



ENFRANCHISEMENT



LEGAL AFFAIRS
AND JUSTICE





ENFRANCHISEMENT

What is enfranchisement?

Before the Bill C-31 amendments in 1985 took place, enfranchisement was the process that resulted in a person no longer being considered an Indian under the federal legislation. Indians, who were enfranchised, were removed from their band lists. Indians also lost their Indian status if they were enfranchised after September 4, 1951.

When a person was no longer considered an Indian (when that person was enfranchised), he or she lost all benefits associated with being on a band list (pre-1951), or being a status Indian (after 1951). Their descendants were not considered Indians, and they could not receive any related benefits. This impact is still felt by current generations.

Before Bill C-31, there were three ways Indians could be enfranchised.

1. From 1869 to 1985, an Indian woman marrying a non-Indian man would be enfranchised.
2. Previous *Indian Acts* (1876-1920) had enfranchisement provisions where individuals were removed from their band lists if they:
 - a. got a university degree and joined the medical or legal profession,
 - b. got any university degree and met the “fit” or “civilized” enfranchisement requirements,
 - c. became a priest or minister, or
3. From 1876 to 1985, individuals could submit an application to be enfranchised by showing they were “fit” for enfranchisement and entering Canadian society.

Enfranchisement and children

When a woman was enfranchised because of her marriage to a non-Indian man, any children she already had, or would have, were considered non-Indians. When an Indian man was enfranchised, his wife and children would also be enfranchised.

Individuals who enfranchised were considered to be regular Canadians. They were able to vote in elections, work, own property off-reserve, and purchase alcohol, all of which were not necessarily available to Status Indians before 1960. In addition to these rights and benefits, there were several benefits that were made available to an enfranchised individual and their family through previous versions of the *Indian Act*.

Land and Financial Compensation for Enfranchised Individuals

From 1869 to 1951, an enfranchised individual could receive land compensation by being given a portion of the band’s land to take care of. An enfranchised individual would have three to five years to prove he was able to be independent. If successful, the enfranchised individual would own the land. From 1951 to 1985, land continued to be available to enfranchised individuals by making compensation to the band.

Financial compensation would also be provided to enfranchised individuals. From 1876 to 1985, enfranchised individuals received a percentage (or *per capita*) payment of what their band would have received from the government. From 1951 to 1985, when a Treaty Indian enfranchised, they would receive an amount equal to twenty years of treaty payments.

Why is the issue of enfranchisement important to registration?

Enfranchisement had an impact on all subsequent generations of people. It did not matter if an individual was voluntarily, or involuntarily enfranchised - subsequent generations could not appear on band lists or on the Indian register as status Indians.

Bill C-31 removed both voluntary and involuntary enfranchisement provisions. Women who enfranchised, along with their children, could be reinstated or became eligible for registration.

The 2017 amendments (Bill S-3) corrected sex-based unfairness for women, and their descendants, when the woman involuntarily lost entitlement to registration because of her marriage to a non-Indian man. Bill S-3 brings entitlement to descendants of women who married a non-Indian man in line with descendants of individuals who were never enfranchised.

However, on the other hand, the descendants of individuals who were enfranchised for other reasons (both voluntary and involuntary) remain at a disadvantage, as they are currently not eligible for registration as a Status Indian. These remaining inequities within the *Indian Act* continue to have an impact.

It should be noted that the second-generation cut-off is different from the issue of enfranchisement. Generally, the second-generation applies to individual born after April 17, 1985. See Fact sheet on *Second-Generation Cut-Off*.