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The Indian Act changed everything by creating the chief and council system of local government, elected by male band members. An official from Indian Affairs known as the Indian Agent — or "white chief" — called and supervised the elections, participated in and presided over meetings and generally directed the political affairs of the band.

The Act also introduced overt sex discrimination. A woman who married a non-aboriginal man ceased to be "Indian," as did her children. She had to leave the reserve and couldn't return, whether ill, widowed, divorced or separated. She was no longer eligible for education or medical benefits guaranteed to band members.

"The impact is pretty severe, not just on the women, but on the next generation, their kids," says Mary Ellen Turpel, who is presently working with the AFN on constitutional reform.

"Even if these women died, they couldn't be buried on the reserve with members of their families."

The Agents wielded tremendous power over band members. They outlawed spiritual practices such as the Potlatch (West Coast) and the Sun Dance (Prairies) and ancient political institutions such as the Iroquois Longhouses. Reserve residents could only sell produce or livestock to the Agent. The Indian Agent also enforced the pass laws, which prevented residents from leaving the reserve without permission.

Indian Affairs official Duncan Campbell Scott summed up the government strategy nicely in 1920.

"Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question, and no Indian department..."

But the rules and regulations of the Act often hindered rather than helped the assimilation process. The most basic business transactions required departmental approval. Reserve residents couldn't buy or sell their land (they still can't), take out a mortgage, or be held liable for off-reserve debts.

When they did leave the reserve, usually to find work, white society was unwilling to accept them. Paradoxically, racism helped preserve what remained of First Nations culture.

After World War Two, people had a greater acceptance of social pluralism, and the Act was revised in 1951 to reflect the original idea that civilization would be encouraged, not forced on the First Nations. The Indian Affairs minister assumed a supervisory role, but kept (and still has) veto power over any bylaws passed by the band.

The pass laws were repealed, and in 1960, status Indians were given the vote. It became legal to raise money for aboriginal organizations. Children were encouraged to attend provincial schools (which proved to be a most effective way of absorbing them into the mainstream). The residential schools were slowly phased out, and by the late sixties, most of the Indian agents had been forced to leave the reserves.

Fighting back

The sixties saw the beginning of aboriginal activism in both Canada and the United States. In Canada, the federal government inadvertently galvanized the First Nations with its 1969 White Paper, which advocated the repeal of the Indian Act.

A child of Pierre Trudeau's fetish for individual equality rather than collective ethnic survival, the White Paper recommended ending the federal responsibility for the First Nations enshrined in the 1867 British North America Act. It was clearly assimilationist: "Indians" would receive the same services as other Canadians, with the Department's responsibilities transferred to the provinces, the bands themselves and other federal departments. Land claims would be resolved based on a narrow interpretation of treaty rights.

"I don't think we should encourage Indians to feel these treaties should last forever with Canada," said Trudeau. "They should become Canadians as all other Canadians."

First Nations leaders were outraged, seeing the White Paper as a government attempt to shed its constitutional responsibilities. The White Paper was withdrawn by the federal government in 1971.

The First Nations leaders, who were all men, adopted the stance they have today: the racist Act must be retained until the right to self-government is entrenched in the constitution.

This position soon led to conflict with women who had lost their status by "marrying out," or because of other sexist provisions of the Act. In 1973, Jeannette Lavell went all the way to the Supreme Court of Canada, facing both First Nations leaders and the government. She lost.

The leaders said they distrusted the government so much they could only agree to change the Act all at once. The government, on the other hand, merely wanted to be seen as supportive of aboriginal leaders to gain publicity points.

The Liberal status of women minister, Marc Lalonde, somehow explained the government position with a straight face.

"Discrimination against women (in the Act) is a scandal, but imposing the cultural standards of white society on native society would be another scandal," he said.

The Act was exempted from the provision of the 1978 Human Rights Act to prevent women from filing appeals, and was finally amended in 1985. Within two years of Bill C-31, which largely removed the sex discrimination and allowed reinstatement, Indian Affairs received 44,000 applications regarding the reinstatement of 90,000 people.

"There's still residual (sex) discrimination in the Act, but it will always be there," says Mary Ellen Turpel. "The basic problem is that the legislation is wholesale discrimination."

Which brings us to the present. The government is consulting with a group of "pragmatic chiefs" — not sanctioned by the AFN — on ways to improve the Act.

Indian Affairs Minister Tom Siddon, who hopes to have a new Indian Act by the end of the year, says he has an understanding of the First Nations that his predecessors did not. But Brad Morse says the minister's recent comments about dozens of little Luxembourgs in Canada shows he is not giving aboriginal demands a fair hearing.

"He said he is not here to assist with the breakup of Canada," says Morse. "There is little foundation for that. It's just b.s. and if anyone should know that, clearly the Minister of Indian Affairs should know that."

Morse isn't the only one who feels Siddon should go back to school. Patricia Monture, a Mohawk colleague of Turpel's at Dalhousie Law School, says any Indian Act is illegal and unconstitutional, and a violation of the treaties.

"We're not going to get out of this until Canadians start seeing they have two responsibilities. They have to understand their way of doing things and they have to understand the original peoples' way of doing things," she says.

"They've got a horrible history that's full of lies to correct — the whole notion of two founding nations started in 1867."

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"Would your government accept the concept of three founding peoples?"

It was another one of those questions Joe Clark refers to as "very well-phrased." He thought for a second.

"I think that would be difficult," he began, squirming just a little. "Even though a powerful historic argument can be made, it may cause more difficulty than it resolves in this round of discussion."

(This is the so-called "Canada round.")

"I think that to enter into a debate about who the founding peoples were would divert us from gains we could accomplish together."

Maybe next time.