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Chair

Mr. Bruce Stanton

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• (1535)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): Good afternoon, ladies and gentlemen, witnesses and guests.

I hereby call to order this 8th meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

On today's agenda, pursuant to our order of reference of Monday, March 29, 2010, we are considering Bill C-3, an Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia Decision in *McIvor v. Canada* (Registrar of Indian and Northern Affairs).

[English]

Ladies and gentlemen, this is our second meeting with respect to this bill. I should say, members, we will be having three one-hour instalments this afternoon to take us until 6:30.

For the first hour we welcome Ms. McIvor, who has been quite involved in this issue for a long period of time and is the source of the claim and the issue we have before us. We welcome Ms. McIvor.

In the course of our questioning for each of the three hours we will go for the normal ten-minute presentation followed by questions from members. We'll stay with the usual seven-minutes in the first round and five minutes in the subsequent rounds of questions.

With that, we'll begin.

Ms. McIvor, it's great to have you here. You have the floor for ten minutes.

Ms. Sharon McIvor (As an Individual): Thank you very much for inviting me. I would like to introduce my friend and colleague, Gwen Brodsky, who will be taking part in probably helping me answer some of the questions that I anticipate you will be asking me.

First, I want to briefly introduce myself. I am Nlaka'pamux, from the Lower Nicola Indian Band, in south-central British Columbia, about two and a half hours northeast of Vancouver. I live and work in my community. I drive by the place where I was born every day when I go to work, so I haven't moved very far. Gwen, aside from being a lifelong friend, has also been one of the lawyers on this particular case.

I've had many questions asked about what role does my band play and what does my band think. I have a letter here from my chief that I would like to read to you:

Re: appearance of Sharon McIvor, an LNIB member:

I wish to advise the Standing Committee that the Lower Nicola Indian Band is in full support of the work of our band member, Sharon Donna McIvor, in her efforts to achieve full equality for first nations women of Canada, their children and their grandchildren. I commend the committee for making time to listen to her views. Bill C-3 is a large part of her achievement, having spent 20 years to get a court hearing on the issue of the grandchildren of first nations women who married outside their nation.

Indian status is a citizenship issue and one fully deserving of its equation to Canadian citizenship. When Canadians need to obtain passports to go to the U.S., the minister responsible for passports ensures all Canadians can obtain passports on an expedited basis in the closest town or city possible. The Minister of Indian Affairs has been severely remiss in his duties to first nations, many of whom have waited and are still waiting for status under Bill C-31. The list is reportedly over 100,000. You must do all in your power to ensure these grandchildren of women who married outside their first nations can receive their citizenship in an expedited manner, along with the 100,000 still waiting under Bill C-31.

I remind you that Ms. McIvor was given, by court order of B.C. Supreme Court, full status for her children and grandchildren based on sex equality and this is substantially reduced by the B.C. Court of Appeal. I encourage you to remove the 1951 date, which reduces full equality for all those who have suffered under this sex discrimination.

I would be pleased to make an appearance before the committee.

Respectfully, Lower Nicola Indian Band Chief Don Moses

So, on record, my chief has supported and continues to support this effort. I also want to acknowledge that although this is my part of the fight, I'm not the leader of this fight. I didn't begin this fight, and I want to acknowledge Mary Two-Axe Earley, Nellie Carlson, Jenny Margetts, Jeannette Lavell, Sandra Lovelace, and other women who have taken this fight throughout the years.

For the members, I have a copy of a presentation that Mary Two-Axe Earley gave to the government in 1978. I'm not going to read the whole speech, but there are a couple things that I think are important for you to understand that it isn't only today that this issue has been a problem. She said:

Let us chronicle our pain, point by point:

1. When the Great Spirit calls us we cannot be buried alongside our ancestors in the tradition burial grounds where their bodies have gone to rest. This is the most cruel condition of our imposed exile. Yet people from the neighbouring City of Montreal can bury their dogs on selected plots of Reserve land.

2. We cannot inherit property given to us by our ancestors or bestow property [on] our children. It is as though we were non-entities, not to be accorded the normal recognition afforded by all free people.

• (1540)

We are prohibited from exercising the right to political participation, including the right to vote and to advocate the candidacy of those worthwhile persons who can be an asset to our people. We cannot be Indian in word or action. We are the victims of cultural genocide.

One more passage:

We Indian women stand before you as the least members of your society. You may ask yourself why. First, we are excluded from the protection

—this is 1978—

of the Canadian Bill of Rights

—that's section 67—

or the intercession of any human rights commission because the Indian Act supercedes the laws governing the majority. Second, we are subject to a law wherein the only equality is the inequality of treatment of both status and non-status women. Third, we are subject to the punitive actions of dictatorial chiefs half-crazed with newly acquired powers bestowed by a government concerned with their self-determination. Fourth, we are stripped naked of any legal protection and raped by those who would take advantage of the inequities afforded by the Indian Act. Raped because we cannot be buried beside the mothers who bore us and the fathers who begot us...we are subject to eviction from domiciles of our families and expulsion from tribal roles. Because we must forfeit any inheritance of ownership or property. Because we are divested of the right to vote. Because we are ruled by chiefs steeped in chauvinistic patriarchy, who are supported by the Indian Act, drafted by the rulers of this country over 100 years ago. Because we are unable to pass our Indianness and the Indian culture that is engendered by a mother to her children, because we live in a country acclaimed to be one of the greatest cradles of democracy on earth offering asylum to Vietnamese refugees and other suppressed peoples while within its borders its native sisters are experiencing the same suppression that has caused these people to seek refuge in the great mother known as Canada.

Those are the words of Mary Two-Axe Earley in 1978, and I'm bringing those words today because they are current 32 years later. We have a piece of legislation being introduced that continues to perpetuate sex discrimination against Indian women and their descendants.

Jeannette Lavell was one of the first to bring the issue to court, followed by Sandra Lovelace, who took it to the UN. Jeannette was unsuccessful. Sandra was successful. And in 1985 Minister Crombie changed the act, Bill C-31. But when the act was changed in 1985, parliamentarians knew there was residual discrimination. Crombie's records show that they understood that some of us would still suffer from the residual discrimination.

My case started in 1985. I got into the court system in 1989. When I started, my oldest son was 14, and my grandchildren...I had not thought of them. I hoped I'd have them some day, but they weren't anywhere on the horizon.

As a result of some of the litigation, my son received his status in 2007, which is 16 years after we started. When we started he was a minor, and, as the case proceeded he was then added on under his own right, because he was old enough.

My grandsons, who were not thought of when I started, will be 17 and 19 this year.

We knew that it was discriminatory. You, as parliamentarians of the day, knew it was discriminatory, and yet they forced someone like me to take it through the courts and have the courts decide that it was discriminatory. As a result of that, my son lost 15 or 16 years of his entitlement, and my grandsons have not been recognized as having that entitlement yet.

•(1545)

I'm not the only one. There are thousands of women and thousands of grandchildren out there who are still looking to have this put right.

The government is now responding to the court decision. The court has told you that you have to change it. Section 6 of the Indian Act is potentially being struck down because it discriminates against Indian women.

I understand from reading Bill C-3 that you have crafted some kind of remedy. I am here today to ask you, to plead with you, to include all of those women and their descendants who are discriminated against, not just the narrow view that the B.C. Court of Appeal addressed. As parliamentarians you know that the court does not draft legislation. They just put it back into your lap so you can do what is right.

It's up to you to do what is right and get rid of that residual discrimination—

The Chair: Ms. McIvor, we're over time right now. You've introduced that idea, so at this point we will go to questions from members to explore these ideas a little further. We are under some tight timelines, so please don't take any offence. It's a normal thing and we can draw all these ideas out in play as we proceed.

Let's go to our first question from Mr. Russell.

Mr. Todd Russell (Labrador, Lib.): Thank you Mr. Chair.

Good afternoon, Ms. McIvor and Ms. Brodsky. It's good to have you with us this afternoon. I want to acknowledge your journey and the monumental task you've undertaken. It's hard to fathom 20 years of doing battle, but I guess when the cause is so integral and meaningful, not only to you personally and your families but to so many others, particularly aboriginal women, you just keep on trudging. So with all humility I commend you and those who came before you for your efforts in undertaking some very arduous tasks.

When I spoke in the House of Commons, I gave tacit support to Bill C-3 on behalf of our party. But we also commented that we were concerned about the impact this bill might have. You mentioned Bill C-31 and the residual impacts that had in terms of other forms of discrimination that had arisen.

You made the statement that even with Bill C-3—you're telling this committee and all of us as parliamentarians—there will still be gender discrimination. The government calls the bill an act to enhance gender equity in Indian registration. So can you illustrate for us in a concrete fashion how there would continue to be gender inequality, even if Bill C-3 went through as is?

Ms. Sharon McIvor: I have several examples. What is crafted by the B.C. Court of Appeal is that those women who married out will have the remedy of having their grandchildren added. We have many first nations women who had children with non-Indians but didn't marry and did not lose their status. Their children, for the most part, were not eligible for registration, so their grandchildren will not be eligible for registration. Their children would have been brought in under subsection 6(2), which gives them what we call half status because they can't pass it on, and their grandchildren are not eligible. Women who did not marry and still lost status for their children will not get a remedy from this.

There is a situation—actually this is a personal situation: I have a niece and a nephew, their father is a status Indian, and their mother is not an Indian. Erin, who was born in 1979, was given status at birth. Evelyn, who was born in 1980, 14 months later, was not allowed to have status because she was a female. It was the illegitimate male descendants of a male who could have status and the females could not. In 1985 Evelyn applied for and was given status, but she was given 6(2) status and her full brother has a 6(1) status, which means Erin can pass status on to his kids, Evelyn cannot. The only difference is one is male and one is female. This legislation will not make any difference for that.

The 1951 date is really problematic. Basically any grandchild who's over 59 years of age right now will not benefit from it. There's a situation where a grandmother married in 1916. She had children in 1917, 1918, 1922, and 1925. She has grandchildren born in 1933, 1943, 1945, 1948, 1950, 1953, 1955, and 1958. That's a factual situation. Under this legislation the children born in 1933, 1943, 1945, 1948, and 1950 are not entitled to registration. Their siblings and cousins born in 1953, 1955, and 1958 are included. So the 1951 date is quite problematic when you've got families that are split like that, some born in the middle to late forties, some born in the middle to late fifties. And that's a factual situation.

Those are the factual situations. Gwen will add to this for me.

• (1550)

Ms. Gwen Brodsky (As an Individual): The further problem, Mr. Russell, that will result in people, deserving people, excluded on the basis of their descent along matrilineal aboriginal lines, rather than patrilineal aboriginal lines, is with regard to the assignment of second-class status, section 6(2) status, to the grandchildren. That's the best they, the grandchildren, can get, even if they were born prior to April 17, 1982, under the proposed legislation, whereas the grandchildren of their male counterparts born prior to April 17, 1985, will have section 6(1) status, which can be transmitted to another generation.

The bottom line—

Mr. Todd Russell: The bottom line is that there's still going to be gender inequality after Bill C-3, according to your testimony.

Ms. Gwen Brodsky: That's correct.

[Translation]

The Chair: Thank you, Mr. Russell.

We will move now to Mr. Lemay.

You have seven minutes.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Ms. McIvor, on behalf of the Bloc Québécois, I would like to begin by commending you for leading this battle which, unfortunately—and I am quite sincere when I say this—will not end today. It is absolutely clear that the Indian Act discriminates against aboriginal women. The problem is that it will continue to do that once Bill C-3 has passed. Neither the previous nor the current government has taken any action to resolve this issue. As the British Columbia Court of Appeal stated, we are stuck with a decision that goes back to 1951. I do not want to give you false hope. At least Bill C-3 will represent progress. As a media host back home would say, here is the killer: under the rules of Parliament, we cannot go any further than what this bill proposes. Otherwise, it will be ruled out of order.

So, how can we improve this bill, despite the fact that we cannot go any further back than 1951 and that it will continue to discriminate? It is a serious problem. I don't know whether you can answer that question or whether other groups that will appear subsequently have the answer.

• (1555)

[English]

Ms. Sharon McIvor: I don't see why you can't go back further than 1951. Just get rid of that date. We need to have all people born before April 17, 1985, to be in the section 6(1) category, and no one in the section 6(2) category before 1985.

[Translation]

Mr. Marc Lemay: I don't want to seem rude by interrupting you, but I would like to know if you're talking about people born before or after 1985.

[English]

Ms. Sharon McIvor: It's before.

[Translation]

Mr. Marc Lemay: So, individuals born before 1985 should be covered under subsection 6(1) of the Indian Act. Is that what you are saying?

[English]

Ms. Sharon McIvor: They should be under section 6(1).

[Translation]

Mr. Marc Lemay: Yes, that's what I said. You would like everyone born before 1985 to be covered under subsection 6(1). Is that correct?

[English]

Ms. Sharon McIvor: Yes.

[Translation]

Mr. Marc Lemay: I understand, but starting from 1985, how far back do you want to go? To 1951? To 1876?

[English]

Ms. Sharon McIvor: I want to go back as far as the Indian Act goes back. I want that 1951 date gone, and I want everyone who has status prior to April 17, 1985, to have it under section 6(1), as do their male counterparts. All of the descendants of the men up until 1985 had status under section 6(1). None of them were accorded the lesser status under section 6(2).

[Translation]

Mr. Marc Lemay: Please feel free to comment.

[English]

Ms. Gwen Brodsky: The descendants from the male line are accorded status without regard to the 1951 cut-off. Direct descendants of status Indians are able to claim their status and go to the registrar with their claims of entitlement to status, going back as far as they need to.

[Translation]

Mr. Marc Lemay: Really?

I have no further questions. I will reflect on what the witness has just said.

[English]

The Chair: Merci, Monsieur Lemay.

Let's now go to Ms. Crowder.

● (1600)

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): On behalf of the NDP, Ms. McIvor, I want to thank you for your tireless work in fighting this. I thank your family as well, because you wouldn't be doing it without your family's support and your community's support. I want to thank you.

This number may not be correct, but when the officials came before the committee, I believe they indicated to us that there are 14 cases on status before the courts. I'm not a lawyer, but given the track record of the government on losing these cases, I would argue that it would seem reasonable to consolidate the information and to look at more far-reaching changes to status in consultation with first nations.

I want to touch on a couple of things you talked about.

Regarding the 1951 date, our research people did a very good job on doing a summary. They indicated that the earliest statutory definition of an Indian in 1850 was inconclusive and did not differentiate between male and female. A statute in 1869 introduced the first provision under which the marriage of an Indian woman to a non-Indian man meant loss of status. It goes on to say that the act in 1876 explicitly emphasized male lineage, including a definition of any woman, Indian or not, who married a male. It was entrenched in 1951.

We're actually going back to 1869 in terms of this discriminatory practice. I don't know how we can begin to undo that kind of damage. I know that when you brought your case forward, it was much broader and you suggested that we remove any reference to 1951. Would the section 6(1) status apply to everybody prior to 1985, no matter what?

Ms. Sharon McIvor: Yes.

Ms. Jean Crowder: Okay. The 1951 act implemented the entitlement to registration. There were other things that happened at the same time, including the "double mother rule". If we were to go back to 1869, we would have to trace family lines, because there are people who would have regained status through families over many generations.

Ms. Sharon McIvor: It's fortunately not the government's problem. If you want to be registered, you have to get all of your own information and comply with whatever the government wants as proof. Many people out there can't do that. If they can do it and they meet the criteria, they should be able to do so, no matter how far back it goes. That's what we're saying.

For the male line, it was unrestricted until 1985. As long as your father was a male Indian, you had status all the way down the line. That's all we are asking for. We are asking that the residual discrimination, which happened because of this whole scheme, be rectified.

To say that we have to go all the way back to 1869 I think is a red herring. The government and the registrar don't have to do the research. The people who want to get status have to do the research.

Ms. Jean Crowder: Don't mistake me; I support going back to 1869. But as you well know, there's another problem for people applying for status, which is the hoops they have to jump through.

I have a constituent who has been in the process for ten years. Every time he submits the information, the department comes back and tells him they need one more thing.

Ms. Sharon McIvor: Or they don't look at it. We have responses where you get a letter saying "We can't look at it for six years, because we're back-logged that far." So there are a whole lot of issues and a lot of people die waiting to have that done.

Ms. Jean Crowder: In the interim, we have our hands bound to a certain extent, as we cannot substantially alter the scope of a bill. It will be ruled out of order. There are some amendments that will be ruled in order and some amendments that would be ruled out of order. We would have to test the legal counsel to see what would be in order and what would be out of order.

So at a minimum, what would you like to see us do? Just presuming that we could make an amendment to give everybody status prior to 1985, given section 6(1) status, at a minimum, what would you like to see us do?

Ms. Sharon McIvor: I want you to respect the honour of the crown and have legislation that treats us and our descendants in a respectful and equal manner, and not go back to the other people, the other bands, and ask if we should be treated equally. That is offensive, to say the least, to say my rights are subject to somebody else's agreement. I would like it all. I fought for it all; I would like it all. And for me there's no minimum. I think the honour of the crown and the honour of these parliamentarians is that, once and for all, this ongoing residual discrimination in the Indian Act should be eradicated.

Do you want to add something?

•(1605)

Ms. Gwen Brodsky: I do wish to add to that. I cannot believe that in this day and age we would be talking about anything other than zero tolerance for sex discrimination against any women in this country. I know that you are deeply concerned, all of you, to get this right. That's complete and total eradication of the sex discrimination from the status registration regime. Nothing less could possibly be acceptable. To do otherwise will be to engage in sex and race discrimination.

We would not do this to any other group of women in the country. There is no consultation required or permissible about rectifying the status registration system. It would be discriminatory to go and ask those who disagree with us whether equality is to be the norm in this land. It is the norm. That's been decided. That's off the table. Zero tolerance, that's what this committee must proceed on.

The Chair: Okay, thank you, Ms. Crowder, Ms. Brodsky, and Ms. McIvor.

Now let's go to Mr. Duncan for seven minutes.

Mr. John Duncan (Vancouver Island North, CPC): Thank you very much.

It's very nice to actually meet the person we've heard so much about in terms of the McIvor decision and who has spent so much time in trying to get to where we are today.

This part of the Indian Act, the registration part, is very complicated. Nobody is saying otherwise. I'm reflecting on the fact that many of the self-government agreements and treaties that have been negotiated over the last dozen or more years have essentially dropped the Indian Act, with one exception. There always seems to be the exception of the registration portion of the Indian Act being imported into these agreements, because it is such a complex area.

When you were giving an example earlier on, you were talking about a family who had children predating 1951 and postdating 1951. Under Bill C-3, it's very clear that the children born after 1951, as you described, are achieving registration; but it's also very clear that any sibling of those individuals born before 1951 is also eligible for registration. I wanted to clarify that one important matter.

I also want to talk about the process of registration. Like Jean Crowder, I've had experience working with people who are seeking registration. I know it's very onerous on the applicant, but it is also very onerous on the verification process. Sometimes these records are very difficult.

We do expect to hear from the Canadian Human Rights Commission on this whole issue, because there is a possible tsunami of cases coming forward as a consequence of Bill C-3, because it means that the Canadian Human Rights Act, as of June next year, will apply to all first nations people. I just wonder if you have a comment on the amendment to the Canadian Human Rights Act, which I think is positive for you.

The other thing is that we have launched this engagement process to follow Bill C-3, as part of our initiative on Bill C-3 to promote gender equality. We want to have a complete, ongoing process to see where we can get consensus across the country on further changes to improve registration status and citizenship. I wonder if you want to comment on that.

•(1610)

Ms. Sharon McIvor: I do have a comment on the issue of status and the issue of membership. In this particular case, we separated those out and are only looking at status and our individual relationship with the government. Whatever happens with membership is not part of this case, so there's absolutely no reason to consult with anyone on whether or not the Indian Act should continue to discriminate against women in different ways, or women and their descendants in different ways. If you want to consult on membership of particular bands and what they need and what they want, that's perfectly fine; but on the issue of status, which only concerns the relationship between the government and each individual Indian, there's nothing to consult.

As I said earlier, I find it very offensive to have groups consulted on whether I and my descendants, or my counterparts and their descendants, should be afforded their equality rights. These shouldn't be on the table at all. If you want to consult on membership, that's fine, because membership of a band is a whole different issue.

I see that in Bill C-3 the government has chosen to add newly registered Indians onto band lists without any input from the band. That's not part of the case. That was not part of my case and not part of the decision.

Gwen.

Ms. Gwen Brodsky: I support Ms. McIvor on that, and I would add that a staged approach is preferable.

I believe there is a July deadline for the government to respond to the litigation, which is only concerned with registration status. It's like citizenship: it is purely individual. It confers a status card and a number, official recognition of a person's aboriginal heritage, and it carries with it some entitlements to social programs, such as enhanced health care and financial assistance in attending a post-secondary institution.

That territory can and must be dealt with immediately. It is a very simple matter of doing it, as Ms. McIvor has explained.

Band membership carries with it a completely different set of entitlements, to such things as rights to vote in band elections and participate in band community affairs, and access to housing on reserves. Those are different issues, and they are worthy of consultation. It may not be possible to deal with them prior to the July deadline.

That can't stand. It won't stand as an acceptable excuse for not remedying the sex discrimination in the registration scheme immediately and completely.

The Chair: Thank you.

Thank you, Mr. Duncan.

Now we'll go to the second round, and we'll begin with Ms. Neville for five minutes.

Hon. Anita Neville (Winnipeg South Centre, Lib.): Thank you very much.

And a particular thank you to both of you for travelling across the country to meet with us.

What I'm hearing you say is that under this legislation some women are more equal than others, and that in no other forum or arena would that be allowed to happen. I don't know if you want to say anything further about that, but I'd be interested if you do.

What I'm also hearing, Ms. Brodsky—and I'm just checking—is what you just indicated, which is go ahead and make the fulsome amendment so that all women are included under this legislation, and maintain the engagement and consultation process, whatever it is, for the other issues this brings to light, such as band membership, citizenship, and whatever.

Could you both expand on that a bit?

•(1615)

Ms. Gwen Brodsky: Your encapsulation, Ms. Neville, is correct. Regarding the view that we have advanced, it is simply wrong to make some women—any aboriginal women—subject to continued sex discrimination. That is what this bill, if it is allowed to pass as it stands, would do. It would be failed remedial legislation. That's what the 1985 act was—failed remedial legislation. Bill C-3 is a set-up for yet another instance of failed remedial legislation, for disappointment to aboriginal women and their descendants, who have been waiting for a long, long time for Parliament to do the right thing. That must be dealt with immediately.

The other issues concerning band membership, for example, which form no part of our case, can be dealt with separately in what may require a somewhat lengthier process. What's needed to address the discrimination in the status registration provisions is well understood and straightforward and it involves no competing rights whatsoever.

Hon. Anita Neville: This is really a question to the minister and the department. When the minister was here I asked whether they had done an analysis of the unintended consequences of this legislation, and quite frankly I can't remember the full answer. There was an acknowledgement that it's difficult.

What I'm hearing from you is that in all likelihood, should the legislation pass as is, aboriginal women will need another Sharon McIvor of the next generation to take this battle forward so that all women are equal. Is that a fair comment?

Ms. Sharon McIvor: Yes, it is a fair comment. In 1985 the charter forced the government to take all the discrimination out of the legislation, and they didn't do it for us. They forced us to take it to court. And 25 years later we finally have a court decision that makes the government do it because the court said so.

I find it interesting, to say the least, that as parliamentarians, you understand that the discrimination is there—I think you all said you understand it's there. You also understand that this legislation won't clean it up. I don't understand what is stopping you from cleaning it up.

It's totally beyond my comprehension that all of you, seeing the discrimination, won't go ahead and clean it up properly instead of this stopgap you're using. I know from experience with the myriad of Ministers of Indian Affairs I begged to help out that they have said it's too much of a problem and they wouldn't touch it with a ten-foot pole. They understand the problem, but they're not going to fix it.

Hon. Anita Neville: Why?

Ms. Sharon McIvor: They just said that it was too much of a problem to fix. Now you have to fix it, because the courts said you have to.

I find it quite disappointing that you want to do a remedial again without totally fixing it.

•(1620)

The Chair: We are out of time, unfortunately. Thanks, Ms. Neville and Ms. McIvor.

Now let's go to Mr. Duncan. This will be our last question. Go ahead, Mr. Duncan.

Mr. John Duncan: Thank you very much.

I'll go back to the exploratory process. I believe I heard you say you agreed this would probably require a staged process. We are responding to your litigation, to your court case, and there's an understanding that more was needed and that is why we have got ourselves into a strong commitment to an exploratory process. I think it would be unfair to say categorically that there is not a divergence of opinion on status and registration across the country based on some previous history in some parts of Canada.

I'm trying to get to a buy-in on the exploratory process, because we've got a lot of people excited about the fact that we're going to set terms of reference through consensus. This is not going to be a process driven by the Department of Indian Affairs; this is going to be one that is driven collaboratively, and I think it has much potential to lead us to the long-term solution you are looking for. And I don't see how we could get there with a committee with limited resources and ability to get where we need to get to address the most pressing concern, which is responding to your litigation.

Ms. Sharon McIvor: I will repeat that we as Indian women and our descendants deserve to be treated equally. I don't think any amount of consultation will change that, and it shouldn't. You shouldn't have to consult with others to see if I can enjoy my full right to equality. I understand that the issue of membership and resources in communities and all of that is there, and I understand the need to consult on that, but on status I don't see the need to consult.

I know that for our indigenous communities, it seems to be a barrier for us to move ahead. When the country, the various provinces, decided to put the matrimonial property issue into legislation, where the provinces deemed the family assets of a married couple are fifty-fifty, regardless of whose name they were in, I don't recall them asking the men whose name they were in if it was okay with them. It was the right thing to do.

I see this is exactly the same situation. The band should not have a say on whether I should enjoy my full right to equality. They have a say in governance of their own communities, and they should be consulted on that, but not whether I and my sisters should enjoy our full right to equality.

Mr. John Duncan: But the exploratory process will allow for a lot more than bands to have a say. This is for the Native Women's Association and all kinds of individuals—women from across the board, and so on—to describe what they view as discriminatory registration practices. This is about registration and status, as well as membership and those other things, because it is a complex issue.

Ms. Sharon McIvor: It's not a complex issue.

Mr. John Duncan: Well, it's very complex. You described a situation of discrimination that I explained won't exist after Bill C-3. Siblings of people born after 1951 who were born before 1951 will clearly qualify for registration. That's just one example of the complexity. So this bill will actually go further than you describe in addressing discrimination.

• (1625)

Ms. Sharon McIvor: I will need to have another look at it, but that's not my reading of it. That 1951 date is a barrier; otherwise it wouldn't be there. If it wasn't a meaningful date you wouldn't have to put it in.

Mr. John Duncan: Well, it's a very meaningful date.

Ms. Sharon McIvor: Yes, it's a very meaningful date, and people born before then will be affected, as will people born after.

The last thing I want to say is that as an individual I shouldn't have to decide whether or not I have the right to exercise full equality, and someone else shouldn't be able to say whether I can exercise my full right to equality. So consultation, or whatever that commitment is, shouldn't affect the status part of this.

The Chair: We're at the end of our first hour, Ms. McIvor and Ms. Brodsky.

Ms. Gwen Brodsky: May I make one brief comment?

The Chair: You have 30 seconds.

Ms. Gwen Brodsky: This committee, this government, and Parliament have a wonderful opportunity before them to remove this terrible stain of longstanding on Canada's reputation, domestically and internationally, as a promoter of women's human rights. That

recognition and the opportunity to do that will not be fulfilled if this job is not done fully—and you can do it.

The Chair: Thank you, Ms. Brodsky.

We're going to suspend briefly for a couple of minutes. Then we'll get right back, because our next witnesses are here.

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_____ (Pause) _____

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• (1630)

The Chair: I call the meeting to order.

We are resuming consideration of Bill C-3, an act to promote gender equity in Indian registration. We're delighted to have with us Jeannette Corbiere Lavell, who is the president of the Native Women's Association of Canada. She is joined by Karen Green, the executive director.

Because we have a full hour, we will proceed directly to Ms. Lavell's presentation.

You've done this before, of course, and it's great to have you back at our committee. You may make a ten-minute presentation, Ms. Lavell, and then we'll go to questions from members.

Ms. Lavell.

• (1635)

Ms. Jeannette Corbiere Lavell (President, Native Women's Association of Canada): *Meegwetch*, Honourable Chair.

[Witness speaks in Ojibway]

My Anishinabe name is North Star, and I'm from the Wikwemikong Unceded Indian Reserve on Manitoulin Island. I would also like to acknowledge the territory of the Algonquin people.

Having said that, I would just like to take a minute and recognize your invitation for us to be one of the first presenters here. We recognize and appreciate that. Generally, we're usually at the end, but we do get the last word in at times.

While Sharon is here, I'd also like to say that we are thankful to her for all of her efforts. It is through her energy and determination and many times her own funding that we were able to see Bill C-3 come into being. It was through her sheer will this has come about. We recognize this and support her. She will be one of our achievers when we look back at our aboriginal history, along with all of the other ones she talked about who've gone on.

I think this is a really important time in our history. Having said that, I want to share with you that thanks to her, I have five grandchildren, two of whom have full status. My oldest grandson, Nigani, has full status, as does my oldest granddaughter, Autumn Sky. However, my three little ones, Kyana, Eva, Ulbriana, do not have recognition as members of my community right now. But hopefully we will be able to see this happen and I will be able to tell them that they are full members of my community, their grandmother's community, that they will be recognized and will be able to learn our language, learn our history, learn our ceremonies, and learn our culture, because that is who we are and it is very important.

This is the underlying issue in what we're talking about here. If any of you feel that connection to your homes, your homeland, if it's Canada or elsewhere, you know how important it is, and that's what we feel about our communities. Marriage should not have anything to do with it. I would just like to state that from the very beginning.

Just as a little side point, paragraph 12(1)(b) of the Indian Act did not come from us as aboriginal people. That was imposed on us from you know where. We would really like the opportunity to return to our traditions, to who we are as a people, our practices and customs, including having that respect and recognition for our women, remembering that it is our women who will ensure our future generations. That is our responsibility, to ensure that our nations will be here tomorrow and for many generations to come.

Right now, there have been studies done that show that in three years' time, one reserve in Ontario, the Scugog First Nation, will have its last status Indian born in 2013. Now what's going to happen to that first nation? If we continue the way we are going, that is what's going to happen to many others. I don't think any of us in Canada, whether aboriginal or not, will allow that to happen. We recognize that Canada is a great country.

I also want to say that the Native Women's Association of Canada consists of provincial and territorial organizations right across the country and we represent first nations, Métis, and Inuit women. We were created and we support the issue we are talking about here today.

• (1640)

As I said to Sharon, we do support all the work she has done, and we will continue to support her work in bringing about equity to eliminate any of that ongoing discrimination that is present within the current bill. I hope it will not be present in the next piece of legislation that comes about. I think all of you here, with our support—and our little push, perhaps—will make sure that for my grandchildren, the three I was telling you about, their recognition back into my community will have meaning. It will mean something to them. They can say that they have full recognition equal to their cousins, cousins who are descended from a male ancestor.

Right now that is not there, but hopefully we will be able to see that. It will be up to you to ensure that those three little girls will have just as many rights, that they are not lesser than, or that they will not be excluded.

I understand that's what Sharon is talking about. There should not be any more discrimination within legislation.

I was going to take you back through our history, but I'll make it brief. I know that time is going, and Sharon has already covered many of the definitions and all the descriptions.

I will just tell you that from 1876 to 1970, no one challenged the Indian Act. It was just a given. I guess that right, for us, to make changes in the legislation that was affecting us just was not there. We did try in 1970—I tried—and, as Sharon pointed out, lost by one vote. The time was just not right. We had most of the aboriginal organizations, especially the National Indian Brotherhood at the time, who opposed us. We lost by one vote.

Had the time been different, or had it happened now, I don't think the story would be the same. We are changing, and the time is right for us all to work together to bring about true equity, true justice, for all of us as Canadians and as aboriginal people within our community.

I was also going to say to you that because we didn't have a voice in the early seventies, we created our aboriginal women's organizations. Mind you, this is just recognizing the role we had. We actually brought it forward, and thank goodness, because we will not stop our struggle to achieve this equity until we follow the teachings of our grandfathers and our grandmothers—that is, to recognize that our children are gifts from the Creator. As mothers, as grandmothers, as great-grandmothers, we have the responsibility to care for them, to nurture them, to ensure that they have the rights and the benefits so they can grow into strong, wise, and protecting people. They will be our future. I think we can do it if we do look at this legislation.

Now, if we look at definitions within Bill C-3, it is contentious. I know there is a lot of work to be done. But I would just like to share with you my recent association and work with the Anishinabek Nation in Ontario. I was the commissioner on citizenship there, and we drafted our own citizenship law. It was unanimous in all the communities. We recognized that as long as you had one parent who was Anishinabek—within our description of Anishinabek Nation—you would be entitled to recognition and membership as citizens within the Anishinabek Nation. That would be within our own citizenship law.

• (1645)

It is workable because of the attitude right now—what is happening within government, in the throne speech, with the Prime Minister mentioning that Canada is looking at endorsing the United Nations Declaration on the Rights of Indigenous Peoples. This would be a great opportunity to also work with us as aboriginal peoples, as aboriginal nations, so that we can determine who our citizens are. That is our right as a nation and it would be much easier on the rest of the government if we had that right.

The Chair: Okay. We're over our ten minutes. Would you like one minute or so just to sum up and then we could go to questions, Ms. Lavell?

Ms. Jeannette Corbiere Lavell: Thank you.

I was wanting to share with you our history and to state that I think now is the time where if we work together, we can bring about this equity. Take all the discriminatory sections of any legislation affecting us and bring about that sense of human rights and justice that we should be entitled to as well. As aboriginal women we've been at the bottom rung of all the other statistics. We have the lowest income and employment. For everything, we're at the bottom. Now is the time when we should be given that right to equality. That our children as well as ourselves, and those of our sisters who are wanting to be part of our community under the unstated and unknown paternity... That is also important.

Meegwetch. Thank you for listening. I have lots more in my paper that you are welcome to. *Meegwetch.*

The Chair: Thanks, Ms. Lavell.

Now we'll go to our first round of questions. We'll begin with Mr. Russell, who's going to split time with Mr. Bagnell. Let's go ahead for seven minutes.

Mr. Todd Russell: Thank you, Mr. Chair.

Good afternoon. It's great to have you with us, Ms. Lavell and Ms. Green. It's always a pleasure. And I do want to acknowledge your long journey as well, and the contributions and struggles you have made in the cause for equality.

A couple of questions are arising from what you have said. Would it be fair for me to say that NWAC, which is also studying Bill C-3, acknowledges that there would be continued gender inequality or discrimination under the Indian Act? Would that be a fair statement?

Ms. Jeannette Corbiere Lavell: As I understand it, that is exactly what will continue to happen unless changes are made. Right now our second generation, my grandchildren, are entitled, but not the next generation. So that would be ongoing. We'll just have to come back and deal with it again.

Mr. Todd Russell: Listening to you and Ms. McIvor, we're starting to get a sense of the historic time we're in. Going back to 1985, that particular piece of legislation was so momentous and historic at the time, but in hindsight it also gave us a number of challenges, particularly for aboriginal women.

If we could do it, technically, through this bill, to make amendments to remove the continuing gender discrimination that exists under the Indian Act—because this bill deals only with the Indian Act and certain provisions of the Indian Act—would you want us to go down that particular road as a committee?

I'm trying to get a sense. If we could do it, right now... I'm not saying it ends all discrimination that the Indian Act itself gives rise to, but if we could end all gender inequality discrimination under the Indian Act by amendments to this legislation, would you want us to pursue that particular avenue?

• (1650)

Ms. Jeannette Corbiere Lavell: Most definitely, and I would say that would be the first step in eliminating any kind of discrimination. If we were able to take that first step, then I'm sure the rest would naturally fall into place as well. That would be a great step forward in rectifying the injustices, the inequity that is still present within this legislation.

Mr. Todd Russell: How much time do I have?

The Chair: Another four and a half minutes.

Mr. Todd Russell: Larry will only get three.

I think the amendment strategy... I'm not saying it can be done, even on the technicalities, but I think we have to give it some thought. We have to give it some real deliberation. I'm telling you right now that's where I'm at with this.

I want to ask you another question. I think the amendment strategy—if we could go that way... Would we, without prejudice to the exploratory process that the government wants to carry out...? What kinds of discussions have you had with the federal government about this exploratory process? Have there been any discussions around even the broad strokes of what it's going to involve, how NWAC would be involved, the types of resources that would come? Has there been any discussion of this particular nature with NWAC and with yourselves?

Ms. Karen Green (Executive Director, Native Women's Association of Canada): Yes, there have been some discussions. We've met with the minister on it. We've met with officials as well.

As I understand it, the process is just rolling out. We're not exactly sure what it's going to mean, other than it's a process to talk about views on what we're framing as citizenship, to have that broader discussion of what that would mean. But in terms of all of the specifics, that hasn't been clarified to the full extent yet.

Mr. Todd Russell: The Honourable Larry Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): I have one question, just to confirm what everyone's been saying. I think we have 100% agreement here, so I just want to confirm.

I think Ms. McIvor basically said that this removes discrimination in some cases—maybe 45,000—but there are probably a couple of hundred thousand people in total. So there would need to be a few amendments related to the 1951 date—everyone before 1985, I think it was, get to subsection 6(1) status, dealing with the unmarried children.

If we made these amendments... It's not something you need to explore or debate. If you're going to be treated equally, regardless of your gender, then you don't have to explore that. That's a right. It should just be done. We could have the exploratory process for citizenship, as you said, in various first nations.

So basically, I just want to make sure we have 100% agreement here. We should make every attempt we can to make the changes that would eliminate any gender discrimination in the Indian Act. It is fairly black and white—either you're discriminated against or you're not. So we should just make those changes. Is that agreeable?

Ms. Jeannette Corbiere Lavell: I totally agree with you. If that was done, then I would think that as aboriginal women, as an aboriginal women's organization, maybe part of our work would be done. We could move on to other things. But that would be really good to see if it took place in the very near while.

Ms. Karen Green: I just want to add the point that it needs to be removed in law. But what we saw as a result of Bill C-31 was that discrimination in application continued. And the reason for that discrimination... We all know what that was.

It's not a reason not to proceed with taking the gender discrimination out of the Indian Act now. But I think we need to be cognizant of that, because you can have equality in law but not in application. And we need to talk about what needs to be done to ensure that aboriginal women or first nations women actually get accepted back into the communities.

Hon. Larry Bagnell: On the application, I believe someone told me that if we do make these great changes with this law, or even improve this law, it will still take some people six years to actually get their... Are we that far behind? Is that a huge problem that needs to be corrected? It sounds inconceivable that someone would have to wait that long. That's longer than the Second World War.

Ms. Karen Green: I think it takes a very long time. But I also think—and Sharon characterized this really well—that it's very cumbersome, and the onus is on the individual to come up with all of those proofs. Some of those records are very difficult to come upon. So it's very individual-based, and it's very time-consuming. It can be very costly.

•(1655)

Hon. Larry Bagnell: Thank you.

Ms. Jeannette Corbiere Lavell: I would like to share a story with you. Just two weeks ago... And it just goes to show that even under Bill C-31, the application of that is still not taking place. This friend of mine—and she was on the National Committee on Indian Rights for Indian Women—is still not accepted back into her own community, even following 1985 and Bill C-31. Much like Mary Two-Axe, all she would like is to go back to her community, be with her sisters, and have the right to be buried with her own people on her own homeland. And that's still there.

The Chair: Thank you, Mr. Russell and Mr. Bagnell.

Now we're going to go to Monsieur Lemay.

We'll just make sure that you have your translation working. Can you hear me okay?

Ms. Jeannette Corbiere Lavell: Yes.

[Translation]

The Chair: Mr. Lévesque.

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): I have only one question. I will then turn it over to my colleague.

The Chair: Fine. Please proceed.

Mr. Yvon Lévesque: Ms. Corbiere Lavell, I believe I heard Ms. McIvor say that, in her opinion, it goes beyond the Supreme Court decision, in that the idea is to allow for complete equality between men and women, right from the very beginning. Your comments seemed to suggest that you are very proud of what Ms. McIvor has done. We are as well.

However, would you go so far as to say that we should vote against this bill if it is impossible to secure complete equality, which does go beyond the Supreme Court decision, I believe.

[English]

Ms. Jeannette Corbiere Lavell: In my opinion, if we can achieve equality and ensure the rights of the people now, and go back and rectify their rights for as many as we can, we should be able to do that. As well, for our future, there should not be any inequality or injustice. And if this means that Sharon will have to keep challenging, we would support her in that initiative. After all, fighting for the right cause is not meaningless; it will mean something. That is all we're asking for.

[Translation]

Mr. Marc Lemay: Perhaps I could continue. I'm sorry to say this, but your position is not clear to me. This is extremely important to me. Is the Native Women's Association of Canada for or against this bill, as currently drafted? That is a clear question.

[English]

Ms. Karen Green: We're certainly not against having the response to the court decision, which is what that legislation is.

Do we think it goes far enough? No.

Are we opposed to the Government of Canada complying with the court decision? We're for it.

But does it go far enough? In our opinion, no.

[Translation]

Mr. Marc Lemay: Fine; that's clear. Do you agree that we should amend the bill along the lines described by Ms. McIvor? The only way to make aboriginal women equal is to remove the criteria under subsection 6(1). Do you agree with that?

[English]

Ms. Jeannette Corbiere Lavell: At this time, I would agree. That would be the only way to remove any discrimination. And in my opinion, I don't think it would be that difficult.

[Translation]

Mr. Marc Lemay: You heard me commenting earlier, when Ms. McIvor was here. That is the issue, for both the government and the Liberal Party. Supporting an amendment that would remove the designation under subsection 6(1) would probably, or could, be deemed to be out of order. We will have to see. However, it would have a major impact, as there would be several hundred thousand new members in aboriginal communities. Do you agree with our going as far as that?

•(1700)

[English]

Ms. Jeannette Corbiere Lavell: If these members have the right to be recognized—and that is their basic right as members within our communities, their right to their culture, their identity, that's who they are—then we should do that. That is the bottom line, I would think.

[Translation]

Mr. Marc Lemay: I will be honest with you. Before another bill comes forward that deals with section 6, we will have to wait 20 years, because that is how long it took Ms. McIvor. There is no doubt that we would be better off doing this right away. It would be better to pass an amendment immediately to put an end to that discrimination. Is that what you are suggesting?

[English]

Ms. Jeannette Corbiere Lavell: If that is the only way to address the ongoing discrimination, the inequity, the inequality of application in treatment, then maybe that is what we have to do. And I would hope that we could all agree on that.

[Translation]

Mr. Marc Lemay: It is the only solution.

[English]

Ms. Jeannette Corbiere Lavell: There may be some parts to be ironed out, but I'm sure that with an open mind and if we can talk on this, we can resolve it for the good of our people as well as for the Government of Canada.

[Translation]

Mr. Marc Lemay: As I say, that is the only solution. And the reason it is the only solution is that any exploratory discussions will not remove the discrimination you have been subject to since 1876. I can tell you that I have done an analysis and it is impossible, if the requirements under section 6 are not removed.

[English]

Ms. Jeannette Corbiere Lavell: Well, not being a lawyer or having a legal mind, right now I don't know if what you're saying is actually what would happen. However, if this act can be revised or redone so that it is just and right across the definitions, then perhaps that is what we need to do. And with our nations, if we recognize that our people should have a say in this, I'm sure we can work it out.

[Translation]

The Chair: Thank you, Mr. Lemay.

[English]

I just would like to take a moment here, because this topic has come up on a couple of occasions. I would direct members to page 766 of O'Brien and Bosc, on the issue of the principle and scope of amendments to the bill that we have in front of us. After second reading, of course, we are limited in those types of amendments. They cannot, either by their words or by negating a part of the act, broaden the scope of the bill. I know there's been considerable discussion on that. I would just perhaps ask if you might want to go and have a look at that section, and we'll be guided by it. I'm sure we'll be seeking a more poignant clarification of those rules when it comes time for clause-by-clause consideration.

Okay, let's go now to Madam Crowder for seven minutes.

Ms. Jean Crowder: Thanks, Mr. Chair.

I want to thank Ms. Lavell and Ms. Green for appearing before the committee. You are welcome witnesses once again.

I have a couple of comments. One is that in fact there is another solution. The government could withdraw this current bill and

reintroduce a bill that much more broadly addresses the issues around discrimination. Opposition party members don't have the ability to introduce a government bill, but the government could certainly reintroduce a bill that would address it.

I wanted to touch on a couple of these discriminatory practices. When you talked about the fact that in the 1970s the fight was taken up to deal with discriminatory practices, the reality is that before that it was very difficult for first nations to do that, because in fact the first nations were disenfranchised. They lost their ability to be status first nations. In addition, in many cases they weren't permitted to hire lawyers to take on their cases. So it was very difficult before the 1970s for first nations to actually bring up the issues around discrimination.

In the late 1800s first nations actually determined citizenship and status, and it was only when the government, in 1876, started tightening up that first nations lost control over their members, lost control over who was considered either status or citizenship. In many cases, people blur the lines between status and citizenship when it's convenient, because status and citizenship hold very different legal roles and definitions. It's sometimes convenient for people to muddy those waters.

What we're talking about here is status. In this McIvor decision, we're talking about status: who gets to be considered a status first nation.

Ms. McIvor and you yourselves have both alluded to situations where this legislation won't deal with discrimination. We know unstated paternity is one, where a woman, many times for reasons of safety, will not state who the father is. That's a discriminatory practice, because it's automatically assumed that the father is non-status and therefore the children will be section 6(2). There is also an issue around—and Ms. McIvor referenced this—illegitimate daughters: illegitimate sons gained status; illegitimate daughters did not.

There are also the cases of group enfranchisement. In 1958 the whole Michel Band from Alberta lost its status. In 1931 they were reinstated as individuals, but the band has never been re-recognized. The question becomes, in 1958, did women actually participate in that vote? Likely not.

So I wonder if you are aware of other occasions when women have been discriminated against under status in the Indian Act.

● (1705)

Ms. Jeannette Corbiere Lavell: I would like to go back to prior to 1876, when our people, our chiefs, and the leadership at the time had the right to determine who their people were and who their citizens were. We could recognize that. They signed treaties as sovereign nations, with all the applicable rights that go along with being a nation, including the right to determine their citizens and the right to their language, history, and culture. You know, that should be there and recognized. It was changed without our participation.

You said that it wasn't until 1970, but even in 1970 we did it, because we had become aware of Canadian human rights legislation and the Canadian Bill of Rights. We found out about these things as we went into the education system, and we realized that something, perhaps, could be done. We didn't all necessarily become lawyers, but I think we stepped into our traditional role of taking that step to protect our communities. You put yourself in a position so that if it's your path, your direction from the creator, this is what you have to do.

I think that is happening again. Our women are determined to ensure that our people continue to exist. The way Bill C-31 is right now—and I think Bill C-3 will just slow that process down—will still result in the same mistake, which is no more status Indian members on some of our reserves. I don't think we want to go through that whole process again, so maybe now is the opportunity to do something about it.

Ms. Jean Crowder: We talk about that as legislated assimilation, under Bill C-31, when it comes to second-generation cut-offs.

Ms. Green, did you have something to add?

Ms. Karen Green: Yes, I just wanted to say that status membership is a legal construct created by the Indian Act. We're trying to deal with a citizenship issue—who are the citizens of our nations?—through language that's very difficult and divisive. It is a very imperfect instrument for trying to have this conversation. Does it mean that we should be immobilized? No, but it may not be the best way to have the conversation. What has happened, even among ourselves, is that all of these distinctions have been created because of this law.

We're trying to move forward. We know what happened with Bill C-31. We know what might happen with Bill C-3. And we have to find a way to move forward so that we can live without those distinctions in our minds, because they have been divisive. They haven't served any purpose other than to streamline, for funding purposes, who's an Indian and who isn't.

• (1710)

Ms. Jean Crowder: What would you like to see then, to get beyond this divisiveness? Because it is divisive. It sets family member against family member sometimes.

Ms. Karen Green: I think part of what we need to do is to start reframing the language of the conversation around citizenship so that we don't fall into the categories of who's a status Indian and who's a member. That immediately gets you into a divisive situation. It creates categories of people: you're entitled to this because you're a status Indian; you're entitled to this because you're a member; you're not entitled to anything; or you're sort of a member because you're under Bill C-31. We need to change that language. I think the language for a citizenship discussion is about principles. I think everybody here would agree that family members deserve to have the same citizenship, and yet we don't even have that as a basic principle. I think if we start there, we could start moving a long way forward.

Ms. Jeannette Corbiere Lavell: I would invite you to explore our citizenship law with the Anishinabe First Nation, because we went through all that.

The Chair: Okay. Thank you very much, Ms. Crowder.

I have just a cautionary note. We are doing simultaneous translation, so on the pace of your answers, and I appreciate that we're under some timelines, just take your time, and everyone will be able to hear and understand in both languages.

Let's go ahead to Mr. Rickford for seven minutes.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

Bonjour, Ms. Lavell. Greetings to you as well.

I want to thank you for appearing before the committee today, Ms. Lavell. I think it's entirely fitting that you are at or near the top of the list of people we talk to about this, given your longstanding and admirable history of working on issues of gender equity and status. In my view, your court case in the 1970s brought the issue to light. It was an important precursor to later legislative changes, including the ones we're talking about today, and the action this government is taking.

I have a couple of questions that are going to focus on the exploratory process. I'd like to devote a couple of minutes to each one and give you both the opportunity, at your discretion, to chime in.

Ms. Lavell, there was a recent press release from your organization urging the government to commit to a full and transparent process to explore the complex and broader issues related to citizenship. We have committed to undertaking a comprehensive exploratory process to such an end. I was wondering if you might take the opportunity to present some recommendations and/or suggestions on the best way to fully engage your organization and other organizations in discussing these issues in a more broad and meaningful fashion.

I share your comment earlier that you should have a say in this, and I want you to have an opportunity to make some of those suggestions.

Ms. Jeannette Corbiere Lavell: *Meegwetch.*

I understand and recognize the importance of what you're saying. This is what we have been trying to do within our communities, in northern Ontario with the Anishinabe Nation.

I would invite you to visit our communities, our grand chiefs, who brought this about. We have done that community consultation on determining who our citizens are and the rights and responsibilities that go with that. At this point our leadership, the chiefs, are also looking at the implications of financing and how lands and acquisition of other programs would be dealt with within that context. That is ongoing right now.

The bottom line is that our people unanimously said we should have that right to determine who our people are, because these are our people within our communities. We have to live together. These are people who will ensure our future. They welcome them and they want to recognize them.

Of course there are certain responsibilities that go along with that, and we can work that out. Those responsibilities, the right to start learning our language, to learn our history, the right, if they so wish, to go to our ceremonies is who we are. It has been taken away by many factors, residential schools being one of them. But now is maybe the time when we can start restoring our traditions, restoring that dignity to our people. I think you could do it.

• (1715)

Mr. Greg Rickford: I think what I hear you saying, Ms. Lavell, is that one of the great benefits to the exploratory process is... I don't think saying "give it broader context" does it justice. You've mentioned a number of other key factors that have certain impact on this. I think it bodes well for the exploratory process to have that wider, more comprehensive input from people and organizations that are most affected by it.

Ms. Green, did you have an additional comment?

Ms. Karen Green: I agree with what Jeannette said. I think the trick to the process is having to deconstruct all the problems that have been caused because of the legislation and the divisions and to have a conversation that is inclusive and based on our nations' concepts of citizenship as well as our cultural values.

Mr. Greg Rickford: Ms. Lavell, you also mentioned previously that first nations should come to consensus on as many issues as possible. We've heard that today. Do you think this kind of consensus is likely through the exploratory process? Can the exploratory process achieve this, and if so, what tools or structures would you recommend be put in place to ensure a high degree of alignment and consensus on the issues?

Ms. Karen Green: If we take a principles-based approach, we might be able to get some consensus on the issue. For instance, the concept that families should be allowed to have the same citizenship is something I think everybody can agree to. So if we start looking for those basic, fundamental principles that no one is going to challenge, in that way we can begin bringing people maybe to more of a consensus or at least having a conversation that is broader-based and gets rid of some of the discriminatory language that has developed because of the imposition of the Indian Act in its various forms over the years.

Ms. Jeannette Corbiere Lavell: We were able to discover that because these issues are so important, our people came together. There was disagreement on certain aspects, but in the long run they came together and said "This is what we can live with, this is who our people are, and this is what we must do." And it was done. It can be achieved.

Mr. Greg Rickford: It sounds to me as though there is an important unification piece to this process as well.

Ms. Jeannette Corbiere Lavell: It's with the nations, not the small communities.

Mr. Greg Rickford: Exactly.

Ms. Karen Green: The other point is that we really need to get back to the basics of the importance of the role of women in our communities and to respecting that. That is the fundamental principle that will take us a long way.

Mr. Greg Rickford: I thought that's what I might hear.

Thank you. *Meegwetch.*

The Chair: Thank you, Mr. Rickford. That pace was much better.

We have time for two five-minute questions. We will go to the Liberal Party first. Ms. Neville, you can take the first one, and then we'll go to the Conservative side.

Hon. Anita Neville: Thank you, Chair.

Thank you to both of you once again for being here and for the work that you do in so many arenas.

Ms. Corbiere Lavell, you mentioned the issue of a first nations community that in not too many years is not going to have a membership, or a substantial membership. I probably should have asked Ms. McIvor this question as well, but have you done any analysis on what impact providing status to all aboriginal women would have on first nations communities?

You're shaking your head.

• (1720)

Ms. Jeannette Corbiere Lavell: To get back to your first question, there are studies that have been done by first nations themselves, looking at the future, at what is going to happen. That is available and it can be explored.

Definitely some of our first nations will become extinct, because under Bill C-31, as I said, in as little as three years there will not be any more status members born in some of these first nations. That is what is happening right now.

However, we can look at making Bill C-3 the first step, but broaden it. Take it the next step so that our people will not have to worry about becoming extinct—for lack of a better word, that's genocide—so that we will still be able to maintain our people. Right now, it's not their decision. Just in the way the legislation is, it eliminates their recognition. We didn't have any say in that legislation.

Ms. Karen Green: The issue you raise is whether the right is contingent on the resources.

Hon. Anita Neville: Tell me more.

Ms. Karen Green: We know there will be capacity issues in the first nations, because there were capacity issue when it was Bill C-31. So we have to address that issue in terms of what is the right contingent on, to be a member of your community. Is it contingent on the resources being available, or do you have the right regardless of the resources and that's a separate issue?

If we tie the right to resources, then we know there's going to be a problem. Clearly that's something we have to consider, because presumably the right isn't contingent on the resources.

Ms. Jeannette Corbiere Lavell: I'd also like to mention the recent study that was done, which said that about 85% of our people, our women, are moving into urban centres, but even though they are moving into urban centres they still want that right to be part of their communities, just to be able to retain that right.

When we look at the resources, job opportunities and everything, if it's not there within our first nations to provide for their children, they have to go where there is employment. When we look at the resources, that could be part of it, but it can be resolved. We can work around that.

Hon. Anita Neville: Do I have more time?

The Chair: A minute and a half, Ms. Neville.

Hon. Anita Neville: Let me take you in another direction.

Do you get many concerns expressed from women in communities over this issue? And do you have the capacity to build a catalogue of the inequities—I was going to say injustices—that come forward?

Ms. Jeannette Corbiere Lavell: Well, we are dealing with one right now, one I neglected to mention. Women, especially the single mothers, are leaving our communities because of the physical abuse, just to get away in order to provide for their children. That happens. It's well documented. But at the same time, there's the lack of housing, and hopefully we'll be able to deal with that under the matrimonial real properties. We want to explore that and work with the Department of Indian Affairs on that as well. But there are research papers...

Ms. Karen Green: We don't actually have the capacity to look at individual cases. We do get calls. A lot of the calls are around land and housing issues. Also some are around people trying to figure out how to get access to the registrar and how to get their status back. But we don't have the capacity to actually deal with those issues or to document them in a way that would be most helpful.

Hon. Anita Neville: Thank you. Thank you very much.

[*Translation*]

The Chair: Thank you, Ms. Neville.

We move now to Mr. Dreeshen.

You have five minutes.

[*English*]

Mr. Earl Dreeshen (Red Deer, CPC): Thank you very much.

It's nice to see you again.

I would just like to ask a question. I was just wondering if perhaps you could comment on the progress that has been made since you first started working on this topic and how you see Bill C-3 fitting in with the activities you have been in.

• (1725)

Ms. Jeannette Corbiere Lavell: When you mention this topic, do you mean looking at the status question?

Mr. Earl Dreeshen: Absolutely.

Ms. Jeannette Corbiere Lavell: Well, as I said, it started in 1970, which is 40 years ago now we've been working on this. We are determined to see the final end, where we will get that equal access to our rights as members within our communities. So it has been a long time. There have been changes and it seems like it's going step by step. But maybe now's the time when we could deal with it collectively and just state that in this day and age it's part of our history. This is when we will eliminate all forms of discrimination and inequity within any legislation that affects us, especially us as aboriginal women.

Ms. Karen Green: This was a key issue for us. It was one of the reasons the Native Women's Association came together in 1974. So I think the fact that it's still a key issue in 2010 indicates to us that we still have a ways to go.

Mr. Earl Dreeshen: I know you were talking earlier about it, and I perhaps would like to give you an opportunity to expand on some of the issues you have just spoken of, about abuse, housing, matrimonial real property, other capacities. Do you have some comments there as to a way in which we could be moving forward?

Ms. Karen Green: Clearly there are a number of things that would need to be done at the same time. We know there are a lot of capacity issues in our communities in terms of poverty, lack of housing, poor water, overcrowding in housing, lack of land. I think those are issues that play into this and that are important, because we don't have the infrastructure to deal with many of those issues. Those are fundamental issues that have to be dealt with, and that's something we've always said in the matrimonial real property discussion. We need those non-legislative measures to put some of those in place, because otherwise you just create problems on top of problems.

Ms. Jeannette Corbiere Lavell: The other big area that we must ensure continues is education. Our people need to be able to access higher education, post-secondary, because that is the only way we will be able to understand, know, and maintain our balanced life within our communities so that we can apply not only our teachings but other applications in terms of human rights and justice among our people. I understand that post-secondary might be considered for cutting. To have that done, I think it will be devastating to many of our young people, because for our young people, that's the biggest block of our population. They need those resources still.

The Chair: Thank you very much, Mr. Dreeshen.

That will finish our second hour. Again let me say that we're delighted to have you here again to kick off our second meeting on this important study. We wish you well.

Members, we're going to take another brief recess. I would encourage you all to get a bit of food, which will perk you up for the last hour, and we'll continue from there momentarily. We'll suspend now.

- _____ (Pause) _____
-
- (1735)

The Chair: We'll resume, members, if we can get back to our seats. We'll invite our witnesses for the last hour here.

I call the meeting back to order. We'll finish this up as quickly as we can.

For our final hour this afternoon, we have two organizations present, and we're waiting on one, I guess.

Let's begin by inviting Betty Ann Lavallée. Betty Ann is the national chief for the Congress of Aboriginal Peoples. She is joined by Roger Hunka, also from the Congress of Aboriginal Peoples. We also have, representing the National Association of Friendship Centres, Mr. Conrad Saulis.

Let's begin. You will each have ten minutes for your presentation, and then we'll go directly to questions from members.

We'll begin with Ms. Lavallée.

Ms. Betty Ann Lavallée (National Chief, Congress of Aboriginal Peoples): Good evening. It's an honour to appear before the House of Commons Standing Committee on Aboriginal Affairs and Northern Development.

I want to thank the Algonquin people on whose traditional ancestral homelands we are assembled.

We brought copies of our presentation for everybody. Unfortunately, it's not in French, but they are available, if you want them. We also brought one copy of the book on McIvor that we did over the past couple of months, talking about the affecting of Indian registration and band membership.

I am the Congress of Aboriginal Peoples' national chief, Betty Ann Lavallée. For almost forty years the Congress of Aboriginal Peoples as a national aboriginal representative organization has represented the interests of off-reserve non-status and status Indians and Métis aboriginal people living in urban, rural, remote, and isolated areas throughout Canada. We are also the national voice for the constituency and their affiliate organizations making up the Congress family of advocates for the off-reserve aboriginal peoples of Canada.

Traditionally, the aboriginal peoples in Canada identified with their own specific aboriginal nations of peoples, whether Mi'kmaq, Maliseet, Mohawk, Ojibway, Seneca, Chipewyan, Carrier, Dakota, Nootka, and onward, as one of the 73 nations of aboriginal peoples of Canada. The aboriginal nations of peoples have been systematically divided by the federal government through Indian policy, the disinheritance of aboriginal peoples' birthright identity and the dispossessing of their access to resources. Today, we have countless classification for "Indian": we have status Indian, non-status Indian, off-reserve Indian, on-reserve Indian, registered Indian, treaty

Indian, band member, non-band member, beneficiary, non-beneficiary, and so on.

In 1985 Bill C-31, an Indian Act amendment, was introduced, and the provisions within stated that discrimination based on sex should be removed from the Indian Act; that status and band membership should be restored to those who lost it through the Indian Act; that no one should gain or lose status as a result of marriage; that persons who have acquired rights should not lose those rights; that bands who want to should be able to determine their own membership.

The 1985 amendments introduced what is referred to as the second generation cut-off rule. This means that anyone registered under section 6(1) has what is considered full status; for example, they can transmit their Indian status to their children regardless of the identity of the second parent. Indians registered under section 6(2) of the Indian Act have only half status; for example, they must parent with another Indian in order to transmit their status as an Indian to their children. Bill C-31 amendments did not address all the gender discrimination but continued to perpetuate it by reinstating only Indian women who had lost their status under paragraph 6(1)(c) of the Indian Act of 1985 and registering their children pursuant to section 6(2).

For Indian men who married non-Indian women, they and their children retained their status as Indians under section 6(1)(a) of the Indian Act. This effectively means that the descendants of Indian women who married out are treated differently—they have lesser or no status—as compared with Indian men who married out, who retain status. This is often referred to as residual discrimination.

The British Columbia Supreme Court found that there was gender discrimination in the registration provisions of the Indian Act and ordered a broad remedy. Canada appealed the decision to the Court of Appeal for British Columbia. The Congress of Aboriginal Peoples was an intervenor, along with six other aboriginal groups. All of the intervenors presented arguments in support of Sharon McIvor's case.

One major issue that required additional attention during the appeal was that of the "double mother rule" of the previous Indian Act. The double mother rule stated that children whose mother and paternal grandmother were non-Indians—that is, were only Indians by virtue of marriage to male Indians—could only be registered until they were 21 years of age. A section 6(1) Indian man can pass section 6(1) status on to his children if he marries a non-Indian woman. Those children can pass section 6(2) on to their children. However, the grandchildren's children would not be registered. In the same scenario, a section 6(1) Indian woman can pass section 6(2) status on to her children if she marries a non-aboriginal man, but those children cannot pass status to their children.

• (1740)

On September 12, 2009, representatives of the Canadian government attended CAP's annual general assembly and confirmed that this is not a consultative process. CAP can be an integral partner in moving this discussion forward. Our constituents have lived the effects of the Indian Act. We have the ability to consult with them, to bring their concerns to the table, and to work out mutually beneficial solutions. CAP's affiliate memberships have different connections with families divided or denied identity or registration by provisions of the Indian Act.

Canada cannot talk to one group about these proposed changes without impacting the other. CAP strongly believes the views of the aboriginal peoples of Canada should be considered and accommodated toward reconciliation. CAP's constituency of the off-reserve aboriginal peoples throughout Canada makes us an invaluable resource and partner in moving forward an interim solution to the necessary changes to the Indian Act. CAP's recommendations to the government are:

That as an interim measure, Canada amend section 6(1)(a) of the Indian Act, 1985, to include the following words: "or was born prior to April 17th, 1985 and was a direct descendant of such a person";

That Canada ensures that the band membership provisions of the Indian Act, 1985, include those persons added by amended section 6(1)(a);

That Canada provide adequate funding to CAP to establish a national commission to extensively consult, study, and report on what CAP's constituents consider to be the most desirable amendments to the Indian Act regarding registration and band membership; and

That Canada provide adequate funding to CAP to conduct research in the area of registration and band membership to address the gender equality issues raised in *McIvor*.

Canada is obliged by the BCCA decision to amend the Indian Act to address the residual discrimination prior to April 6, 2010. CAP's constituents are the ones who are directly impacted by the Indian Act.

The complex legal, political, and cultural issues that surround aboriginal identity, including the ongoing fight for recognition of the non-status Indians in Canada, require immediate action. Canada's legal obligation to consult and accommodate aboriginal peoples' rights and interests for reconciliation requires a meeting of the parties. CAP is an inevitable partner, with forty years of experience and knowledge. By working the CAP recommendations, CAP and Canada can begin to build a true partnership for reconciliation and recognition of birthright identity for the largest sector of the aboriginal peoples in Canada—the off-reserve, non-status aboriginal peoples.

Generally, without being exhaustive, Bill C-3 does not address gender inequality between Indian women who married out and their descendants, and Indian men who married out and their descendants. There are at least three very specific problems with the proposed amendments.

Section 6(1)(c.1)(iii) specifically provides as follows: "was born on or after the day on which the marriage referred to in subparagraph (i) occurred and, unless the person's parents married each other prior to April 17, 1985, was born prior to that date, and".

This section is awkwardly worded, and as such creates a great deal of uncertainty about its potential application. What was Canada's intention with this section? Where did this wording come from? I do not see this section reflected in Canada's discussion paper, "Changes to the Indian Act affecting Indian Restoration and Band Membership: *McIvor v. Canada*".

Section 6(1)(c.1)(iv) provides as follows: "had an adopted child on or after...". This section has the effect of creating a new way to determine entitlement to registration, and as a result creates a newer form of discrimination between the siblings of the Indian women who married out. What this additional criterion does is determine entitlement to registration based on the status or lack thereof of the applicant's child or children. Status has always been determined based on the entitlement of one's parents. For example, parents transmit their status to their children, not vice versa.

Section 9 provides is the non-derivation clause of being able to claim or receive any compensations or damages.

• (1745)

The Chair: Ms. Lavallée, I realize you've got a couple more pages to go. We are.... Oh, check that. I was thinking seven o'clock. Pardon me, seven minutes, and that's why I'm jumping ahead of myself. So you've still got about two and a half minutes, and we'll see how we end up on the final ten minutes. Carry on.

Ms. Betty Ann Lavallée: What I'll do at this point is I'm going to just move on. I think everybody understands that this section is an insult to aboriginal women and their descendants.

To move on the road for reconciliation, we are in the midst of real political action to resolve many problems created by Indian policy and Indian acts from colonial times to the present. From June 2008 to the present, the current Government of Canada, in historic terms, has launched a suite of public statements, acts, policies, strategies, actions, and plans focused on the aboriginal peoples of Canada that mark a significant turning point in Canada-aboriginal peoples relationships not witnessed in Canada since 1982.

CAP would safely say the "spark" that gave life to this political action, which CAP calls the "time for honest reconciliation" in Canada, started when this government formally made a televised public apology for the pain and losses clearly etched on the survivors of the residential school experiment and the aboriginal peoples of Canada as a whole. From that day forward, we can follow the government's suite of actions, which form vital elements of the larger picture of the "time for honest reconciliation" in Canada. I believe that CAP's recommendation three is very significant. CAP is an important national aboriginal organization on this topic.

Let us look at the suite of changes moving relationships forward. We have political and financial support with an extensive compensation package issued for a majority of the survivors of residential schools. We have the continuing support and a celebrating event with the Governor General on the occasion of the establishment and launch of the Truth and Reconciliation Commission this past fall, 2010.

This past summer there was announced and rolled out the forward-looking federal framework for aboriginal economic development, with its four key pillars. This framework is accompanied with a new aboriginal skills and employment training strategy, ASETS. ASETS is also laying out a carpet for partnerships with industry and business in Canada.

We have the matrimonial real property act, a bill that CAP strongly supports. This government clearly recognizes the humanity of aboriginal men and women. The MRP has more significance than meets the eye. The bill is addressing the real human issue of an aboriginal person, something taken for granted by all other Canadians and provincial governments. A spouse within an aboriginal relationship should not be denied, or put out on the street alone and without any recourse, because of a family breakdown. The MRP is a very significant piece of legislation.

Last year there was the repeal of the shield of section 67, against Human Rights Act recourse for actions made under or through the Indian Act. This repeal of section 67 from the Canadian Human Rights Act with Bill C-21, and the accompanying work and time for preparing to meet the challenges, is cause for celebration.

• (1750)

The Chair: We're probably not going to have time to get the whole document in there. I wonder, Ms. Lavallée, if you could just jump to the end and summarize. Of course, if we are able to get this document translated, we'll get it to all members.

Ms. Betty Ann Lavallée: We believe that through the exploratory process that's being proposed there will be a fresh breath into the lives of aboriginal peoples in the "time for honest reconciliation".

For some aboriginal peoples there will be a rekindling of continuing forms of governance, reflective of the 73 ancestral homeland aboriginal nations of the aboriginal peoples of Canada, and for others there will be a road of hope with light at the end of the journey. Together we can celebrate all peoples of the great federation of Canada.

We are on a road to end the discriminatory distinction-based concepts floating about that herd the aboriginal peoples of Canada into groups. There will be an end to the frat constitutional mischief about the meaning of the word "includes" after the words "the aboriginal peoples of Canada" in section 35(1).

We will no longer need an Indian Act to create a paper manifestation or an Indian Act Indian.

The Chair: Sorry, I know we get jammed up against time constraints here. Thank you, Ms. Lavallée.

Now we'll go to Mr. Saulis for ten minutes.

Mr. Lemay, on a point of order.

[*Translation*]

Mr. Marc Lemay: I have a point of order, Mr. Chair.

Will we be receiving the document that Ms. Lavallée read, or was trying to finish reading? Is it available? Will she be sending it to us?

The Chair: We have only just received it. We will send it out to be translated.

[*English*]

Go ahead, Mr. Saulis.

Mr. Conrad Saulis (Policy Director, National Association of Friendship Centres): Thank you, Mr. Chair.

I am first going to begin my presentation by offering my executive director Peter Dinsdale's regrets for not being able to be here. Unfortunately, he was called out of town.

I want to also acknowledge and recognize the territory of the Algonquin Nation that we're on, and respectfully say it's an honour to be here to present before the committee.

I am a proud Maliseet First Nation person from New Brunswick, from the Tobique Reserve. It's also the home of my first cousin Sandra Lovelace.

I want to start the presentation by saying that the National Association of Friendship Centres is a non-profit aboriginal organization that represents the views and concerns of 120 friendship centres and seven provincial and territorial associations across Canada. Our mission is to improve the quality of life for aboriginal peoples in an urban environment by supporting self-determined activities that encourage equal access to and participation in Canadian society, and which respect and strengthen the increasing emphasis on aboriginal cultural distinctiveness.

The National Association of Friendship Centres partners with the Department of Canadian Heritage in delivering priority federal programs to Canada's urban population. Through the 120 friendship centres across the country we administer over \$100 million in programs and services, in partnership with federal, territorial, provincial, and municipal governments. In 2008 friendship centres provided over 1.3 million services to aboriginal Canadians across the country, with a total cost of approximately \$93 million.

In October of last year we were able to bring together representatives from our provincial and territorial associations. We met here in Ottawa to discuss and examine what was going on with the McIvor case at the time. Through the discussions and dialogue of that day, our representatives were able to discuss the broader citizenship issues, and these need to be examined. The friendship centre movement sees the need to support first nations in developing criteria for citizenship and membership.

Recommendations flowed from that meeting and we presented these to the federal government. The first one is that the federal government and first nations should engage in a thorough process that will ameliorate gender discrimination in the Indian Act and seek solutions to redress historic exclusion and alienation of eligible aboriginal people from obtaining their first nations status, citizenship, and membership. The second recommendation was that any changes to definitions, criteria, and eligibility standards for first nations status, citizenship, and membership be compliant with the Canadian Charter of Rights and Freedoms. Third was that any changes to federal legislation and other instruments pertaining to first nations status, citizenship, and membership account for international covenants and declarations pertaining to indigenous peoples and to human rights. And the fourth was that friendship centres be compensated for work they will be required to provide pertaining to the new amendments so that these organizations are not adversely affected by the required legislative changes.

Regarding the implementation issues of the McIvor case, with Bill C-31 we saw an onslaught of new registrants and challenges. While it's projected that there are 45,000 potential new registrants, we know there will be many more times that number who will approach friendship centres for information on how to apply. Friendship centres will be heavily engaged by clients at all local levels. INAC staff need to work with these agencies and train local people for the questions to come.

On the issues that we've identified as being related to this, they include nationhood, citizenship, membership, and acknowledgment of urban identity, which imply increased demand for services and the need to facilitate first nation access.

That's my presentation.

• (1755)

The Chair: Thank you very much, Mr. Saulis.

Now we'll go to questions from members.

We'll begin with Mr. Bagnell.

Hon. Larry Bagnell: Thank you, Mr. Chairman. You're doing a good job, as always.

Thank you all for coming.

Good to see you again, Ms. Lavallée.

Conrad, good to see you. As the former president of a friendship centre, you know I carry your case here in Ottawa a lot. It's amazing that you continue to do what you do, considering your budgets have been frozen for, I don't know, 17 years or something. It will be great to get you some more money.

I'm assuming that we have a continued agreement this afternoon, basically, with the premise that Bill C-3 would enfranchise maybe 45,000 more people. But there are really a couple of hundred thousand who are gender-discriminated because of the gender of one of their parents or grandparents—a relative. If possible, you would like us to amend to include everyone so there's no gender discrimination. It's a fairly simple right.

In fact, Ms. Lavallée, you gave some of the steps that need to be added to do that. My question for you is if there were a couple of

hundred more status Indians in Canada created because of this amended bill, what effect would that have on your organization, if any?

Ms. Betty Ann Lavallée: The effect that it's going to have on our organization—and we're starting to see it now—is we're consistently getting calls on how to apply. We're still dealing with the effects of Bill C-31 on some of our members who haven't yet made it through the system—

Hon. Larry Bagnell: Sorry, I just wanted to add one more thing to my question. This is given the fact that a majority of these people are predicted to be living off reserve and in urban areas.

Okay, continue.

Ms. Betty Ann Lavallée: Well, not just urban—isolated, rural, remote.

It's going to put a demand on our provincial territory organizations to be able to deliver programs and services throughout the provincial areas and to be able to provide the basic needs in some cases.

The reality is it doesn't matter what amendments you make to Bill C-3, it's not going to change the discriminatory provisions of Bill C-3. This is not an issue of labelling people. This is an issue of reconstituting nations. Bill C-3 is only going to be a temporary measure, because discrimination has occurred under the Indian Act, under the restoration provisions, since the Indian Act was conceived. You've got a hundred or more years of history to undo.

The fact of the matter is, again, we have people sitting in Ottawa and in courts making decisions without actually going out to grassroots people and asking them what they want. That goes against what the Supreme Court of Canada has consistently said. You have to consult and accommodate the peoples in the community.

We don't want another Indian Act. We want to see our nations—historical nations, our 73 nations—reconstituted, where you're a member of the nation.

• (1800)

Mr. Todd Russell: I just want to follow up with my colleague Larry.

I think we fundamentally agree with your premise about reconstituting nations, that it's an issue of citizenship. It's a principle that has been certainly affirmed under the United Nations Declaration on the Rights of Indigenous Peoples, which we hope will be affirmed by our country at some point.

I think there's also some understanding that the Indian Act itself is a discriminatory piece of legislation. We know that. Bill C-3 does not speak to scrapping the Indian Act. What Bill C-3 speaks to is facets of discrimination that exist within this discriminatory piece of legislation. CAP was an intervenor supporting Sharon McIvor and her arguments that were made, as I understand it.

So if we could end the gender discrimination under the Indian Act with amendments to Bill C-3, would that be something you could agree with? If we could end the gender discrimination under the Indian Act by amending Bill C-3, in that framework, is that something CAP could agree with?

Ms. Betty Ann Lavallée: First off, I think it's going to be fairly impossible to do so without proper consultation with the people at the grassroots. Again, you're putting the cart before the horse. People have not been consulted on this issue, but you're also on a timeframe.

Mr. Todd Russell: On the same premise, then, were people properly consulted on Bill C-3 when the government brought it in?

Ms. Betty Ann Lavallée: No, they weren't, not to the point that I'd like to have seen. But the reality is, we're up against a timeline set down by the court that this bill has to be implemented by, in order to address the situation in B.C.

Mr. Todd Russell: Yes, and we're going to try our best and be as speedy as possible.

What I'm saying is, if we could make amendments that address broader issues, that extend equality rights to a larger group of women than was currently envisioned under Bill C-3, could you not agree with that?

Ms. Betty Ann Lavallée: Well, here's the funny thing about this whole situation. It's like this. I'm one of those section 6(2) women who can't pass on to her son. This bill affects me. But, you know what, in reality I put my personal feelings aside by this whole situation to look at the bigger picture, and that's addressing the problem in B.C. at this point, and getting this legislation through the House in the quickest time possible. I'm willing to step aside and let this bill go through for the bigger purpose of addressing the real issue.

Mr. Todd Russell: I would only say that the bigger purpose, the bigger principle, would be to end all forms of gender discrimination under the Indian Act, and under any other piece of legislation that exists. That would be the bigger principle, the bigger issue, for me, and I think for most of us. I'm sure you share that.

Ms. Betty Ann Lavallée: I do share that. I do share that to the point that I want to see any and all forms of discrimination end once and for all, so that our children are not having this same discussion 25 or 35 years from now.

Mr. Todd Russell: Absolutely.

The Chair: Thank you, Mr. Russell and Mr. Bagnell.

Just to be clear, Ms. Lavallée, you did outline some proposed amendments in your discussion and in your paper. I had the benefit of seeing your paper, as it wasn't broadly circulated, but you do stand behind those amendments for the purpose of correcting what you see as a problem with the current bill.

•(1805)

Ms. Betty Ann Lavallée: Yes, those were requirements under the contract we had with the federal government as deliverables.

The Chair: All right.

[Translation]

We move now to Mr. Lemay or Mr. Lévesque.

Mr. Marc Lemay: I am going to jump in.

I would like to settle one issue right away. I don't think extensive consultations are needed on Bill C-3. And my reason for believing that is simple. The question is whether this bill is discriminatory or not and whether the Indian Act is discriminatory or not. And the answer is yes.

Even if I went all across Canada to meet with the 78 communities, they would all tell me, just as Ms. McIvor has, that this bill is discriminatory and will perpetuate discrimination. Once that has been established, we have a problem.

I did not understand your amendments. With all due respect, Ms. Lavallée, you were speaking quickly when you discussed the amendments you are recommending to Bill C-3.

Could you tell me which clause of the bill you would like to see amended?

[English]

Ms. Betty Ann Lavallée: This is on page 7 of our brief: "That Canada ensures that the band membership provisions of the Indian Act...include those persons added by amended section 6(1)(a)" and "That, as an interim measure, Canada amend section 6(1)(a) of the Indian Act, 1985, to include the following words..."

[Translation]

Mr. Marc Lemay: This is where it gets interesting. Please speak slowly.

[English]

Ms. Betty Ann Lavallée: Okay. "That, as an interim measure, Canada amend section 6(1)(a) of the Indian Act, 1985, to include the following words: or was born prior to April 17th, 1985, and was a direct descendant of such a person."

[Translation]

Mr. Marc Lemay: And the amendment you are suggesting would at least lessen current discrimination, in your view?

[English]

Ms. Betty Ann Lavallée: It will lessen it, but it's not going to eliminate it.

[Translation]

Mr. Marc Lemay: I come back to what I said initially, which is that paragraph 6(1)(a) would have to be deleted in order to remove the discrimination you have been subject to.

[English]

Ms. Betty Ann Lavallée: Exactly.

[Translation]

Mr. Marc Lemay: Good! Thank you very much. I'm finished.

[English]

The Chair: Thank you.

Merci, Monsieur Lemay.

Madame Crowder, for seven minutes.

Ms. Jean Crowder: I have two sets of questions, but I want to start with Mr. Saulis.

Mr. Saulis, I want to echo my colleague's appreciation of the friendship centres. In fact, as you're well aware, many parliamentarians take it so seriously that we've formed a non-partisan friendship centre caucus, of which myself and Conservative Chris Warkentin are the co-chairs. I really want to acknowledge the good work that you do and how seriously underfunded you are in delivering that work. I know one of the friendship centres in my own riding has to hold fashion shows and sell coffee in order to raise enough money to deliver programs and services.

I want to touch on the numbers for a moment. The number is around 45,000, but it could be higher in terms of people who may be eligible. As you correctly pointed out, I think there could be substantially more people who will express an interest. Because the friendship centres are so visible in many of our communities, they're the points of contact.

I want to go back to 1985, when Bill C-31 was passed. *The Globe and Mail* ran an article that said government officers worked two shifts a day and added more than 500 people per week to the country's official Indian population. The system became swamped, with more than 38,000 applications seeking status for more than 76,000.

How do you think the friendship centres will deal with the influx of potential applicants without any additional resources?

• (1810)

Mr. Conrad Saulis: There's very little doubt the organizations are financially struggling. The friendship centres are presently struggling due to the lack of increased funding since 1996. Additional work is going to be created through the addition of hundreds of thousands of people coming to ask questions and take up valuable time for their valuable questions. It will put more pressure on the very limited staff the friendship centres currently have.

Friendship centre employees will as much as possible help every aboriginal person who comes and asks questions, but they need to have the right information. The Department of Indian Affairs needs to be able to provide and train friendship centre staff to provide the proper information to those who are seeking the information so that as they wind through this maze of where to go next it will be easier to try to make it as expeditious as possible for them.

Friendship centres will definitely be there. They'll always be there. They continue to make sure that urban aboriginal people have a place to turn to.

Ms. Jean Crowder: Before I turn to Ms. Lavallée, to summarize, you need (a) recognition of the role that friendship centres play in terms of dealing with inquiries, (b) some resources to accommodate that, and (c) some training so that friendship centre staff can actually

provide the correct information, because this is a very complex matter. Do I have it correctly?

Mr. Conrad Saulis: Yes, you've got it. Right on. Thank you.

Ms. Jean Crowder: Okay, great.

Ms. Lavallée, I just want to point out something for everybody. In the recent court of appeal extension consideration, the court actually pointed out that:

Under the circumstances, we might well have acceded to a request for a longer suspension of our declaration had it been sought. The Attorney General's factum, however, sought only a 12-month suspension of any declaration of invalidity.

So in fact we could have had the time to do the appropriate work to address broader discriminatory measures, if the government, or in this case the Attorney General, had only asked for an extension. I just wanted to set that out, because people are saying we had to act within the 12 months when in fact the courts might have considered a much longer time, because they recognized that it was desirable for government to consult with first nations people before proceeding with amendments to the legislation. So it was possible that we could have actually done a much better job of this, by the court's own statement. I just wanted to put that on the record.

I want to turn to your discussion paper and thank you, because I understand that members did receive this. You pointed out a couple of important things in here and I want to refer to the Powley decision. In here you state that the Supreme Court "has already stated in Powley that Métis identity cannot be determined by blood quantum. It seems no more appropriate for Indians as a means of identification than it is for Métis." That's on page 14, just before the conclusion under the heading "True Partnership for Change".

I think that's a valid point, because one of the things we've heard fairly consistently from witnesses is that it really isn't up to the government to be determining this with some arbitrary criteria. I thought this was an interesting section of the paper, because not only did you identify some discriminatory practices that are still in place, but you also identified the very issues around blood quantum and who gets to determine citizenship. I just want to acknowledge that it was a really important point you raised around who is determining citizenship and why is there this arbitrary blood quantum. As you well know, many of the nations say, "Butt out. It's up to us to determine who has citizenship". So I'd like you to comment on that.

Then I also want you to comment on your recommendation. I just want to be clear. You're suggesting that we actually abandon what's in Bill C-3. There is the person in the first part and the second part and third part. Instead, you are suggesting that we take the original 1985 bill and take paragraph 6(1)(a) of the Indian Act and insert the words, "or was born prior to April 17th, 1985, and was a direct descendant of such a person". So you're suggesting that we abandon subparagraphs 6(1)(c)(i), (ii), (iii), (iv) and everything else, and just use your proposed amendment. That's what you're saying. So do away with all these other qualifiers that they've put in here.

I think you've already acknowledged that it won't deal with the broader discrimination. It won't deal with every case of discrimination, but in your view—

• (1815)

Ms. Betty Ann Lavallée: It's a starter.

Ms. Jean Crowder: —it's a starter.

So what cases—

The Chair: We're actually out of time, Ms. Crowder.

I don't know if you have a brief response. I know that was a fairly involved question, but we'll give you a little bit of time just to try to respond to it and then we'll go to our last question.

Ms. Betty Ann Lavallée: The key words are “direct descendant” and “born”.

To address the blood quantum issue, it's ridiculous. I hate that blood quantum. It has no bearing whatsoever on who or what an aboriginal person is. Children are what they're taught to be; it's their upbringing, it's their exposure to their surroundings, it's the beliefs that are instilled in them. It's no different from someone adopting a child at birth and raising that child. Is that child not your own? It has nothing to do with the blood in his veins or what his DNA is. He was raised with your values. He was raised as a part of the community.

The Chair: Okay, thank you, Ms. Crowder, Ms. Lavallée, and Mr. Saulis.

Now we'll go to Monsieur Duncan.

Mr. John Duncan: Thank you very much.

It's been a long day, but thank you both for coming here and talking to us. Betty Ann, thank you so much for your supportive comments regarding the Human Rights Act amendment and the matrimonial real property bill, which is now before the Senate committee, and also for your comments regarding the exploratory process.

I think all of us are labouring somewhat as a result of the fact that we don't have your document in front of us and that your testimony was quite quick, but I think the last question and explanation may have fleshed it out enough for me to ask you this question. I believe what you're saying would actually eliminate the section 6(2) category as well, would it not? Would it not completely override it and take it out of play?

Ms. Betty Ann Lavallée: Basically you would have one category of aboriginal person or Indian under the Indian Act. There would be no more section 6(1) or 6(2), 6(1)(a) or 6(1)(c), or whatever. An Indian is an Indian is an Indian.

Mr. John Duncan: And all descendants thereof, forever.

Ms. Betty Ann Lavallée: Exactly, if they choose to identify. This goes right back to the heart of parents who raise their children in that belief system and it goes to the individual who chooses to identify. It's about self-determination.

Mr. John Duncan: Right. We can only describe it as a major substantive amendment to the bill. It basically changes everything.

Ms. Betty Ann Lavallée: But as I said, when we did these walk-arounds with our communities, this was just a starter. They expect to have substantial discussions. We've always advocated at the Native

Council of Canada, as we were thus known when we began and then changed to the Congress of Aboriginal Peoples after the constitutional, and as the founder of the friendship centre movement, that we believe in nationhood. We believe in reconstitution of our historical nations of Mi'kmaq, Maliseet, Passamaquoddy...

I'm a Mi'kmaq woman who lost status because I married a non-aboriginal man and I joined the military. I had the audacity to serve my country for 18 years; therefore, I was penalized, and so are my children and my grandchildren.

• (1820)

Mr. John Duncan: I think I will go to Mr. Saulis, not because I'm tired of the subject, but because I got the answer to the question I was asking.

Many of us, maybe all of us, have at least one friendship centre in our riding, so we know the work that you do. I believe there is an issue right now with core funding. Beyond the fact that it has been frozen for 17 years, there is currently a two- or three-week lag that the government is trying to address. But my question goes to the new youth program funding, which I think is about \$120 million or \$150 million over the next six years. I assume that's quite exciting. When that comes into play, does that not address some of your funding issues from the standpoint that a lot of this has to be new money? Am I not correct? So it would allow you to do a whole bunch of things to make up for the fact that your core funding has been frozen for a long time and help you to leverage other moneys as well, I would assume.

Mr. Conrad Saulis: The friendship centres have had a long history of leveraging money from other federal departments, provincial and territorial governments, and municipal governments. The new funding will be brought into the friendship centres and will help to provide much-needed services for youth. Its impact on the core funding or the core operations of friendship centres is not readily evident. The funding discrepancy has been there for such a long period of time, and with the urban aboriginal population continuing to increase—which is now at 54%—it's hard to believe that, for lack of a better description, one allocation of funding will have an overriding impact on the scope of challenges that friendship centres are having. But it definitely will help, as you said, to lever funding from other sources, which friendship centres will continue to do.

Mr. John Duncan: Is it largely new money, or is it replacing...?

Mr. Conrad Saulis: I don't think there's a lot of new money. I think it's replacing what was there.

Mr. John Duncan: That's all I have.

LaVar, I think you have a quick question.

The Chair: Mr. Payne, do you have a question?

Mr. LaVar Payne (Medicine Hat, CPC): I do. Thank you, Mr. Chairman.

Ms. Lavallée, I didn't have your papers here and I may have got the wrong impression. You talked about the Indian Act. I was left with the impression that you thought we should get rid of it. Is that correct?

Ms. Betty Ann Lavallée: You heard right.

Mr. LaVar Payne: Okay. Thank you.

The Chair: We're just about wrapped up. I have one summary question for Ms. Lavallée, just so we completely understand where we're at in the process. I heard some measured support for the initiative here, but later there was a qualification that really rejected many of the proposals in the bill.

Are you in a position to see that the measures proposed by Bill C-3, recognizing that they're not a complete fix, but if they take us part of the way to realizing the inequities in the Indian Act and the fact that this other process in front of us will explore many of the other concerns...? I think even the bill anticipates that there are other issues around registration and membership that need to be addressed. Is CAP giving tentative support for these measures on the basis that this other process will continue that evolution?

•(1825)

Ms. Betty Ann Lavallée: You're correct. We're prepared to support Bill C-3, based on the fact that we have been told there will be a supporting process that will give us the opportunity to have input from the ground up. We only had measured input on this document because of the timeframe and the amount of funding. But we believe that with this parallel process we can go a long way toward not just resolving the issue of citizenship, but through working with our other national political organizations, reconstituting our historical nations in the hope that some day we won't be having this discussion again.

The Chair: That really helps to clarify it. Thank you very much.

To both of our witnesses, thank you for joining us this afternoon.

To members, thank you for your patience with our extended meeting this afternoon. Well done. Have a good evening.

This meeting is adjourned.

Merci beaucoup.

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