



CANADA

Standing Committee on Aboriginal Affairs and Northern Development

Comité permanent des affaires autochtones et du développement du Grand Nord

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Tuesday, April 13, 2010 - Le mardi 13 avril 2010

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¹ (1535)

[*Français*]

Le président (M. Bruce Stanton (Simcoe-Nord, PCC)): Bon après-midi, mesdames et messieurs députés, témoins et invités.

C'est la huitième séance du Comité permanent des affaires autochtones et du développement du Grand Nord.

À l'ordre du jour, conformément à l'heure de renvoi du lundi 29 mars 2010, le projet de loi C-3Loi

favorisant l'équité entre les sexes relativement à l'inscription au registre des Indiens en donnant suite à la décision de la Cour d'appel de la Colombie-Britannique dans l'affaire *McIvor v. Canada* (Registrar of Indian and Northern Affairs).

[*English*]

Registrar of Indian and Northern Affairs.

Ladies and gentlemen, this is our second meeting in respect to this bill. I should say, members, we will be having three one-hour installments this afternoon to take us through 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 in fact is the source of the claim and the very issue that 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 10-minute presentation followed by questions from members and we'll stay with the usual seven minute round in the first and the five minute in the subsequent rounds of questioning. With that, we'll begin.

Ms. McIvor, it's great to have you here. You have the floor for 10 minutes.

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

I first want to briefly introduce myself. I am Nlaka'pamux from the Lower Nicola Indian Band, south-central British Columbia, about two and a half hours north-east of Vancouver. I live and work in my community. I drive by the place where I was born everyday when I go to work. 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 do we think and I do have a letter here from my Chief that I would like to read to you and it has to do with the appearance of Sharon McIvor, a Lower Nicola Indian Band 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 grand children. I commend the committee for taking 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 US, the minister responsible for passports ensures all Canadians 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 people. You must do all in your power to ensure these grandchildren of women who married outside their nations can receive their citizenship in an expedited manor along with the 100,000 people still waiting under bill C-31.

I remind you that Ms. McIvor was given by court order of BC supreme court, full status for her children and grandchildren based on sex equality and this is substantially reduced by the BC Court of Appeal. I encourage you to remove the 1951 date which reduces full equality for all those who have suffered under the sex discrimination. I would be pleased to make an appearance before the committee.

Respectfully, Lower Nicola Indian band Chief, Don Moses

On record, my chief has and continues to support this effort. I also want to acknowledge that although this is my part of the fight, I am not the leader of the fight, I did not begin this fight and I want to acknowledge Mary Toaxerly, Nelly Carlson, Jenny Marguettes, Janette Laval, Sandra Lovelies and other women who have taken this fight throughout the years.

For the members, I have a copy of a presentation that Mary Toaxerly, 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 this isn't only today that this issue has been a problem. She says,

Let's chronicle our pain point by point. When the great spirit calls us we cannot be buried along side our ancestors in the tradition burial ground for their bodies have gone to rest. This is the most cruel condition of our imposed exile. Yet, people from the neighbouring city of Montréal can bury their dogs on selected plots of reserve land. We cannot inherit property given to us by our ancestors or bestow property on our children. It is though we are non-entities. Not to be accorded the normal recognition afforded by all free people. We are prohibited from exercising the right to political participation, including the right--

¹ (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 the word or action. We are 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—

...from 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 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 rules of this country over a hundred years ago, because we are unable to pass our Indianess 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.

So that's words of Mary Two-Axe Earley, in 1978, and I'm bringing those words today because they are current. Thirty-two years later, we have a piece of legislation that is being introduced that continues to perpetuate sex discrimination against the 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 U.N. Jeannette was unsuccessful. Sandra was successful, and in 1985 Minister Crombie changed the act, C-31. But when the act was changed in 1985, the parliamentarians knew that there was residual discrimination. Crombie's records show that they understood that there would be some of us that 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'd hoped I'd have them some day, but they weren't anywhere on the horizon.

My son, as a result of some of the litigation, 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, 16 years of his entitlement, and my grandsons have not been recognized as having that entitlement yet.

¹ (1545)

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

The government now is responding to the court decision. The court has told you that you have to change it. Section 6 of the Union 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 a remedy and 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 BC Court of Appeal addressed. As parliamentarians you know that the court does not draft legislation. They just put it back into your lap so that you can do what is right.

It's up to you to do what is right and get rid of that residual discrimination. We have a way of --

The Chair: Ms. McIvor, we are over time there right now and you've introduced that idea so I think maybe at this point we are going to go to questions from members and we can explore these ideas a little further. So we are under some tight timelines and please don't take any offence from it, it's a normal thing and we can bring all these ideas out in play as we proceed.

So let's go to our first question and that will be to Mr. Russell.

Mr. Todd Russell (Labrador, Lib.): Thank you Mr. Chair and good afternoon Ms. McIvor, Ms. Brodsky. It's good to have you with us this afternoon. Certainly on behalf of myself I want to acknowledge your journey and the monumental task that you have undertaken. It is 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 family, but to so many others, particularly aboriginal women, well you just keep on trudging. So with all humility I commend you for your efforts, and those who came before you. Certainly undertaking some very arduous tasks.

When I spoke in the house of commons, I basically gave on behalf of our party and our party gave tacit support to bill C-3. But we also made comment at that particular time that we were concerned about the impact that this particular bill may have, for instance you mentioned Bill C-31 and the residual impacts that that had in terms of other forms of discrimination that had arisen.

You made the statement. Even with bill C-3, you're telling this committee, and all of us as parliamentarians that there will still be gender discrimination? The government calls the bill *An Act to Enhance Gender Equity in the Indian Registration Act*, so can you illustrate for us in a concrete fashion how there will continue to be gender inequality, even after, let's say, supposedly 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 section 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, their mother is not an Indian. At birth, 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 could have status and the females could not. In 1985 Evelyn applied 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 can not. 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 that's over 59 years of age right now will not benefit from it. A situation where a grandmother married in 1916. She had children 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 mid to late 40s, some born in the mid to late 50s, and that's a factual situation.

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

¹ (1550)

Gwen Brodsky: The further problem, Mr. Russell, which will result in people, deserving people, excluded on the basis of their descent along natural lineal 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 can get under the proposed legislation. The grandchildren, even if they were born prior to April 17, 1982 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.

Gwen Brodsky: That's correct.

[*Français*]

Le président: Merci monsieur Russell. Maintenant j'invite M. Lemay pour sept minutes.

M. Marc Lemay (Abitibi—Témiscamingue, BQ): On va surveiller pour voir si la traduction fonctionne parce que c'est important madame McIvor que vous compreniez et que ce soit traduit. On va régler la difficulté technique Ça va madame McIvor, parce qu'il y a des chronomètres, c'est sept minutes.

Premièrement, au nom du Bloc québécois, j'aimerais vous féliciter pour cette lutte qui hélas, je le dis sincèrement, ne prendra pas fin aujourd'hui. C'est clair dans le projet de loi, lutte des femmes, la loi sur les indiens est clairement discriminatoire envers les femmes autochtones. Le problème c'est qu'elle va continuer de l'être après l'adoption de C-3. Ni le gouvernement précédent, ni le gouvernement actuel ne veut le régler. On reste pris, comme la Cour d'appel de la Colombie-Britannique a dit, avec la décision qui remonte à 1951. Je ne veux pas vous faire miroiter rien, mais au moins on va faire un pas en avant avec C-3.

Ma question est comme une célèbre expression d'un animateur chez nous, c'est la question qui tue. On ne peut pas aller plus loin en vertu des règles du Parlement, que le projet de loi qui a été déposé sinon c'est non recevable. Ma question est comment on peut faire pour améliorer le projet de loi. Je ne sais pas si vous ou quelqu'un d'autre peut y répondre ou même je sais que d'autre groupes viendront après, comment on peut faire pour l'améliorer en tenant compte que je ne peux pas remonter plus loin que 1951 et que cela continuera d'être discriminatoire? Je suis dans un sérieux problème.

¹ (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 6(1) category. No 6(2) before 1985.

[*Français*]

M. Marc Lemay: Je ne veux pas vous interrompre, je ne veux pas être impoli. Ce que vous dites c'est que toutes les personnes qui sont nées après ou avant 1985, c'est après ou avant?

[*English*]

Ms. Sharon McIvor: Before.

[*Français*]

M. Marc Lemay: Avant. Donc, toutes les personnes nées avant 1985 devraient être dans la catégorie de l'article 6(1) de la Loi sur les indiens, c'est ce que vous me dites? C'est quoi?

[English]

Ms. Sharon McIvor: Section 6(1).

[Français]

M. Marc Lemay: C'est ce que je dis 6(1). Six, paragraphe 1 c'est cela en français. Vous voudriez que toutes les personnes nées avant 1985 soient dans la section 6(1) c'est cela?

[English]

Ms. Sharon McIvor: Yes.

[Français]

Mr. Marc Lemay: Oui d'accord, mais jusqu'à quand avant 1985? À partir de 1951 jusqu'à 1985 ou 1985 jusqu'à 1867?

[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 6(1), like the male counterparts. All of the descendants of the men, up until 1985, had 6(1) status. None of them were accorded the lesser status of 6(2).

[Français]

M. Marc Lemay: Allez-y madame. Vous pouvez compléter, si vous voulez.

[English]

Gwen Brodsky: The male line descendants are accorded status without regard to the 1951 cut off. That is to say direct descendants of status Indians are able to claim their status, go to the registrar with their claim of entitlement to status, going back as far as they need to.

[Français]

M. Marc Lemay: Oui? D'accord. Je vais réfléchir à ça. Je n'ai pas d'autres questions. Je vais réfléchir à ce qu'elle vient de dire.

[English]

The Chair: *Merci*, Mr. Lemay.

Now let's go to Ms. Crowder.

○ (1600)

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

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

I just want to touch on a couple of things that you talked about. Around the 1951 date, our research people did a very good job on doing a summary, and what they indicated was in 1850, the earliest statutory definition was inconclusive and does not differentiate between male and female. In 1869 a statute introduced the first provision under which marriage of an Indian woman to a non-Indian man meant loss of status.

We are actually going back to 1869. It goes on to say that in 1876, the act explicitly emphasized male lineage including a definition of any woman, whether Indian or not, who married a male, and in 1951 that was entrenched.

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

So the registrar, the 1951 act implemented entitlement to registration and there were a bunch of other things that happened at the same time, including the double mother rule. So if we were to go back to 1869, and I mean we would have to trace family lines back, because there would be people who would have regained status through families over many, many generations.

Ms. Sharon McIvor: Fortunately that's not the government's problem. If you want to be registered, you've got to get all of your own information and comply with whatever the government wants as proof. So we have many people out there that can't do that. So if they can do it, and they meet the criteria, then they should be able to no matter how far back it goes. That's what we were saying, for the male line they

have up until 1985 it was unrestricted, as long as your father was a male Indian, you had status all the way down the line and that is all we are asking. We are just asking for the residual discrimination that happened because of this whole scheme be rectified. So saying we have to go all the way back to 1869 it's a little bit of a red herring because it's not the government or the registrar that has to do the research, it's the people that want to get status that have to do the research.

Ms. Jean Crowder: Don't mistake me, I support going back to 1869, but there is another problem as you well know, around people applying for status. The ropes through they have to jump through. I have a constituent that has been ten years in the process and 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. 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 lot of people die waiting to have that done.

Ms. Jean Crowder: So in the interim, we have our hands bound to a certain extent, we cannot substantially alter the scope of the 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.

At a minimum, what would you like to see us do? Just presuming that an amendment to give everybody status prior to 1985, given 6(1) status, at a minimum if we could that, 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 they...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, the honour of these parliamentarians is that for once and for all, this ongoing residual discrimination in the Indian Act should be eradicated.

o (1605)

Gwen Brodsky: I do wish to add, I cannot believe that in this day and age, that 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: 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 that we've heard so much about in terms of McIvor and all of your time spent trying to get where we are today.

This part of the Indian Act, the registration part, is very complicated and nobody is saying otherwise. I'm reflective of the fact that many of the self-government agreements and/or treaties that have been negotiated over the last dozen years or more have essentially gotten rid of the Indian Act with one exception. It always seems to be the exception of importing the registration portion of the Indian Act into those 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 this 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 want to clarify that one important matter.

I also want to talk about this process of registration because, like Jean Crowder, I've had experience of working with people who are seeking registration. I know it's very onerous for the applicant, but it is also very onerous for 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 the panacea has a possible tsunami of cases coming forward as a consequence of Bill C-3 now that the Canadian Human Rights Act, as of June next year, will apply to all first nations people. I just wondered if you had a comment on the Canadian Human Rights Act amendment, which is I think positive for you.

The other thing is, we have launched this engagement process for post 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 get to improvements to 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. We're only looking at status and we're only looking at 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 to particular bands on what they need and what they want, that's perfectly fine, but on the issue of status, which is only 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 me and my descendants, or my counterparts and their descendants, should be afforded their equality rights. It shouldn't be on the table at all. If you want to consult on membership, that's fine, because membership to a band is a whole different issue.

I see 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 it was not part of the decision.

Gwen.

Gwen Brodsky: I support Ms. McIvor on that, and 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, and official recognition of a person's aboriginal heritage, and carries with it some entitlements to social programs such as enhanced health care and financial assistance in attending a post-secondary education.

That territory can and must be dealt with immediately. It is really 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 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 both.

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, again, 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, no other arena, would that be allowed to happen. We only have five minutes, and I don't know if you want to say anything further about that, but I'd be interested if you do.

I'm just checking this out. What I'm also hearing, Ms. Brodsky, which you just indicated, was, go

ahead, 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 that this brings to light, such as band membership, citizenship, and whatever.

Could you both expand on that a little bit.

o (1615)

Gwen Brodsky: Your encapsulation, Minister 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's what this bill, if 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 well require a somewhat lengthier process. What's needed to address the discrimination in the status registration provisions is well understood and straightforward and involves no competing rights whatsoever.

Hon. Anita Neville: I guess this is really a question back to the Minister and the department, but 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 and in 1985, the charter forced the government to take all of the discrimination out of the legislation and they didn't do it. They forced us to take it to court, 25 years later we finally have a court decision that makes the government do it - but because the court said so.

I find it interesting to say the least, that as parliamentarians, you understand 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 doing this stop-gap that you are doing. I know from experience over the myriad of Ministers of Indian Affairs that I went and talked to and begged to help out, they have said it was too much of a problem and they wouldn't touch it with a ten foot pole. They understand the problem but they are 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 for 5 minutes. Go ahead, Mr. Duncan.

Mr. John Duncan: Ok well, thank you very much. I guess I will go back to the exploratory process. I believe I heard you say that you agreed that 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 gotten our self 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 guess what I am trying to get to is a buy in on the exploratory process. Because we've got a lot of excited people about the fact that we're going to set terms of reference through consensus and through agreement. This is not going to be a Department of Indian Affairs driven process, 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 that you were very much 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 in order to address the most pressing concerns 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 in to legislation the matrimonial property issue, where the provinces deemed that a married couple, their family assets are 50/50 regardless of who's name it was in, and i don't recall them and going and asking the men whose name it was in, if it was ok with them. Because it was the right thing to do.

I see that 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 should enjoy my full right to equality and my sisters.

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. I repeat, this is about registration and status as well as membership and those other things because this 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 doesn't exist after Bill C-3, which is that siblings of people born after 1951 who were born before 1951 clearly will qualify for registration. That's just one example of the complexity. So this bill is actually going further than you describe in addressing discrimination.

○ (1625)

Ms. Sharon McIvor: I will have to have another look at it but that's not my reading of it because that date, 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 after then. I guess the last thing I want to say is that I as an individual shouldn't have to decide whether or not I have the right to exercise full equality, and I as an individual shouldn't have someone else be able to say whether I could 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, Ms. Brodsky. Could you spell your name for me as well, just for the record? Thank you.

Gwen Brodsky: Brodsky. BRODSKY.

If I may make just one brief comment--

The Chair: Thirty seconds.

Ms. Gwen Brodsky: Thirty seconds. This committee and 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 have been fulfilled if this job is not done fully, and you can do it.

The Chair: Thank you, Ms. Brodsky. Ms. McIvor, and members, we're going to suspend briefly, for a couple of minutes, and then we'll get right back because our next witnesses are here.

(1630)

The Chair: I'll ask members to take their seats again and we'll bring the meeting to order.

Resuming consideration of Bill C-3. We welcome members. If you could make your way back to the table.

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. Karen is the executive director.

Order please.

Because we have a full hour, members, we're going to proceed directly to Ms. Lavell's presentation. You've done this before, of course, and great to have you back at our committee. We have about a ten minute presentation, Ms. Lavell, and then we'll go to questions from members. In the same way, members, just signal your interest in getting on the speaker list and we'll proceed accordingly.

With that, we'll invite Ms. Lavell. You have the floor for ten minutes.

(1635)

Ms. Jeannette Corbiere Lavell (President, Native Women's Association of Canada): [Witness speaks in Ojibawa], honourable chair, (*Witness speaks in Ojibawa*).

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, just to take a minute and recognize your invitation to be one of the first presenters here, we recognize and appreciate that recognition. Generally, we're usually at the end, but we do get the last word at times.

While Sharon is here, if she's still here, I'd also like to say that we are thankful to her for all the effort

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

I think this is a really important time in our history and having said that, I want to share with you that, thanks to her, I have five grandchildren, two of whom have full status; and they are my oldest grandson, Nigoni, and my oldest granddaughter, Autumn Sky.

However, my three little ones, Kyana, Eva, and Ulbriana, do not have recognition as being members of my community right now. But, hopefully, we will be able to see this happen and I will be able to tell them you are full members of my community, your grandmother's community. You will be recognized and you will be able to learn our language, learn our history, learn our ceremonies, and learn our culture, because that is who we are and that 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 that is and that's what we feel about our communities; and marriage should not have anything to do with that. I would just like to say that from the very beginning.

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

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

I want to also say that the Native Women's Association of Canada, consisting of provincial and territorial organizations right across represent the first nations, the Métis women and our Inuit women.

o (1640)

We were created and we support the issue that we are talking about here today. And I said this to Sharon. I said that we do support all the work that she has done and we will continue to support her work in bringing about this equity to eliminate any of that ongoing discrimination that is present within the current bill. And 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, those three I was telling you about, there will be recognition back in my community and it will have meaning. It will mean something to them so they can say they have full recognition, equal to their cousins, cousins who are descended from a male ancestor. Because right now that is not there. But hopefully we will be able to see that and it will be up to you to ensure that those three little girls will have just as many rights, and that they are not lesser or that they will not be excluded. I understand that is 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 just be brief because I know that time is going. And Sharon has already covered many of the definitions and all the descriptions. But I will just tell you that from 1876 to 1970, no one challenged the Indian Act. It was just a given that for us, the right to make changes in the legislation that was affecting us just was not there.

And we did try. In 1970. I tried. And as Sharon pointed out, we lost by one vote. The time was just not right and we had most of the aboriginal organizations, especially the National Indian Brotherhood at the time, who opposed us. And we lost by one vote.

And I think had the time been different, and if it had happened now, I don't think the story would be the same. So we are changing and the time is right for us all to work together to bring about true equity, and 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. But mind you, this is just recognizing the role we had, only we actually brought it forward, thank goodness, because we will not stop our struggle to achieve this equity. Until we followed the teachings of our grandfathers and our grandmothers, which is to recognize that our children are gifts from the Creator. And 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 and they will be our future. And I think we can do that if we do look at this legislation.

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

○ (1645)

It is workable because if we look at 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 that is affecting us and bring about that sense of human rights, that sense of 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 the lowest employment; for everything we're at the bottom. But now is the time when I think 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.

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

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. 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 that you have made in the cause for equality.

A couple of questions arising from what you have said. Would it be fair for me to say that NWAC, also in 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 and that could be done because right now our second generation, as I said, 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

that we're in. We're going back to 1985, that particular piece of legislation was so momentous and historic at the time, but in hindsight, 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 in all gender—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 one-half minutes.

Mr. Todd Russell: Larry will only have three.

I think the amendment strategy... I'm not saying it can be done, okay? 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... Could I ask you what kind of discussions you've 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. As well, we've met with officials.

As I understand it, the process is just rolling out. So 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 a hundred per cent agreement here. So I just want to confirm.

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'd need to be a few amendments related to the 1951 date--everyone before 1985, I think it was, get to section 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. It'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 a hundred per cent 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 were done, then I would think that as aboriginal women, as an aboriginal women's organization, maybe that part of our work would be done. We could move on to other things. But that would be really good to see, and to take place in the very near while.

Ms. Karen Green: I just want to add the point that it needs to be removed in law. What we saw as a result of Bill C-31 was that discrimination and 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 it. 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 that 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 this is still not taking place. This friend of mine--and she was 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.

You may need your translation in, so we'll give you a moment to get wired for sound. We'll just make sure that you have your translation working. Can you hear me okay?

Ms. Jeannette Corbiere Lavell: Yes.

[*Français*]

Le président: Monsieur Lévesque.

M. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): J'aurais une seule question et je vais laisser la parole à mon collègue.

Le président: D'accord.

Allez-y.

M. Yvon Lévesque: Madame Lavell, après avoir entendu Mme McIvor, j'ai cru comprendre de sa vision que c'était au-delà de la décision de la Cour suprême. C'était d'aller aussi loin pour permettre l'égalité complète entre les droits des hommes et des femmes depuis le début. Dans votre intervention, j'ai cru comprendre que vous étiez fières comme nous l'étions de la démarche de Mme McIvor. Cependant, seriez-vous prête à dire que si on n'arrive pas à obtenir l'égalité complète et ce, au-delà de la décision de la Cour suprême, je crois, on devrait rejeter ce projet de loi?

[*English*]

Ms. Jeannette Corbiere Lavell:

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

[*Français*]

M. Marc Lemay: Je vais continuer avec cela. Je m'excuse, mais ce n'est pas clair selon moi. Votre position, et c'est extrêmement important pour moi, l'Association des femmes autochtones du Canada est-elle pour ou contre le projet de loi tel qu'il est rédigé actuellement? Cela est une question claire.

[*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.

But are we opposed to that, the Government of Canada complying with the court decision? Yes.

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

[*Français*]

M. Marc Lemay: Bon, c'est clair. Êtes-vous d'accord pour que nous amendions le projet de loi tel que le demande Mme McIvor, c'est-à-dire est la seule solution pour que les femmes autochtones soient égales, c'est qu'on enlève les critères de l'article 6.1. Êtes-vous d'accord avec cela?

[*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.

[*Français*]

M. Marc Lemay: Oui, sauf que, et c'est pour cela, vous m'avez entendu un peu plus tôt quand Mme McIvor était présente, et c'est là tout le problème, c'est à la fois pour le gouvernement et pour le Parti libéral, de supporter un amendement qui enlèverait les désignations de l'article 6.1, serait probablement, peut-être, jugé irrecevable. Il faudrait voir. Mais sauf que cela a un impact de plusieurs centaines de milliers de nouveaux membres dans les communautés autochtones. Êtes-vous d'accord à ce qu'on aille

aussi loin que cela?

» (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.

[*Français*]

M. Marc Lemay: Je vais vous le dire honnêtement, avant qu'on revienne avec un autre projet de loi qui va toucher à l'article 6, on est mieux de faire cela tout de suite car cela va prendre 20 ans, c'est le temps qu'il a fallu avec Mme McIvor. Et c'est clair, alors on est aussi bien d'essayer de voir un amendement immédiatement pour mettre fin à cette discrimination-là. C'est cela que vous suggérez.

[*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.

[*Français*]

M. Marc Lemay: C'est la seule 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.

[*Français*]

M. Marc Lemay: Je vous le dis, c'est la seule solution. C'est la seule solution car toute discussion exploratoire n'enlèvera pas la discrimination dont vous êtes victime depuis 1876. Je vous le dis, je l'ai analysé et c'est impossible si on enlève pas les prescriptions de l'article 6.

[*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. We recognize that our people should have a say in this. I'm sure we can work it out.

[*Français*]

Le président: Merci, monsieur 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, that they cannot either by their words or by negating a part of the act may 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 to consider clause by clause.

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.

Just 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 just wanted to touch on a couple of these discriminatory practices. When you talked about, in 1970s, the fight was taken up to deal with discriminatory practices, the reality of it is, before that it was very difficult for first nations to do that, because in fact the first nations became lawyers, they were disenfranchised. They lost their ability to be a status first nation. 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. Here in this McIvor decision, we're talking about status—who gets to be considered a status first nation?

Ms. McIvor and yourselves have both alluded to situations where discrimination...this legislation won't deal with it. We know unstated paternity is one, where a woman, for many times 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 6(2). There is also an issue around—and McIvor referenced this—illegitimate daughters. Illegitimate sons gained status, illegitimate daughters did not.

There's also the cases of group disenfranchisement. The Michel Band from Alberta, in 1958, the whole band 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 where women had been discriminated against under status in the Indian Act.

» (1705)

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

You said it wasn't until 1970, but even in 1970 we did it because we had become aware of the Canadian Human Rights legislation and the Canadian Bill of Rights. We did find out about these things as we went into the education system and realized that something perhaps could be done. We didn't all necessarily become lawyers, but I think we stepped into our traditional roles of taking that step to protect our communities. To put yourself in a position where, 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, and the way Bill C-31 is right now, and I think Bill C-3, will just slow that process down, but it will still result in the same, 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 on the second generation cut-offs.

Ms. Green, did you have something to add?

Ms. Karen Green: Yes, I just wanted to say that these are legal constructs, status membership, that have been created by the Indian Act. So 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 to try to have this conversation, but does it mean 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 mind because they have been divisive and they haven't served any purpose other than to streamline who's an Indian and who isn't for funding purposes.

» (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 start reframing the language of the conversation around citizenship so that we don't fall into the categories of who's a status Indian, who's a member, because that immediately gets you into a divisive situation. It creates categories of people where, you're entitled to this because you're a status Indian, and you're entitled to this because you're a member, or you're not entitled to anything, or you're sort of a member because you're Bill C-31. We need to change that language. I think having the language around a citizenship discussion talks 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 then we could start moving a long way forward.

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

The Chair: Okay. Thank you very much Ms. Crowder. Now we're going to go to Mr. Rickford.

Just a cautionary note here. We are doing simultaneous translation so on the pace of your answers, I appreciate we're under some timelines, but 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. Ms. Lavell, bonjour. Greetings to you, as well, Ms. Lavell.

I want to thank you for appearing before the committee today and I want say, Ms. Lavell, I think it's entirely fitting that you are at, or near, the top of the list of people that we talk to about this, given your longstanding and admirable history of working on issues of gender equity and status. Indeed, your court case, in my view, in the 1970's, brought the issue to light and was in 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 today that are going to focus on the exploratory process. I'd like to just devote a couple of minutes to each one and give you both the opportunity, at your discretion, to chime in. There was a recent press release, Ms. Lavell, 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, indeed, 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, 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 just want you to have an opportunity to make some of those suggestions.

Ms. Jeannette Corbiere Lavell: I understand and I recognize the importance of what you're saying and this is what we have been trying to do within our communities and this is in northern Ontario with the Anishnaabeg nation. I would invite you to visit our communities, visit our grand chiefs, who brought this about because we have done that community consultation on determining who our citizens are, the rights and responsibilities that go along with it, and at this time in 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.

At the bottom line was that our people all 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 and they welcome them and they want to recognize them. Of course there's certain responsibilities that go along with that and that we can work out. Those responsibilities, the right to start learning our language, the right to learn our history, the right to be, if they so wish, to go to our ceremonies, our culture. That is all who we are. It's been taken away by many factors, residential schools being one of them, but now is the time, maybe, where 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: Yes. I agree with what Jeannette said and I think that the trick to the process is really having to deconstruct all of the problems that have been caused because of the legislation and the divisions and how to have a conversation that is really inclusive and is based on our nation's concepts of citizenship as well as our cultural values.

Mr. Greg Rickford: I just have a couple of minutes left here so I'm going to put this question out.

You also mentioned, previously, Ms. Lavell, the organization, that first nations should come to consensus on as many issues as possible and we've heard that today. Do you think that 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? I have about a minute and a half left, I'm sorry.

Ms. Karen Green: If we take a principles-based approach we might be able to get some consensus on the issue. For instance, having the concept that families should be allowed to have the same citizenship is something 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 start bringing people maybe to more of a consensus or at least to 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 they could live with, this is who their people were, and this is what they must do. It was done. It can be achieved.

Mr. Greg Rickford: It sounds to me like there is an important unification piece to this process as well, which is something--

Ms. Karen Green: The other point is--

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

Mr. Greg Rickford: Exactly.

Ms. Karen Green: The other point is we really need to get back to the basics of the importance of the

role of women in our communities and to respecting that, and I think 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 very much.

The Chair: Thank you, Mr. Rickford.

That pace was much better. Now we have time for two five-minute questions. We will go to the Liberal Party first.

Ms. Neville, you can do the first one and then we'll come over here.

Hon. Anita Neville: Thank you.

Thank you to both of you once again for being here and very much 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 wonder if you have done any analysis. We probably should have asked Ms. McIvor this as well. Have you done any analysis on what impact providing status to all aboriginal women would have on first nations communities?

You are 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 and 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 and 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 even 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 because right now it's not their decision just in the way the legislation is that eliminates their recognition. In that legislation we didn't have any say.

Ms. Karen Green: The issue that you raise is whether the right is contingent on the resources. We know that there will be capacity issues in the first nations because there were capacity issue when there was Bill C-31, and 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 is a separate issue? If we tie the right to resources then we know there is going to be a problem, so, clearly, that is 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, everything, if it's not there within our first nations to provide for their children, they have to go where employment is. When we look at the resources, that could be part of it, but it could be resolved. We can work around that.

Hon. Anita Neville: Do I have more time?

The Chair: A minute and a half, Miss 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 resource book, a catalogue I guess is what I'm looking at of the inequities, I was going to say injustices, the inequities that come forward?

Ms. Jeannette Corbiere Lavell: Well we have dealing right now one I neglected to mention that are 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, 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 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.

[*Français*]

Le président: Merci, madame Neville.

Maintenant, le député suivant est M. Dreeshen.

Vous avez cinq minutes.

[English]

Mr. Earl Dreeshen (Red Deer, CPC): Thank you very much and 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 that you have been in?

» (1725)

Ms. Jeannette Corbiere Lavell: When you mention this topic, do you mean looking at the status question? 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 community. 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 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 the reasons that 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 that you have just spoke 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: Well clearly there's a number of things that would need to be done at the same time. We know there's a lot of capacity issues in our communities in terms of poverty, lack of housing, poor water, overcrowding in housing and I think that those are issues, lack of land. I think that 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 that 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 in education. Our people need to be able to access higher education, post secondary because that is the only way that we will be able to understand, to know and to 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 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, we're delighted to have you here again to really kick off our second meeting on this important study. We wish you well at this point.

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.

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» (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, and we'll finish this up as quickly as we can.

For our final hour, this afternoon we have two organizations present here, and we're waiting on one I guess; I'm not too sure. In any case, let's begin by inviting Betty Ann Lavallée. Betty Ann is the national chief for the Congress of Aboriginal Peoples, and 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 10 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 did bring 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 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 interest of off-reserve non-status and status Indians and Métis aboriginal people live in an 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 either 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 people have been systemically divided by the federal government through Indian policy, the disinheritance of Aboriginal Peoples' birthright identity and dispossessing of 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, Indian Act amendment was introduced and the provisions within stated that: discrimination based on sex should be removed from the Indian Act; status and band membership should be restored to those who lost it through the Indian Act; no one should gain or lose status as a result of marriage; persons who have acquired rights should not lose those rights; bands who want to should be able to determine their own membership.

The 1985 amendments introduce 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 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 continue to perpetuate it by reinstating only Indian women who lost their status under section 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 the 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 treaty differently (they have less or no status) as compared to 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 present 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 if children whose mother and paternal grandmother were non-Indians (for example, were only Indians by virtue of marriage to male Indians) then these children could only be registered until they were 21 years of age. A section 6(1) Indian man can pass 6(1) status onto his children if he marries a non-Indian woman. Those children can pass 6(2) onto their children. However, the grandchildren's children would not be registered. In the same scenario a 6(1) Indian woman can pass 6(2) status onto 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 towards 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 6th, 2010. CAP's constituents are the ones who are directly impacted by the Indian Act.

The complex legal, political, and cultural issues which 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 enviable 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 as 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 vs. Canada*.

Section 6(1)(c.1)(iv) provides as follows: “had an adopted child on or before...”. 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 as 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 as follows...that is the non-derivation clause of being able to claim or receive any compensations or damages.

» (1745)

The Chair: Ms. Lavallée, I realize that you've got a couple more pages to go there. We are...oh, check that. I was thinking 7 o'clock. Pardon me, seven minutes, and that's why I'm jumping ahead of myself here. So you've still got about two and a half minutes to go and we'll see how we end up on the final 10 minutes. Carry on.

Ms. Betty Ann Lavallée: What I'll do at this point, 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 which mark a significant turning point in Canada/aboriginal peoples relationships not witnessed in Canada since 1982.

CAP would safely say the "spark" which 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 3 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 Canada.

We have the Matrimonial Real Property Act, a bill which 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, 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 sort of 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 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 a rekindling of continuing forms of governance, reflective of the 73 ancestral homeland aboriginal nations of the aboriginal peoples of Canada and for others, 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 which herd the aboriginal peoples of Canada into groups. There will be an end to the brat 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 10 minutes.

Mr. Lemay, on a point of order.

[*Français*]

M. Marc Lemay: J'invoque le Règlement, monsieur le président.

Le document que Mme Lavallée a lu, ou tentait de finir de lire, l'aura-t-on? Est-il disponible? Va-t-elle nous le transmettre?

Le président: Nous venons juste de recevoir le document ici. Alors, nous le soumettrons à la traduction, après.

[*English*]

Go ahead, Mr. Saulis.

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

I first am 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 we're on, and respectfully say it's an honour to be here to present before the committee.

I am a proud First Nation Maliseet 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, which 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 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. Two, that any changes to definitions, criteria, eligibility standards for first nations status, citizenship, and membership be compliant with the Canadian Charter of Rights and Freedoms. Three, 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. Four, that friendship centres be compensated for work that 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, 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 that 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, acknowledgment of urban identity, which implies increased demand for services and the need to facilitate first nation access.

» (1755)

That's my presentation.

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. Amazing you continue to do what you do considering your budgets have been frozen for, I don't know, 17 years or something. It'll be great to get you some more money.

I'm assuming that we have continued agreement this afternoon, basically, with the premise that Bill C-3 would enfranchise maybe 45,000 more people, but there's a couple of hundred thousand, really, that are gender discriminated because of the gender of one of their parents or grandparents, a relative, and that, if possible, you would like us to amend that so we 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, but—

Hon. Larry Bagnell: Sorry, I just wanted to add one more thing to my question, a 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 “concepted”. 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 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.

¼ (1800)

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

I think, fundamentally, we agree with your premise about reconstituting nations. That it's an issue of citizenship. It's a principle which 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—if we could—in the gender discrimination, under the Indian Act, with amendments to Bill C-3, would that be something that 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 that CAP could agree with?

Ms. Betty Ann Lavallée: First off, I think it's going to be, again, fairly impossible to do so without the 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, have people been properly consulted on Bill C-3 when the government has brought it in?

Ms. Betty Ann Lavallée: No, they haven'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 (inaud) 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 I guess 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, period, once and for all so that our children are not having this same discussion 25, 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 in terms of the purpose of correcting what you see to be a problem with the current bill.

¼ (1805)

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

The Chair: All right.

[*Français*]

Maintenant, nous allons passer à M. Lemay ou M. Lévesque.

M. Marc Lemay: Je vais y aller.

Je vais laisser aller Mme Lavallée parce que je veux qu'elle ait la traduction. Est-ce que ça va Mme Lavallée? Si ça va, d'accord.

Moi, je vais vous régler un problème tout de suite. Je ne pense pas que nous devons faire beaucoup de consultations dans le projet de loi C-3. Je ne le pense pas pour une simple et bonne raison. Il faut savoir si le projet de loi est discriminatoire ou non, si la Loi sur les indiens est discriminatoire ou non. La réponse, c'est oui.

Même si je traversais le Canada en entier pour rencontrer les 78 communautés, elles me diraient toutes comme Mme McIvor que cette loi est discriminatoire, que ce projet de loi va continuer la discrimination. Une fois que cela est dit, on a un problème.

Je n'ai pas bien compris les amendements. Avec respect, madame, vous alliez vite quand vous parliez des amendements que vous vouliez apporter au projet de loi C-3.

Pouvez-vous m'indiquer — je ne dis pas rapidement — quel article vous vouliez voir amender dans le projet de loi?

[*English*]

Ms. Betty Ann Lavallée:

That Canada ensures that the band membership provisions of the Indian Act...

it's on page 7 of our thing,

...include those persons added by amending 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--

[*Français*]

M. Marc Lemay: Piano, piano, c'est là que vous m'intéressez. Oui, allez-y doucement.

[*English*]

Ms. Betty Ann Lavallée:

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 17, 1985, and was a direct descendant of such a person."

(2) That Canada ensures that the band membership.

[*Français*]

M. Marc Lemay: Et, vous croyez qu'avec l'amendement que vous proposez, on réduirait la discrimination qui existe?

[*English*]

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

[*Français*]

M. Marc Lemay: Je reviens donc avec ma proposition originale qui était que, pour éliminer ou enlever la discrimination dont vous avez été victime, il faudrait enlever l'article 6(1)*a*).

[*English*]

Ms. Betty Ann Lavallée: Exactly.

[*Français*]

M. Marc Lemay: Bon, merci beaucoup. C'est tout.

[*English*]

The Chair: Thank you.

Merci, Monsieur Lemay.

Maintenant, Madam Crowder, sept minutes.

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

Mr. Saulis, I also want to echo my colleague's appreciation of the friendship centres. In fact, many parliamentarians, as you're well aware, 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 just really want to acknowledge the good work that you do and how seriously underfunded you are in delivering that work. I know that in my own riding, one of the friendship centres has to do things like hold fashion shows and sell coffee in order to raise enough money to deliver their programs and services.

I wanted to touch, for a moment, on the numbers. The numbers are around 45,000, but they could be higher in terms of people who may be eligible. I think, as you rightly pointed out, there could be substantially more people who express an interest because the friendship centres are so visible in many of our communities, they're the point of contact.

I just want to go back to 1985, when Bill C-31 was passed, the *Globe and Mail* ran an article that said that the government officers were on two shifts a day and were adding 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. So how do you think the friendship centres will deal with the influx of potential applicants without any additional resources?

¼ (1810)

Mr. Conrad Saulis: There's very little doubt that financially struggling organizations, that friendship centres are presently with the lack of increased funding since 1996, with the additional work that's going to be created by an additional hundreds of thousands of people coming, asking questions, and taking up valuable time for their valuable questions, will add a lot more pressure on very limited staffs that friendship centres currently have. Friendship centre people, employees, will, as much as possible, help every aboriginal person who comes and has questions, but they need to be able to have the right information. The Department of Indian Affairs needs to be able to provide and train friendship centre staff to be able to provide the proper information to those who are seeking the information so that as they wind through this maze of where they go next it will be easier in trying to make that as expeditious as possible for them. But, definitely, friendship centres will be there, they'll always be there, and they continue to make sure that urban aboriginal people have a place to be able to turn to.

Ms. Jean Crowder: Before I turn to Ms. Lavallée, just to summarize, what you need is (a) recognition of the role that friendship centres play in terms of dealing with inquiries that come in, (b) some resources to accommodate that, and (c) some training so that friendship centre staffs are actually getting out the correct information because this is a very complex matter. Have I got it?

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 Court of Appeal extension consideration that just happened, the court actually pointed out that in fact--and this is a quote out of their judgment--

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 there because people are saying that 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 brief and I want to 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. Here you indicate the fact that the Supreme Court of Canada 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 "True partnership for change".

And 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, with some arbitrary criteria, to determine. I thought this was an interesting section because not only did you identify some discriminatory practices that are still in place, but you identified the very issues around blood quantum and who gets to determine citizenship. And I just want to acknowledge that was a really important point that you raised around who is determining citizenship and why is it this arbitrary blood quantum. And as you well know, many of the nations says, "Butt out, it's up to us to determine who has citizenship". So I'd like you to comment on that.

And then I want you to comment also 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 of the first part and the second part and third part. And that actually what we do is take the original 1985 bill and take paragraph 6(1)(a) and insert, "or was born prior to April 17, 1985 and was a direct descendant of such a person". So you're suggesting actually we abandon subparagraphs 6(1)(c)(i), (ii), (iii), (iv), and everything else and actually just use that amendment. That's what you're saying. So do away with all these other qualifiers that they've put in here.

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

¼ (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 and do that and then we'll go to our last question.

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

And to address the blood quantum, that'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. It's their upbringing, it's their exposure to their surroundings, it's the beliefs that are instilled in them. It's no different than if someone adopts a child at birth and raises 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 is raised with your values. He is raised as a part of the community.

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

Now we'll go, *finalement à M. Duncan.*

Mr. John Duncan: Thank you very much.

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

I think all of us are labouring a little bit as a result of the fact that we don't have your document in front of us and your testimony was quite quick. But I think the last question and explanation maybe fleshed it out enough for me to ask you this question. I believe what you're saying would actually eliminate the 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 6-1, 6-2 (a), 6-2 (c) whatever. An Indian is an Indian is an Indian.

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

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

Mr. John Duncan: Right, so we can only describe it as a major substantive amendment to the bill. I mean it basically changes everything.

Ms. Betty Ann Lavallée: But as I said that would only be--when we did these walk around 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 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, the Mi'kmaq, Maliseet, Pasamaquati.

I'm a Mi'kmaq women, who lost status because, one, I married a non-aboriginal man, and two, 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.

¼ (1820)

Mr. John Duncan: I think I will go to Mr. Saulis. Not because I am tired of the subject, I got the answer that I was asking.

Many of us, maybe all of us, have at least a Friendship Centre in our riding and so we know the work that you do. We know the core funding -- there is an issue right now with core funding I believe. Beyond the fact that it has been frozen for 17 years, there is a recurrent, 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 6 years.

I assume that this is quite exciting and when that comes into play, does that not address some of the funding issues from the standpoint that a lot of this has got to be new money am I not correct? So to 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 monies as well I would assume.

Mr. Conrad Saulis: Well, the friendship centres have had a long history of leveraging money from 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. It's not readily evident its impact on the core funding or the core operations of Friendship Centres. The funding discrepancy has been 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 one, for lack of a better word, allocation of funding will have an overriding impact on the scope of challenges that Friendship Centres are having. But it definitely will help to, as you said, lever funding from other sources which Friendship Centres will continue to do.

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

Mr. Conrad Saulis: I don't think it'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 had a quick question.

The Chair: You have 30 seconds left. Mr. Payne, did you have a question?

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

Ms. Lavallée, I was listening. I didn't have your papers here, and I may have gotten the wrong impression. You did talk about the Indian Act. The impression I was left with was that you thought we should get rid of that. Is that correct or am I--

Ms. Betty Ann Lavallée: You heard right.

Mr. LaVar Payne: Okay. Thank you.

The Chair: We're just about wrapped up. I just wonder, I do have one summary question for Ms. Lavallée. It really pertains again, just so that we completely understand where we're at in terms of the process, because I did hear some, I'll call it measured support for the initiative here, but then later a qualification that really rejected many of the proposals in the bill.

Just so we have it for the record, are you in a position to see that the measures proposed by Bill C-3, recognizing that it's not a complete fix but it takes us part of the way to realizing the inequities in the Indian Act, and the fact that there is this other process in front of us that's going to explore many of the other concerns, I think recognizing that even the bill anticipates 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? Could you just comment on that?

¼ (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, which 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 of possibly not just resolving the issue of citizenship, but working with our other national political organizations to look towards reconstituting our historical nations in hope that someday 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.*