  
And

Fourthly. All persons adopted in infancy by such Indians, and residing in the village or upon the lands of such Tribe or Body of Indians and their descendants.<sup>115</sup>

A similar definition of “Indian” did not appear in the 1850 legislation for Canada West. However, the legislation for Canada West bore more distinctly the imprint of the Bagot Commissioners’ report. For one thing they were more stringent regulations to prohibit reserve trespass. Timber could not be removed from reserve land without a licence, and local Indian Superintendents and Crown lands officials were appointed justices of the peace to enforce the new laws.<sup>116</sup>

The legislation also set down the government’s approach to securing Indian rights and possessions, as well as promoting their economic advancement. Reflecting the Commissioners’ concern that Indian people not be sheltered from assuming the duties of regular citizens, a section of the act stated that Indian people had to perform statutory labour on reserve roads, though this was not to exceed that demanded of other provincial inhabitants. In addition, Indian land could not be alienated without the consent of the Crown and debts could not be collected from Indian people unless they owned land in fee simple worth £25. No property taxes could be levied on Indian people living on reserves. Finally, Indian people were prohibited from pawning or exchanging goods for liquor. This clause afforded more protection for Indian assets derived from the annual presents or annuities.<sup>117</sup> Thus five years after the Bagot Commission report significant Indian legislation was in place which ultimately formed the basis for subsequent Indian civilization legislation in 1857. Following Confederation, this body of law formed the basis for the first federal Indian Act.

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114. Statutes of Canada, 13-14 Vic., cap. 42; also Statutes of Canada, 13-14 Vic., cap. 74.

115. Statutes of Canada, cap. 42, p. 1248.

116. Statutes of Canada, cap. 74, p. 1410.

117. *Ibid.*

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The perspective of history affords the opportunity to assess the achievements of the Bagot Commissioners in developing early Canadian Indian policy. Their major contribution was to develop an early corporate memory for the Indian department — an historical record of Indian-government relations since 1830, a rudimentary data base for current Indian conditions, and a philosophy for future policies. Their report formed an invaluable resource study to which Indian policy makers, whether colonial or imperial, could refer for information and guidance in resolving particular issues.

More immediate, the Commissioners' report breathed new life into the Indian department. The department was reorganized and many of the old personnel, with their particular mind-set and patronage connections were reassigned to new duties.<sup>118</sup> This action of allowing new blood to enter the Indian department fostered the development of new administrative practices and refinement of policy options different from those contained in the Indian conditions reports of 1837, 1839 and 1840, which had not produced innovative solutions to recurrent problems.

Most important was their contribution to the improvement of Indian education. The system had languished prior to 1844, lacking both funds and support from various interested groups. The Bagot Commission report brought together Indian people, missionaries, and the department, unified in purpose in a way not seen since 1830 and certainly non-existent from the time of Bond Head's Indian removal plan in 1836. What the Commissioners could not do was provide assurance that this "grand coalition" would work effectively together for any lengthy period of time.

In retrospect, the Bagot Commissioners failed to resolve the central problem of the Indian department, which was its lack of cohesion and focus. Too many government departments, groups and vested interests were involved in policy implementation; thus adequate coordination and unity of action was almost impossible. As well, departmental records remained in a chaotic state and departmental financing continued to originate from diverse sources.<sup>119</sup>

The Commissioners realized that successful reform of Indian policy meant coming to grips with haphazard departmental financing and inaccurate band accounts. But they did nothing about this situation because they opposed the centralization of functions in one department and saw no future role for the Indian department. Indeed, little was accomplished in this regard until the late 1850s when the Province of Canada was forced to take action owing to the impending transfer of all Indian affairs responsibilities from Imperial to Canadian control. Ironically, the Bagot Commissioners' report was intended as a blueprint to reduce operational costs and make Indian people less reliant on government; but in practice, the report became a cornerstone in the evolution and development of a costly, permanent and expanded Indian department which would increasingly regulate and control the daily lives of native people in Canada for years to come.

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118. J.D. Leighton, "The Compact Tory as Bureaucrat: Samuel Peters Jarvis and the Indian Department, 1837-1845", *Ontario History*, vol. 73, no. 1, (March 1981), pp. 40-53.

119. Hodgetts, *Pioneer Public Service*, pp. 217-8.