

IN RE THE INDIAN ACT; IN RE WILSON

(1954), 12 W.W.R. 676

Alberta District Court, Buchanan C.J.D.C., 29 March 1954

Indians- Right to Be Registered as Member of Band--Indian Act, S. 11 (b) (e)--Name Included in Original Band Membership List as Infant of Female Member of Band--Right Also to Be Included as Illegitimate Child of Such Female-- His Own Previous Evidence of Paternity Without Probative Value.

The Registrar of the Department of Citizenship and Immigration decided, under the powers given him by sec. 9 (2) of *The Indian Act*, 1951, ch. 29 (now RSC, 1952, ch. 149) that the person referred to herein as "Wilson" was not entitled to have his name included in the Indian register as a member of the Beaver Band at Horse Lake and Clear Hills. In proceedings taken under subsecs. (3) and (4) of said sec. 9 to inquire into the correctness of said decision

Held:

Since Wilson came within class (b) as described in sec. 11 of the Act, he was entitled to have his name so included. The treaty pay list of June 1, 1900, must be joined with the treaty pay list of July 6, 1899, to form the original band membership list of the Beaver Band. That being done, Wilson's name, as the infant of Madeline, No. 41, must be held to have been and to be a member of the Beaver Band from the date of the first payment of annuity to his mother on his behalf.

Wilson was also entitled to have his name so included on the ground that he came within class (e) of said section (being the illegitimate child of a female person described in class [b] of said sec. 11). The registrar, not having been reasonably satisfied that the father of the child was not an Indian, was not entitled to declare that the child was not, or is not, so entitled to be registered.

It would appear to be a gross and intolerable injustice if some 60 years after his birth, Wilson should be required to prove his Indian paternity affirmatively, when at the time of his birth the representatives of the Crown were the only persons capable of recording vital statistics and were so negligent of their responsibilities to the band and its members as to maintain no record whatsoever of the births of children within the band. Very few, if any, of the members of the band whom the department accepts as such could produce evidence of birth satisfactory to a court. The evidence upon which prior decisions as to Wilson's paternity had been made had been largely that given by himself, and such evidence when given in respect of his own birth has no probative value whatsoever.

[Note up with 2 CED (CS) *Evidence*, secs. 125-127; *Indians*, sec. 2.]

C. F. Noble, for Indian Affairs Branch of the Department of Citizenship and Immigration.

Wilson in person.

March 29, 1954.

BUCHANAN, C.J.D.C. --These proceedings are taken under subsecs. (3) and (4) of sec. 9 of *The Indian Act*, 1951, ch. 29 (now RSC, 1952, ch. 149) (hereinafter referred to as "the Act"). Their purpose is to inquire into the correctness of the decision of the Registrar of the Department of Citizenship and Immigration, who by virtue of his office has charge of the Indian register, by which decision, rendered under powers conferred on him by sec. 9 (2), he held that the person described as Sam Jean Baptiste Wilson, hereinafter referred to as "Wilson," is not entitled to have his name included in the Indian register as a member of the Beaver Band at Horse Lake and Clear Hills in Alberta. I shall refer to this band hereafter as "the Beaver Band."

The Act passed by the Dominion Parliament in June of 1951 and proclaimed in that year provides for appeals both by individuals and by a band council, all designed to ensure that only those strictly entitled thereto, in accordance with the rigid definitions contained in the Act, shall enjoy the privileges and share in the assets provided by the federal government for those who qualify as "Indians." Secs. 5, 6 and 7 of the Act deal with the maintenance of an Indian register by the department and with additions to or deletions therefrom; sec. 8 of the Act deals with the posting of band lists; sec. 9 deals with protests against inclusion, omission, addition or deletion of names from a band or general list, subsequent investigation and decision by the Registrar of the

Department of Citizenship and Immigration, hereinafter referred to as "the department," and the reference of the registrar's decision to a judge for review and a decision which sec. 9 (4) of the Act provided shall be final and conclusive. These sections read as follows:

"5. An Indian Register shall be maintained in the Department, which shall consist of Band Lists and General Lists and in which shall be recorded the name of every person who is entitled to be registered as an Indian.

"6. The name of every person who is a member of a band and is entitled to be registered shall be entered in the Band List for that band, and the name of every person who is not a member of a band and is entitled to be registered shall be entered in a General List.

"7. (1) The Registrar may at any time add to or delete from a Band List or a General List the name of any person who, in accordance with the provisions of this Act, is entitled or not entitled, as the case may be, to have his name included in that List.

"(2) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom.

"8. Upon the coming into force of this Act, the band lists then in existence in the Department shall constitute the Indian Register, and the applicable lists shall be posted in a conspicuous place in the superintendent's office that serves the band or persons to whom the list relates and in all other places where band notices are ordinarily displayed.

"9 (1) Within six months after a list has been posted in accordance with section eight or within three months after the name of a person has been added to or deleted from a Band List or a General List pursuant to section seven

"(a) in the case of a Band List, the council of the band, any ten electors of the band, or any three electors if there are less than ten electors in the band,

"(b) in the case of a posted portion of a General List, any adult person whose name appears on that posted portion, and

"(c) the person whose name was included in or omitted from the list referred to in section eight, or whose name was added to or deleted from a Band List or a General List,

"may, by notice in writing to the Registrar, containing a brief statement of the grounds therefor, protest the inclusion, omission, addition, or deletion, as the case may be, of the name of that person.

"(2) Where a protest is made to the Registrar under this section he shall cause an investigation to be made into the matter and shall render a decision, and subject to a reference under subsection (3), the decision of the Registrar is final and conclusive.

"(3) Within three months from the date of a decision of the Registrar under this section

"(a) the council of the band affected by the Registrar's decision, or

"(b) the person by or in respect of whom the protest was made,

"may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision, to the judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other county or district as the Minister may designate, or in the Province of Quebec, to the judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other district as the Minister may designate.

"(4) The judge of the county, district or Superior Court, as the case may be, shall inquire into the correctness of the Registrar's decision, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*; the judge shall decide whether the person in respect of whom the protest was made is, in accordance with the provisions of this Act, entitled or not entitled, as the case may be, to have his name included in the Indian Register, and the decision of the judge is final and conclusive."

The registrar, in compliance with sec. 9 (3) of the Act, has made available to me either directly or through Mr. Noble, counsel for the department, all material considered by the registrar in making his decision that Wilson is not entitled to be included in the Indian Register as a member of the Beaver Band. In addition I have had the advantage of hearing the *viva voce* evidence of Mr. Malcolm McCrimmon, an officer of lengthy and wide experience in the Indian Affairs Branch of the Department, Mr. E. J. Galibois, superintendent, Indian agency, Fort St. John, B.C., and of Wilson himself. Due to the extreme difficulty, if not impossibility, of procuring the personal attendance of all witnesses whose oral evidence I would very much like to have heard, I of necessity trespassed

upon those rules of admissibility which normally govern in a court of law and admitted the evidence given by Mr. Galibois of certain statements made to him by (i) Baptiste Bisson of Mount Valley, Alberta, the maternal grandfather of Ernest Horseman, the present chief of the Beaver Band; (ii) the said Chief Ernest Horseman, and (iii) Mrs. Madeleine Davis, whose name appears on the membership list of the Beaver Band, posted in accordance with the requirements of sec. 8 of the Act on or about September 4, 1951.

These proceedings are in effect an appeal by Wilson from the registrar's decision that his name was rightly deleted from the band list of the Beaver Band. A review of this decision calls not only for a careful weighing of the oral evidence taken at the hearing before me at Grande Prairie, and a study of the body of material contained in the registrar's file, but also for a close examination of sec. 11 of the Act. Wilson must prove or be proven to fall within one of the six classes of persons described in that section, or fail in his appeal. This section is quoted in full *infra*. Before attempting to determine the precise meaning of the words of sec. 11 by which are set out the six classes of persons entitled to be registered as Indians in the Indian Register, on either a band or a general list, it is necessary to examine Wilson's personal history and his association with the Beaver Band, thus securing those facts which are essential to the determination of the question at issue, viz.: Is Wilson entitled to be registered?

The person now known as Wilson is said to have been born in or about 1893 or 1894 near Peace River, Alberta. Evidence as to his paternity is conflicting. There is evidence which might lead to the conclusion that he was born to an Indian mother, Madeline (Monomoniende) Sanata, of a white father, of American extraction, Ned Wilson by name. There is likewise evidence in support of the suggestion that Wilson may have been sired by one Le P'tit (Lepshie) Laboucan, as to whose racial extraction the record is silent. The evidence in support of these two and yet other conclusions will be analysed later.

Counsel for the crown has produced to me, from the records of the department, photostatic copies of the treaty pay lists of the Beaver Band, dated respectively July 6, 1899; June 1, 1900; May 13, 1901; and June 24, 1926. Neither Wilson's name nor that of his mother appears on the pay list of July 6, 1899 (covering the first payment on annuity to this band) there being only 13 entries on that list, with a total of 34 persons paid. On the treaty pay list for June 1, 1900, under No. 17 appears the name "Chatelas," in whose family there are shown to be six persons. Under No. 41 on the same list appears the name Madeline, whose family is shown to consist of two persons. It is conceded by the crown that these two persons are Madeline, the mother of Wilson, and Wilson, her infant child, the present appellant, whose status and band membership are in question. The treaty pay list of May 13, 1901, shows that by that date, Madeline had married Pierre Chatelas, appearing on the band list as No. 50, a son of the Chatelas, above referred to under No. 17. The family of Pierre Chatelas, in respect of whom treaty was paid, was shown on the same list to consist of four persons, of whom presumably the infant child Wilson was one. The treaty pay list of June 24, 1926, shows that Pierre Chatelas, under the same No. 50, was paid treaty money in respect of a family of seven persons, and that a boy conceded to be Wilson, having married, had been withdrawn from the Pierre Chatelas group No. 50, and was shown independently as No. 78--two persons being shown as receiving treaty money under his number.

In 1942 and 1943 investigations were carried out by the Indian Affairs Branch (then under the Department of Mines and Resources) with the apparent aim of purging or correcting the band lists in the Lesser Slave Lake Agency. Wilson, by reason of his non-Indian name, was questioned and is said to have told his interrogator that he was the legal son of a man by the name of Wilson, who had married his mother. This answer being adequate to disqualify Wilson under the then definition of an Indian, he was promptly suspended from his treaty payment. At that time Wilson had been on the band list and had been paid treaty for some 43 years. In 1944 the Honourable Mr. Justice W. A. Macdonald was appointed as a commissioner under the authority of order-in-council, P.C. 3744, to conduct an inquiry into the question of membership of certain individuals in the Indian bands of Lesser Slave Lake Agency. The results of the inquiry having been reported by him to the minister of the day, Wilson's name was formally removed from the band list, and he and his family ceased to receive treaty money.

As provided by sec. 8 of the new *Indian Act* of 1951, quoted *supra*, Indian band lists were posted throughout Canada upon the coming into force of the new Act, and it became the privilege of the council of the Beaver Band to protest against the absence from the Beaver Band List of Wilson's name (sec. 9 [1]). This protest was lodged. Under sec. 9 (2), the registrar then caused an investigation to be made into the matter, and rendered a decision by which he confirmed the deletion of Wilson's name from the band list. Wilson, as was his privilege, thereupon, by notice in writing, requested the registrar to refer the decision to a judge for review. The matter is now before this court for the purpose of such review.

It is worthy of note that the only evidence which appears to have been heard by Mr. Justice Macdonald was that of Wilson himself who, according to the transcript of the evidence, then swore through an interpreter as follows:

"My name is Jean Baptiste Wilson. I am 50 years of age. I was born at Peace River. My father is Ned Wilson, an American. My mother is Madeline Monomoniendi, a Treaty Indian at Dunvegan. They paid treaty there first. I was about one year old when my father died. My mother was married to the American. She then married Pierre Chatelain. He was a Treaty Indian from Dunvegan. He was paid treaty at Dunvegan. He died 17 years ago. I was brought up by Pierre Chatelain and my mother. He supplied food, clothing and a home. I have been getting treaty ever since my mother and Pierre were married. I got a separate ticket when I got married 22 years ago. My children are: Harry, 22; Helen, 19. I have a brother, Alexis Chatelain, and a sister Marie Chatelain."

In his evidence given before me, Mr. Malcolm McCrimmon, who conducted the investigations into band membership in the Lesser Slave Lake Agency in 1942-1943, when asked as to what light the department could throw on the question of Wilson's birth (transcript p. 11) stated that in many cases the department had been able to locate church records, but that in respect of Wilson no birth records of any sort were available. It would seem, therefore, that the decision of the then minister, based upon the evidence taken before Mr. Justice Macdonald, whereby Wilson was adjudged not to be an eligible member of the Beaver Band, and the decision of the registrar whereby the protest made by the council of the Beaver Band under sec. 9 (1) of the Act was dismissed, were both based largely upon the evidence given by Wilson himself. It is a new departure when the evidence of an individual as to his own paternity is accepted as admissible much less as conclusive evidence on the question. It is my considered opinion that the evidence of Wilson as to the circumstances of his birth and in particular as to his paternity are completely valueless. He states that his father died when he was one year of age. There is no information available as to the source of Wilson's information with regard to his birth; it must be assumed to have been merely the local rumour and idle chatter in the band which came to his ears in his later life.

From the evidence taken before me, it becomes clear that even among the older members of the Beaver Band, as well as among Indian non-members of the band, there is a decided conflict in the evidence as to Wilson's birth. In a report made February 6, 1952, by Mr. E. J. Galibois, superintendent for the department at Fort St. John, consequent upon the receipt of the protest of the Beaver Band Council, in respect of the deletion of Wilson's name from the band list, Mr Galibois summarized the story given by a non-Indian, Baptiste Bisson, aged over 90, of Mount Valley, Alberta, maternal grandfather of Ernest Horseman, present chief of the Beaver Band, as related by Bisson to Chief Ernest Horseman on January 25, 1952:

"Madeline Sanata was not married to the American (a white man who had come to Canada from the States and who was not known under any other name) but they intended to be married at the priest's next visit to Saskatoon Lake. The American disappeared before the priest's visit. Some months after, seeing that her promised was not coming back and as it was winter and she needed support, Madeline started to live with Le P'tit (Lepshie) Laboucan, who promptly got her with child. They stayed together off and on; they did not get along and fought. When her baby was born, that was in the month that they dry meat (September) they had parted for good. That baby was Jean Baptiste whom we call now Sam Wilson and his father was Le P'tit Laboucan. It was a year later that Madeline married Pierre Chatelas before the priest and Pierre adopted his wife's child, Indian fashion.

"All this happened before the Treaty was made. Sam Wilson was about six years old when the Treaty was first made at Dunvegan. Pierre Chatelas was there then, and he took treaty for himself and his family in which was included Sam Wilson. I believe they took treaty for three children at that first treaty; there was first Jean Baptiste, and Alexis, and Mary, but I am not too sure about that."

Mr. Galibois, commenting on this story obtained by him at second-hand, says that Chief Ernest Horseman believes that Baptiste Bisson, his grandfather, was of sane and normal state of mind when he gave him the above story, and *that its credibility cannot be questioned*. It is to be noted that no information is given in Bisson's statement as to the status of Laboucan, said to be Wilson's father, and that the suggestion that Madeline married the American, and that Wilson was born of the marriage, or even of the liaison, is contradicted.

I permitted Mr. Galibois in his evidence to relate to the court facts stated to have been given to him by a Mrs. Madeleine Davis, aged 75, who appears as No. 46 on the band list as at June 30, 1951, and who by reason of illness was unable to attend court. Mr. Galibois produced notes made during his conversation with Mrs. Davis in January of 1952. Mrs. Davis stated that the father of Jean Baptiste Wilson was a white man, an American; that they were married in church; that they lived two months together and that then the man went out trapping and never came back. He is supposed to have perished. Mrs. Davis confirmed the fact that the mother of Wilson later on married Pierre Chatelas, a full-blooded Indian. It will be noted that Mrs. Davis's story flatly contradicts that told by Baptiste Bisson, grandfather of Chief Ernest Horseman, a person whose credibility, according to Chief Ernest Horseman, could not be questioned.

Wilson himself gave evidence before me. He preferred to talk, and did talk, through an interpreter. His testimony as a whole would indicate that he is just as slow of thought as he is of speech. He professed to have no recollection of having appeared before Mr. Justice Macdonald, denied having stated that his father was Ned Wilson, denied that Wilson was his father, said that that name "Wilson" was given to him by an Indian agent, Larue, who when he was issuing his ticket to him merely said, "put him Wilson" (transcript p. 34).

In respect of the question of paternity, it is argued by counsel for the crown that the entire burden of proof falls upon Wilson as suggested in the legal maxim "*probatio incumbit ei qui dicit non ei qui negat*." It would appear to me a gross and intolerable injustice if, some 60 years after his birth, Wilson should be called upon to prove his Indian paternity affirmatively, when at the time of his birth the representatives of the crown were the only persons capable of recording vital statistics and were so negligent of their responsibilities to the band and its members as to maintain no record whatsoever of the births of children within the band. It is safe to say that very few, if any, of the members of the band whom the department accepts as such could produce evidence of birth satisfactory to a court. The evidence upon which previous decisions as to Wilson's paternity have been made has been largely that given by himself, and I have already expressed the opinion that such evidence when given in respect of his own birth has no probative value whatsoever.

The details of Wilson's personal history and of his association with the Beaver Band having been set out, we are now in a position to consider sec. 11 of the Act, which reads thus:

"11. Subject to section twelve, a person is entitled to be registered if that person

"(a) on the twenty-sixth day of May, eighteen hundred and seventy-four, was, for the purposes of *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, chapter forty-two of the statutes of 1868, as amended by section six of chapter six of the statutes of 1869, and section eight of chapter twenty-one of the statutes of 1874, considered to be entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada,

"(b) is a member of a band

"(i) for whose use and benefit, in common, lands have been set apart or since the twenty-sixth day of May, eighteen hundred and seventy-four have been agreed by treaty to be set apart, or

"(ii) that has been declared by the Governor in Council to be a band for the purposes of this Act,

"(c) is a male person who is a direct descendant in the male line of a male person described in paragraph (a) or (b),

"(d) is the legitimate child of

"(i) a male person described in paragraph (a) or (b), or

"(ii) a person described in paragraph (c),

"(e) is the illegitimate child of a female person described in paragraph (a), (b) or (d), unless the Registrar is satisfied that the father of the child was not an Indian and the Registrar has declared that the child is not entitled to be registered, or

"(f) is the wife or widow of a person who is entitled to be registered by virtue of paragraph (a), (b), (c), (d) or (e)."

If Wilson's contention that he is entitled to be registered is to be sustained, he must bring himself within one of the six classes or categories (a) to (f) inclusive of this section.

It should be noted that sec. 12 of the Act which lists the persons not entitled under any circumstances to be registered in the Indian register, does not affect either the argument or the court's decision since admittedly Wilson does not fall within any of the five classes of persons described in sec. 12. We may therefore deal with sec. 11 without regard to sec. 12.

In my study of sec. 11, I have been greatly assisted by the memorandum thereon prepared by Mr. L. A. Couture, departmental legal adviser for his deputy minister. I find myself in sympathy with the registrar, who considers that sec. 11 "offers difficulties in interpretation." I am not called upon, nor would it be proper for me, to make any extensive analysis generally of sec. 11 (as Mr. Couture has done) with a view to setting bounds to the classes which the draftsman attempted to define with precision. I am charged merely with the task of deciding whether Wilson, the details of whose life, and of whose association with the Beaver Band have been outlined *supra*, can demand to be registered upon the ground that he belongs to one--or perhaps to more than one, though one will be ample--of the six; classes (a) to (f) inclusive.

Clause (a) we need not consider, since those eligible thereunder would now be at least 80 years of age, and Wilson was born in or about 1893 or 1894.

Clause (b) I do not find easy of interpretation. Its apparent simplicity is deceiving. I believe that like clause (a) it deals with general and basic entitlement; that although it is phrased in the present tense, it necessarily imports the past; that by design it contains no reference whatever to blood or paternity but merely to band membership, the intention, in my view, being that in determining the entitlement of the older members of any band which came into being, in its relationship to the Act, in the last decade of the 19th century, when records were of necessity inadequate, there must above all be finality; there must be a band membership which, once established, cannot be impugned on any grounds. This interpretation of the significance of clause (b) is rendered the more reasonable by the nature of clauses (c) (d) (e) and (f) which follow; they deal with the descendants, male or female, of the two classes described in (a) and (b). This interpretation moreover has the eminent recommendation that it gives a fair and just meaning to the clause; in effect it raises a self-imposed estoppel against the crown-- let membership once be established and the status of "the member" is beyond challenge.

If, therefore, it can be acceptably argued that Wilson "is" or "was" a member of the Beaver Band, then his status as a person "entitled to be registered" is established.

Neither Wilson nor his mother appeared on the band list of July 6, 1899 but, as stated *supra*, his mother Madeline did appear in the pay list of June 1, 1900 (as No. 41 thereon) and as a member of a family of two. She and her child are described thereon as "Indians not paid last year who have returned." It is conceded that the second member of the family was the infant child, later to be known as Sam Jean Baptiste Wilson. It should be noted that in the same pay list of June 1, 1900, there also appeared as a member of the band, under No. 19, one Gourageau Narcisse. Under the same No. 19 on the approved Beaver Band membership list of June 30, 1951, appears widow Gourageau (Gourgan). On the June 1, 1900, pay list under No. 21 appears Kygar, with an additional member of his family, presumably his wife. On the approved Beaver Band membership list of June 30 1951, appears "Kygar, widow." Is it not a fair conclusion that if the widow of Gourageau, No. 19, and the widow of Kygar, No. 21, survive as eligible members of the Beaver Band as shown by the band list of June 30, 1951, they do so by virtue of the fact that their husbands were and are deemed to have been "members of a band," viz., Beaver Band as defined in sec. 11 (b)? And does not the appearance of the widows Gourageau and Kygar on the June 30, 1951, band list indicate that such is the view of the registrar? In my view the treaty pay list of June 1, 1900, must be joined with the treaty pay list of July 6, 1899, to form the original band membership list of the Beaver Band. That being done, Wilson's name, as the infant of Madeline, No. 41, must be held to have been and to be a member of the Beaver Band from the date of the first payment of annuity to his mother on his behalf.

I hold therefore that Wilson was, and is, a member of a band as defined in sec. 11 (b) and is entitled to be registered.

It may also be argued that Wilson falls within class (e) of sec. 11. It has not been disputed that his mother Madeline, No. 41 on the treaty pay list of June 1, 1900, qualified as a member of Beaver Band. The story of Baptiste Bisson, as reported to Mr. Galibois and quoted *supra* is fully endorsed by Chief Horseman; the latter goes so far as to say that Bisson's credibility cannot be questioned. Neither do I question it. Bisson says that Madeline, the mother of Wilson, was not married to the American; that the American disappeared before the priest's visit; that Madeline started to live with Le P'tit Laboucan, who promptly got her with child. The child was obviously illegitimate since there was no suggestion of a priestly visit. Later Madeline married Pierre Chatelas, No. 50 on the pay list

of 1900. I accept in respect of the birth of Wilson the evidence of Bisson in preference to that of Madeleine Davis and, above all, in preference to that of Wilson, whose evidence as to his own birth I have already held to be of no probative value whatever.

Before holding that Wilson falls within class (e) being the illegitimate child of a female person, namely, Madeline (Monomoniende) (Sanata) Chatelain, a person described in par. (b) of sec. 11, I must deal with the proviso thereto that such illegitimate child is not entitled to be registered if the registrar is satisfied that the father of the child was not an Indian, and if the registrar (presumably as a result of his having been satisfied that the father of the child was not an Indian) has declared that the child is not entitled to be registered. I hold, having had placed at my disposal all the evidence which has been placed before the registrar, that he could not reasonably have been satisfied that the father of the child was not an Indian inasmuch as the evidence before him on that point was entirely contradictory and unsatisfactory. The registrar, not having been reasonably satisfied that the father of the child was not an Indian, was not entitled to declare that the child was not, or is not, entitled to be registered.

On the ground therefore that Wilson falls within class (b) and class (e) as described in sec. 11 of the Act, I hold that Wilson, in respect of whom the protest herein was made, is, in accordance with the provisions of the Act, entitled to have his name included in the Indian Register as a member of the Beaver Band of Horse Lake and Clear Hills.