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# **Standing Committee on Indigenous and Northern Affairs**

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**EVIDENCE**

**Wednesday, November 23, 2016**

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**Chair**

**Mr. Andy Fillmore**



## Standing Committee on Indigenous and Northern Affairs

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• (1530)

[English]

**The Chair (Mr. Andy Fillmore (Halifax, Lib.)):** We'll come to order.

This is the indigenous and northern affairs committee of Parliament. We're meeting today on the hereditary land of the Algonquin People, for which we're very grateful.

Today we're continuing our study of Bill S-3, an act to amend the Indian Act, specifically eliminating sex-based inequities in registration.

We have three 10-minute panels in this first hour, so we're going to try to move along really quickly, and I'm going to be quite strict with time so we can fit everybody in and get in all the questions we need to.

The first panel is the Assembly of First Nations, with three people joining us: Perry Bellegarde, who is the national chief of AFN; Denise Stonefish, by videoconference, who is the deputy grand chief, Association of Iroquois and Allied Indians; and also Stuart Wuttke, legal counsel, Assembly of First Nations.

Welcome to you all.

And without further ado, I'm happy to yield the floor for 10 minutes to you.

**National Chief Perry Bellegarde (National Chief, Assembly of First Nations):** Chief Stonefish [*Witness speaks in his native language*]. Go ahead.

**Grand Chief Denise Stonefish (Deputy Grand Chief, Association of Iroquois and Allied Indians, Assembly of First Nations):** Thank you for the opportunity to speak to you today about Canada's effort to eliminate sex-based discrimination through this latest amendment to section 6 of the Indian Act.

As indicated, I represent seven first nations, mainly in southern Ontario. I am also the chair of the Assembly of First Nations' Women's Council. This council is an essential consultative body of the AFN under its charter, representing the interests and perspectives of first nations women who are members of our 634 first nations across Canada. As chair, I participate in meetings of the executive committee, our chiefs in assembly, and other meetings, including presentations to parliamentary committees on occasion.

As we are all painfully aware, the Indian Act was founded on the goal of complete assimilation of first nations as distinct nations. Since 1876, the Indian Act has undermined our kinship systems, our systems of governance, and many other aspects of our lives,

including by enabling the imposition of the residential school tragedy. A primary tool to achieve those ends has been discrimination targeting first nations women.

This is the third time Parliament has attempted to rectify the sex discrimination in the act. In 1985, changes made under Bill C-31 left the task incomplete. In 2009, the British Columbia Court of Appeal found that the combination of the two-parent rule, the hierarchy of different types of status under subsections 6(1) and 6(2) of the Indian Act, and the second generation cut-off perpetuated sex discrimination under the act. Now the Descheneaux case has forced Parliament to make a third attempt.

We understand the compelling need for the government to respond to the discrimination identified in Descheneaux. Unfortunately, Bill S-3 will result in continued discrimination. In addition, the proposed amendments in Bill S-3 will compound the existing complexity of the Indian Act registration provisions by adding three additional subparagraphs to paragraph 6(1)(c).

The basic approach of this bill is to continue arbitrary federal control over first nation identity and simply push the residual gender-based discrimination down one generation.

Our review of Bill S-3 suggests other discrimination that will not be addressed. Number one, under Bill C-3, which addressed the McIvor decision, a woman who regains her status is deemed to be under subsection 6(1), and her children would also be eligible for subsection 6(1) status, passing on through future generations. However, a woman who lost and regained status for any reason other than that addressed under Bill C-3 was deemed to be under subsection 6(2), disadvantaging any future offspring.

Number two, Bill C-31 attempted to address the decision of the United Nations Human Rights Committee in the Sandra Lovelace case, as well as charter compliance issues. Now, under Bill C-31, a woman who regains status is deemed to be under subsection 6(1). A person, male or female, who lost and regained status under any circumstance other than marriage, under Bill C-31, is deemed to be under subsection 6(2), and any future offspring may be ineligible for status.

In our view, Canada's continued imposition of a two-parent rule, combined with the hierarchy of status transmission established by Bill C-31 under subsections 6(1) and 6(2), lies at the heart of the ongoing sex-based discrimination. We note with considerable concern that there is apparently no remedy yet for the unfair and long-standing discrimination in the department's policies respecting so-called "unstated paternity".

● (1535)

I emphasize that these are not usually situations of paternity being unknown but most often of a woman having other reasons for not identifying the father of her child.

Thank you.

**The Chair:** Thank you very much.

Chief Bellegarde, are you going to use the rest of the time?

**National Chief Perry Bellegarde:** Yes.

**The Chair:** Very good. There are about four and a half minutes left.

**National Chief Perry Bellegarde:** Is that plus my ten?

**The Chair:** I'm afraid not.

**National Chief Perry Bellegarde:** Oh, boy. I'm going to have to go fast.

*[Witness speaks in Cree]*

I give thanks to the Creator for this day and acknowledge you all, my relatives and friends.

Moving forward, the AFN recommends that Canada work with first nations to undertake a joint review of federal law and policy and to work with us to ensure that all of this work includes a gender and citizenship lens.

Many aspects of the Indian Act constitute a violation of the treaties, the right to self-determination, and individual human rights, so much so that we must ask whether it is even possible to eliminate discrimination from an outdated piece of colonialist legislation intended to dismember our nations and citizens through gender-based discrimination and racialized concepts.

We have an enormous challenge ahead of us to move past this terrible legacy. I am sure you will agree that simply making amendments to the Indian Act will not get us there, and that whatever that path is, it must be driven by first nations and guided by our inherent and treaty rights and the minimum standards set out in the United Nations Declaration on the Rights of Indigenous Peoples.

I remind the committee that under international human rights law, the enjoyment of the right to self-determination and individual human rights are interdependent and inextricably linked. We are encouraged by the Prime Minister's leadership on gender equality, his unqualified commitment to implement the UN Declaration on the Rights of Indigenous Peoples, and the enthusiasm of ministers, especially Minister Bennett and Minister Wilson-Raybould, to work with us to move beyond the Indian Act. That important work has not yet begun.

When we talk about status and citizenship, we have to move beyond the Indian Act, because if we remain under the Indian Act,

there will be no more status Indians in 50 years. It's that simple. If we want to enjoy the right to self-determination—and we have that right—we have to exert that jurisdiction, occupy the field, and determine who is or is not a citizen of our first nations. That's up to us.

Despite the Indian Act, we say that it's imperative that Parliament and the crown work with first nations to build a new relationship in which first nations law and jurisdiction over our citizens are recognized and respected, as affirmed by the treaties, by assertion of indigenous sovereignty, and by the UN Declaration on the Rights of Indigenous Peoples. The UN declaration sets out minimum standards for respecting the collective and individual rights of indigenous peoples, including gender equality.

Gender discrimination and denial of the right to self-determination are violations of international human rights standards, including those expressed in and reaffirmed by the UN declaration. The act has been used as a piece of forced assimilation and, as such, clearly violates individual human rights and undermines our collective rights to define and determine our identities as citizens of indigenous nations.

I'm going to cut through this because I have only...how long?

● (1540)

**The Chair:** You have two minutes.

**National Chief Perry Bellegarde:** Okay. I'm better when I speak freely.

In here, we talk about programs, and the government thinks it is going to make more status Indians because of this legislation. It's going to have a draw on two particular programs: the post-secondary student support program and the non-insured health benefits program under health and welfare. They've identified some dollars and resources here to take care of those new Indians, but as we point out here very clearly, where's the land?

You're only making half a treaty Indian. Okay, you have status now. You have access to these programs, post-secondary student support and non-insured health benefits. Under our treaty, we have 128 acres per individual, 625 per family of five. You're creating other land obligations, and that issue has to be dealt with. That can't be put to the side. You can't just say you are going to deal with female and male inequality. You have to deal with it comprehensively and fully. That's what I want to say there.

Now, under Bill C-31 and Bill C-3, we say that these amendments that create additional issues of treaty land entitlement, as I said, have to be addressed, and there has to be a meaningful dialogue beyond this committee. There's not enough time. Take the time to do it right. So we're going to keep pushing for that.

In Descheneaux, Justice Masse provided guidance to Canada stating that

it does not [however,] exempt Parliament from taking the appropriate measures to identify and settle all other discriminatory situations that could arise from the issues identified, whether based on sex or other prohibited grounds, in [accordance] with its constitutional obligation to ensure that [the] laws respect the rights enshrined in the Canadian Charter.

Parliament should not interpret this judgment as strictly as it did the British Columbia Court of Appeal's judgment in *McIvor*. If it wishes to fully play its role instead of giving free reign to legal disputes, it must act differently this time, while also quickly making sufficiently significant corrections to remedy the discrimination identified in this case. One approach does not exclude the other. The AFN is ready to work with Canada to advance rights recognition and reconciliation through jointly designed processes to ensure the full implementation of the Declaration on the Rights of Indigenous Peoples and to carry out a much-needed and fulsome joint law and policy review.

That's it. We have to work together on it.

**The Chair:** Thank you very much, Chief Bellegarde and Ms. Stonefish.

We're going to hear from the other two panels, and then we'll go into combined questions.

Next we have the Native Women's Association of Canada. I'm very pleased to welcome Lynne Groulx, executive director; Francyne Joe, president; and Marilee Nowgesic, special advisor and liaison.

Welcome to you all. You have 10 minutes to share among yourselves as you would like.

**Ms. Francyne Joe (President, Native Women's Association of Canada):** Thank you.

I am Francyne Joe, president of the Native Women's Association of Canada, and I'm a proud member of the Shackan first nation located in Merritt, British Columbia. While I worked for Canada Border Services for over five years, I'm also experienced in human resource management, economic development, entrepreneurship, and insurance, all in an effort to educate and encourage aboriginal people to pursue their aspirations.

I'm here today with Lynne Groulx, NWAC executive director, and Marilee Nowgesic, NWAC's special advisor and liaison.

First, I would like to acknowledge the Algonquin nation, whose traditional territory we are meeting on today. I bring with me the voices of my ancestors, the concerns of aboriginal women from across Canada, and the hopes of our future leaders, our youth.

Since 1974, the Native Women's Association of Canada has been the only national aboriginal organization in Canada that represents the voice, the interests, and the many concerns of aboriginal women. NWAC is made up of 12 provincial and territorial member associations from across the country. Our network of first nations and Métis women spans the north, south, east, and west into urban and rural on- and off-reserve communities. Our personal sense of identity is that we are part of nations, and NWAC needs to be part of any nation-to-nation discussion. It's crucial that our gender-specific perspectives be heard and acted upon. The Native Women's Association of Canada recognizes the Government of Canada's stated commitment to end all of the known sex-based discrimination that is embedded in the Indian Act. This is a long-standing priority

issue. It could result in missed opportunities to build our collaborative relationship and to ensure that we deal with the complex layers and multiple forms of sex discrimination in the Indian Act.

There are three key messages I want to deliver today.

First is the current backlog on registration and membership at INAC. Bill S-3 leaves out indigenous women, and their basic rights are being denied. This is a fundamental breach of their rights to entitlements under the Indian Act, such as housing, education, health, and economic development. From a traditional understanding, indigenous women cannot be separated from the impacts of colonization, systemic issues, and the policies and laws that have reduced the stability of our environment, the practice of our spirituality, and the expression of our inherent right to self-determination. We want to caution the government about the timeline. Indigenous women have multiple priorities at this time of the year. Children are in school and have extracurricular activities. Women are preparing for the harvest, hunting, and traplines. They're preparing for Christmas holiday celebrations with family and friends.

Second is that engagement does not mean consultation, and consultation does not mean consent. Indigenous women need to lead these discussions. The two-part process, as described by the Government of Canada, is to be in reconciliation with indigenous peoples through a renewed nation-to-nation relationship, based on the recognition of rights, respect, co-operation, and partnership. As of September 28, we have had only one information session by department representatives. This does not constitute engagement, partnership, or respect.

The government has already announced that it will have a two-stage approach in response to the Superior Court of Quebec's decision in the case of Descheneaux, and this must be done by February 3, 2017.

NWAC is particularly looking forward to addressing not only the systemic issues but also the impact those issues have had on indigenous women. As I've said before, these include our personal sense of identity, since we are also part of the nation; the lack of belonging and recognition experienced in some communities when women want to return to their home community; the undermining of indigenous women's governance roles and the ability to coordinate collections of issues; and the financial under-resourcing of our organization. NWAC is the organization that has the expertise on indigenous and gender-specific perspectives.

Third is that indigenous women themselves have the right to determine their own identity. Articles 33.1 and 33.2 of UNDRIP regard indigenous peoples' rights to determine their own identity and the structures of their institutions in accordance with their own procedures; of course, this is paraphrased.

• (1545)

As a national aboriginal women's organization that has spent over 10 years being undermined and ignored, and having our funding cut by 60% by the federal government, NWAC is in the process of actively rebuilding our capacity to substantively respond and coordinate a national response within a short timeline. Our current rebuilding status needs to be factored into the engagement processes at this time and should not be used as a way to undermine our participation in these key discussions and decisions.

While we are currently working on addressing the procedures and processes that will drive the missing and murdered indigenous women and girls inquiry commission, we are the lead organization for indigenous women to bring their issues, their concerns, and sometimes their missing voices to effectively address the inequities.

NWAC will work with all levels within the Government of Canada to end the inequities and discrimination that have been part of the Indian Act since 1876.

*Kukwtsésemc. Meegwetch.*. Thank you for your time.

**The Chair:** Thank you, Ms. Joe.

Is there anyone else who will speak on behalf of NWAC at this time?

Okay, then we'll move right into the next and final panel, which is Quebec Native Women Inc. We have Viviane Michel, the president, and Cynthia Smith, the legal and policy analyst coordinator.

Welcome to you both. Thank you for being with us. You have 10 minutes between you to share as you would like.

Thank you.

[*Translation*]

**Mrs. Viviane Michel (President, Quebec Native Women Inc.):**  
[*Witness speaks in Innu*]

Good afternoon, everyone. I thank the Creator for having brought us here, and I also wish to acknowledge the vast non-surrendered Algonquin territory we are on.

Ladies and gentlemen members of Parliament, *Kwe*. The Quebec Native Women's association wishes to acknowledge the Anishinaabe Nation that welcomes us today on its vast non-ceded territory. Today, this welcome has particular significance, given the recent events in Quebec. It was on Anishinaabe territory that aboriginal women courageously denounced the abuse and violence there were subjected to by Sûreté du Québec police officers. The Quebec Native Women's association reiterates its message: we believe these women, and we demand an independent provincial judicial commission of inquiry in Quebec. IKWÉ solidarity.

Quebec Native Women Inc. is an organization of aboriginal women that has worked to put an end to injustice since 1974, so that our children may grow up amongst their own people and know their language, culture and traditions, and be proud of them. Since 1974, Quebec Native Women Inc. has been fighting against policies intended to assimilate our peoples, and against sex-based discrimination, that constitutes the basis of the Indian Act. Still today, in 2016, our societies are being torn apart by this.

According to the aboriginal oral tradition of the pre-colonial era, life between men and women was well defined. Although our roles were different, there were valued equally. There was mutual respect between the sexes and the generations. Aboriginal women benefited from a level of respect, equality and political power that European women of the the same era could only dream of. Several aboriginal societies were in fact matriarchal and matrilinear.

As you know, that balance between the sexes was violently destabilized by the colonial policies that were subsequently put in place deliberately by Canada. Colonization had devastating effects on our peoples, due notably to increasingly aggressive assimilation policies. These targeted our women and children in particular. The Canadian government was well aware of the importance of women in our society, particularly their role in passing on knowledge. It knew that to achieve its objectives and to eliminate the "Indian issue" and the Department of Indian Affairs in Canada, it had to uproot our peoples and tear us away from our lands and traditions.

It was expressed quite clearly in black and white that this law was created to accelerate territorial dispossession and decrease the number of aboriginals in Canada. In its annual report in 1895, the Department of Indian Affairs clearly expressed its intent to target our languages in order to assimilate us as peoples. To reach that objective the government intended to target the pillars of our societies, our women, who passed on knowledge to our children, the future of our societies.

The Indian Act served as a tool to achieve that by defining in a patriarchal and paternalistic way who was recognized as an "Indian" in Canada. During the 1800s, only those whose fathers were aboriginal were considered "Indian", and any woman who married a non-aboriginal lost her aboriginal identity under the law.

It was this same law that imposed the residential school system on us. Its purpose was, and I quote, to "kill the Indian in the heart of the child".

This law was built on a foundation that sought the abolition of our societies by attacking our women and children, as well as the transmission of our cultures, languages and way of life.

If Canada sincerely intends to bring about reconciliation with aboriginal peoples, it must be accountable and accept history and its repercussions on our current societies. Quebec Native Women Inc. believes that it is impossible to achieve reconciliation if our relationships are governed by a law that does not give us the right to determine our own identity, keeps us in wardship, and is based on racist and discriminatory principles.

• (1550)

Since the beginning of the 1970s, there have been court challenges to the Indian Act. After the very long and worthy battles led by Ms. Mary Two-Axe Early, Ms. Jeannette Corbiere Lavell and Ms. Sandra Lovelace Nicholas, Canada, that refused to recognize the sex-based discrimination of the Indian Act, saw its decision invalidated at the international level by the United Nations, which asked it to amend this act.

In 1985, Bill C-31 was passed to alleviate this discrimination. However, it did not put an end to it. On the contrary, it created new ones. It led to the creation of two categories of status. Status aboriginals were now divided into two groups: the one described in subsection 6(1) and the one described in subsection 6(2). This is painfully close to eugenics. These provisions inserted into the Indian Act the concept of the purity of bloodlines that once again divided our peoples and imposed a foreign system on our ways of governing.

In 2011, Sharon McIvor continued the struggle by standing up to sex-based discrimination due once again to the Indian Act. This led to Bill C-3, which failed to put an end to these years of discrimination.

Here we are together again today in 2016 to deal with these same issues. Quebec Native Women Inc. is asking you, ladies and gentlemen, to acknowledge the absurdity of the current context and the insidious nature of exercises like this one.

Quebec Native Women Inc. wishes to highlight the courage and perseverance of the women and men who waged these legal battles, but is forced to recognize nevertheless that each of these amendments was only a small bandaid on the serious and gaping wound of the cultural genocide attempted by Canada on aboriginal peoples.

Quebec Native Women Inc. wishes to remind Parliament of article 33(1) of the United Nations Declaration on the Rights of Indigenous Peoples, which establishes that "indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions."

Indian status, that has been divided into categories and is awarded according to criteria that will remain sexist even after the current proposed changes, represents a blatant violation of this right we have to decide who we are.

In 2011, our association held a gathering of the nations where the theme of identity was discussed with its members. Together, they expressed the nature of language, culture, belonging to a territory, values and traditions that are the markers of our identity and indigenous citizenship, and not blood quantum or the number on a card issued by the Government of Canada.

In today's context, Quebec Native Women Inc. is asking the Government of Canada to eliminate once and for all the discrimination practised against aboriginal women, including those who, for several reasons, do not declare the paternity of their child.

We also ask that the women who have suffered from discrimination since the period before 1951 may recover their status before it is too late for them.

Finally, we ask the government to eliminate the categories of status that set registered aboriginals apart and give rise to a contemptible and discriminatory hierarchy based on racist and shameful criteria such as the purity of blood.

Quebec Native Women Inc. is asking the Government of Canada to allow first nations themselves to determine who they are.

Given the government's intent to begin the second phase of the work in February 2017, the Quebec Native Women's association is

proposing its collaboration with you in this process. We have expertise on this issue developed since 1974, and we believe that we can make an important contribution to reconciliation for the future of our peoples, of our women and children, for the next seven generations.

I would also like to say that we are going to run out of time to consult the 54 aboriginal communities of Quebec. This process is really inadequate. Our organization, Quebec Native Women Inc., met with representatives of the department. I invited them myself to come to our general assembly to discuss the Descheneaux decision, but only 66 women will be present. There are 54 communities to consult. The process is not adequate.

Thank you. *Tshinaskumitin*.

● (1555)

**The Chair:** Thank you very much.

[*English*]

Thank you very much, AFN, NWAC, and FAQ, for your testimony. We'll move swiftly into questions now, so that we can make the most of our remaining half-hour.

This is a round of seven minutes of questions.

The first question is from Michael McLeod.

Go ahead, please.

**Mr. Michael McLeod (Northwest Territories, Lib.):** Thank you, Mr. Chair.

Thank you to all of you for coming here to make a presentation.

We've had a couple of presentations already, and the whole issue has been described as complicated and complex. I don't think there is any aboriginal person who is not affected by this bill. I'm from the Northwest Territories. We have five tribal councils there, and a large Métis population, and we're all impacted somehow by this issue. As Perry described it, it was a tool to create assimilation. We heard from Justice Murray Sinclair that residential schools were doing the same thing. So this is an issue that's been around and that has challenged us for years.

It has impacted me and my family. I have cousins who have status and cousins who don't have status. I really can't explain why. It's been very difficult to go up the ladder and say they are brother and brother, but why did it fall to different parts?

We know there were other influences. We know that the government played a role in it. We know the church played a role in it. A lot of times they were the ones deciding who was going to fit into what category. Even people from the Hudson's Bay, and those types of people, had a role to play and decided where we were going to end up.

When I heard and saw that we were moving forward on this bill, I thought the same way I think most of you did, that it doesn't go far enough. There are so many things we have to address. But having looked at it further and having seen that there's a two-stage approach, I think we need to just move forward with this. There is some merit to this bill. I am very worried that if we are going to try to engage in a full-blown consultation process to discuss all the issues, we may be going for many years. I think this process from the time it was initiated to now has taken six years. We may be in another government by then if we take the same amount of time.

We are part of the suicide study and we know already that many components need to be addressed to start solving the despair in our communities; and if one piece were brought forward, I would probably welcome it. If housing were brought forward as part of the solution, I would welcome it.

My question is along the lines of what the Native Women's Association said, that this is only the beginning; it has to lead into something bigger. I'll ask the question to all three.

Do you agree that this should be dealt with now, or should we just completely hold off and try to do a comprehensive investigation of what needs to be done? We could go way back. I think you can tell how I feel, how I'm positioning myself on this. It may go back so far that it will take years and years.

I would like to hear what you think.

•(1600)

**National Chief Perry Bellegarde:** Ladies first.

**Ms. Francyne Joe:** We know how much the Indian Act has affected our families, our people. At this point, my biggest concern is our youth. When we had the delegation come to the NWAC AGA in September, one of my own delegates from B.C. brought up the fact that her son had not received a status card. All his cousins had. It took weeks after that. He finally got his status card. He finally got the benefits he was entitled to. He got the benefits that his cousins had been receiving for the last 10 years. So for us to postpone this at this point would be unfair to our youth.

Already, so many women have been working on this. Jeannette, Sharon and so many mothers have been trying to pursue this for their children. I don't think we can wait.

[Translation]

**Mrs. Viviane Michel:** From what I hear, you want things to move forward. As I said earlier, a better consultation would be ideal. In Quebec, there are 54 communities and an urban population. How can we discuss issues you may not even have heard about?

We need to take the time to examine these issues. You always come forward at the last minute. Then we have to react quickly, but we have not had the time to hold these consultations.

Quebec Native Women Inc. represents the 10 nations of Quebec, including the urban population. As the spokesperson of my organization, how can I take on cases I may not even have heard about yet?

There are many cases. I spoke to you earlier about the declaration of paternity that is imposed on us. This has major repercussions for

our future generations. A Quebec woman who does not disclose paternity suffers no consequences: the child is recognized as a Quebecker and a Canadian. However, if an aboriginal woman does not declare the father, she is automatically subject to subsection 6(2) of the Indian Act, and the child is recognized as having a non-aboriginal father. This is another type of discrimination that still exists.

•(1605)

[English]

**The Chair:** Thank you.

We'll move to Chief Bellegarde now, just briefly.

**National Chief Perry Bellegarde:** On this, it's a decision by the Québec Superior Court. They said they have until February 3 to fix it. You have that over your head. If you want to get an extension, then the crown and Canada must meet with Descheneaux and go jointly together.

I would encourage that. I would encourage the crown and Canada and Descheneaux to ask for that extension. On this piece, with all due respect, Chair, that's number one, because there's no adequate consultation piece or process. I'd encourage that to happen.

The second point is that if you don't do this properly...and it's all about moving beyond the status card. You need a longer process to move beyond the Indian Act. I would encourage this honourable committee to encourage the federal crown and this existing government to encourage a comprehensive federal law and policy review and to put processes in place to move beyond the Indian Act. That's the bottom line. I'll leave it there.

**The Chair:** Thank you.

The next question is to Cathy McLeod.

Go ahead, please.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Chair.

I remember way back in the 1980s, I was a nurse working in a community, and I went to visit one of the elders. She told me she wasn't an Indian anymore. They had taken her card away because she married a white man. He had died and she was living in the community. I can remember at the time thinking that it didn't make any sense. She was clearly a member of that community. Since she was an elder at the time, I don't know if she lived long enough to regain her status.

We had our first hearings on this issue on Monday. To be frank, the Liberal government has said very nice words in terms of the process that they're going to engage in as they bring forward legislation. I was stunned to hear from Chief O'Bomsawin and from Stéphane that they hadn't even been consulted. These were the litigants in this case. It was stunning, in terms of the process, to see the failure to reach out even to the people who were the litigants and the chief who was a litigant in this case in any way to develop this legislation.

We can talk about process. I think that's an important conversation for us to have about what happened around this bill.



The legislation before us clearly responds to those specific circumstances. We understand that there are other limited circumstances that have not been addressed. If there is a big issue to deal with as well as those other little circumstances before the government heads into its phase two, I'd like to hear whether we should be dealing with those ones that we're aware of, that are in addition to what's here in the Indian Act. Should we be moving forward with what's here?

I open that up with regard to both the process and the next step.

● (1610)

**National Chief Perry Bellegarde:** Again I go back to saying you need more time to get it done right, even though there is that court order. Bill S-3 is there; you're making amendments now to the Indian Act.

The issue is the Indian Act. You're tinkering with the Indian Act right now; that's what you're doing. A court told you that you have to tinker with it because there is unfairness and there is injustice there between male and female, and you're trying to correct that. I get that; you're trying to fix it. You're putting a band-aid on a great big cut, and it's very temporary.

You have to move beyond the Indian Act and start recognizing the right to self-determination and look at things like whether someone will no longer be a Cree indigenous person if the Indian Act is done away with tomorrow and they lose their status card. Our rights don't come from the Indian Act. We have inherent rights and we have a treaty relationship with the crown, and we have to exert jurisdiction over our own citizenship. But that also has to be linked to a new fiscal agreement on total population on and off the reserve. There is an issue of portability of rights to services and programs. You're not a treaty Indian only if you live on Little Black Bear. In the Corbiere decision, chiefs and councils represent all their people, on and off the reserve. Now there is going to be the issue and expectation of portability of services and programs and rights.

You can't just tinker with this; it has to be more comprehensive, and it's going to take some time.

I offer four points: longer consultation time to get it right; support a law and policy review. All of the outdated laws and policies that this government has, from compensation claims to specific claims to additions to reserve to the inherent right, are based on termination of rights and title, not on recognition. We have to exert jurisdiction over our own citizenship; that's what we have to do, but it has to be linked to a fiscal relationship with the crown, which we're working on. And then, don't forget the land issue.

I remember that in 1985, when Bill C-31 came in, all of our chiefs said that the crown was just making half a treaty Indian: you get this status card and you have access to the post-secondary funding programs, and then you get the non-insured health benefits through Health Canada, but where is the access to land? If you're going to do this, do it properly and comprehensively. That's my advice—four points.

**The Chair:** Is there anyone else?

Yes, please.

**Ms. Marilee Nowgesic (Special Advisor, Liaison, Native Women's Association of Canada):** With regard to some of the time constraints, it's not really our business to tell you how to do your business, but from what we have heard just in the one session we were fortunate enough to have on September 28 this year with women of the communities from across this country, a card will not make me expire.

You cannot tell me who will be and who will not be an Indian. What do you want us to start doing—in-breeding in communities so that we can retain membership? What do you want us to start doing? We've already given up enough.

I'm trying to think of the frustration they had. Do you realize that they were given only half a day to talk about this very important issue, without even having had prior time to study the document, to review it, to have some input with their communities or with the women in their communities who are facing some of the issues regarding membership, citizenship, equality, and the rights that are inherent to them?

Do you realize the frustration that the registrar of the department felt when she got into that room and was totally overwhelmed by the number of cases that have been going on for seven or eight years, and then this came about? How much are we going to prolong the backlog?

Our solution is to hire more people who know how to deal with these issues, who know how to look at genealogy and do research and get it done for you.

Thank you.

**The Chair:** There is just half a minute, if you'd like to go ahead, Chief Stonefish.

**Grand Chief Denise Stonefish:** Yes, I'll be quick. I won't repeat anything that has been said previously, because I agree with a lot of the things that have been said.

One other thing we need to consider too is that this has caused different classes even within our own nations. I think we really need to have meaningful dialogue, and I believe from what has been said today that NWAC and other women's groups are ready and willing for dialogue. Even the first nations across the country are ready for this nation-to-nation dialogue on this, and we need to do something.

● (1615)

**The Chair:** Okay, thank you for that.

We'll move to the next questioner now, which is Romeo Saganash.

Go ahead, please.

**Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP):** Thank you, Mr. Chair.

I've been in this business for more than 40 years now, and to wrap my head around this one is perhaps the most difficult task I've had in those 40 years, really. How do you “improve” racist, colonial, paternalistic, archaic legislation? You can't do that, right? I think a lot of people in this room understand that.

Are we to continue on that path, National Chief, or do you view this as an opportunity to change to something that's really nation to nation? You mentioned that we need to take the time. I noted those words. The National Chief misunderstood. He thought he had 10 minutes. He took four. I'll give him the next five.

[*Translation*]

**National Chief Perry Bellegarde:** Thank you very much, my friend.

[*Witness speaks in Cree*]

[*English*]

Romeo, it's a good question, and it's a question about continuing down this path. It really is. I stressed earlier on, to all the honourable members, the process of moving beyond the Indian Act. It's been here since 1876, and that's not where our rights flow from. We have inherent rights. This particular issue about citizenship is fundamental to who we are as nations. I'm going to encourage the members of Parliament here to encourage the Prime Minister and cabinet to make sure those processes to move beyond the Indian Act are in place. Whether you do it band by band, or treaty area by treaty area, or nation by nation, work toward another jurisdiction, and work toward recognition of the ultimate dream of us indigenous peoples.

When you go back to the RCAP report, it speaks about another jurisdiction and another law recognized in Canada, in addition to common law and civil law, and that's first nations law and the recognition of first nations governments. That's the ultimate goal and where we're going to have to work. That means moving beyond the Indian Act, but it also means recognizing our rights and title.

The most fundamental right we have is the inherent right to self-determination, to determine our own citizens and to determine our own forms of government. That's what we have to do. We have to make space in this beautiful country called Canada for our laws to be recognized. You have only common law and civil law. There's first nations law, and there's the Creator's law. Where's the space for that? That's what reconciliation will mean. Once that's recognized, we can move beyond the Indian Act. If we stay under this Indian Act, within 50 years there will be no more status Indians in this country called Canada, and we don't want that. Our children and grandchildren don't want that. It's respect for rights and title and jurisdiction, and it has to be comprehensive. It has to be linked, as well, fiscally. It all has to be linked. To me, that's the process we have to embark on.

It can't be done right away. There's fear even among our chiefs. "Oh, if you do away with the Indian Act, what will replace it?" I've always said that if you do not want the federal law or provincial law to apply, then create your own laws, occupy the field, and exert that jurisdiction. That's what we need to have in place. I'm going to leave it there.

[*Witness speaks in Cree*]

**The Chair:** You have three minutes.

[*Translation*]

**Mr. Romeo Saganash:** Ms. Michel, I thought you had heard the question I put to the National Chief. Would you like to use the remaining time to answer it?

**Mrs. Viviane Michel:** Yes.

It is understood that the Indian Act is obsolete. It still practises forms of assimilation. If we wanted to replace it, I would still have some concerns, in the sense that this may be the only document that recognizes our existence somewhere. As long as we do not manage our own operations, our own laws and such things, we can lean on the act, but only in the short term. We cannot do so in the long term, because it is too ancient. It is simply a means of protection.

Canada, after all, adopted the United Nations Declaration on the Rights of Indigenous Peoples. It is a good declaration that was prepared jointly with the first nations. It sets out human rights, universal rights, and so on. It was very well conceived and it really defines our aspirations. I think there would be an exercise to be done using that declaration. We need to sit down, study it again and suggest changes, since Canada still has not implemented it. So, we have something in hand.

In the context of the Indian Act, parliamentarians are the ones who tell us how our communities will function. You are the ones who decide who is aboriginal and who is not. A public servant at the Department of Indigenous and Northern Affairs Canada receives an application at his office, and he determines if the person is aboriginal or not.

Why do we not have the right to decide ourselves who is aboriginal? We know ourselves; you do not know us.

That is what I wanted to add. Thank you.

• (1620)

[*English*]

**The Chair:** Thank you.

The next question is from Gary Anandasangaree.

Go ahead, please.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, panellists, for your candidness this afternoon. I want to welcome my friend to the committee and thank Mr. Angus for his great advocacy.

I'm a little confounded this afternoon because I think there's a strong realization—I know there was when we embarked on this—regarding the serious failures of the Indian Act. I fully share Romeo's sentiments in terms of its premises.

The challenge is that we have a deadline set. The issue is how to balance that, if we balance it.

I'm going to ask you some very pointed questions, and I would really like all three organizations to give a very direct answer.

With respect to the current Bill S-3 legislation that's before us, do we move forward with it, along with the consultation process for phase 2? Do we not move forward? Do we go to court to get the extension?

It seems as though I'm hearing "all three of these", so I would like to get a direct answer from all of you. If we are going to court, what is the timeline that would be appropriate?

You have all raised very complex issues and, in fact, issues of nationhood and self-determination can't happen in three months.

How do we balance that? I would really like to get a sense from all three of you.

**Ms. Francayne Joe:** You're right about the timeline. I'm not sure who created this timeline. It always put us under pressure. It's putting the Native Women's Association of Canada under pressure, because we haven't had time to speak with each provincial and territorial member. We haven't been able to go out to the communities ourselves and ask the women who are directly affected.

In terms of the issues that are affecting youth who don't have the status card to get the benefits that are their human rights, I can't say that we should not move ahead. It's affecting our youth at this time, and every day we're losing our elders, who are also affected.

I lost my own adviser in the late senator Len Marchand. I know he would have had a lot of advice to provide at this point. I would like to see us move forward.

**The Chair:** Mr. Bellegarde.

**National Chief Perry Bellegarde:** I would say, on this one, to do it right. I would encourage you to get an extension, because you're still going to leave some young people out. Some are going to be covered, but others won't be. I'm going to say to go with the crown, go with additional people, and ask for an extension. Get it done right; get it done properly, and that way, it's going to take the time.

I know you have push factors. The judicial branch, as an executive and legislative branch of government, is telling you very clearly to fix it. We're saying it's really rushed.

I would encourage getting together with the crown and together with Descheneaux to make a court application for an extension. Put in the proper resources, both human and financial. Get out to the first nation women's groups across Canada, and work with the AFN chief of our Women's Council. Work with NWAC and all the women's organizations across here to get input, and get it done properly. That way, it's more comprehensive and complete.

That's what I'd encourage. That's immediate and long term, and it would go beyond the Indian Act.

• (1625)

**Mr. Gary Anandasangaree:** Grand Chief, on that, I want to pressure you a little bit on the timeline. What would be realistic, given the scope, for an intermediate solution? We also want to make sure that we don't continue to disenfranchise young people, as your colleague has said.

**National Chief Perry Bellegarde:** There are some wrongs you want to correct.

**Mr. Gary Anandasangaree:** How do we find that balance? What's a realistic timeline that's required for something like this to take place?

**National Chief Perry Bellegarde:** I don't know. I don't have a right to say three, six, or nine months. All I'm saying is that you need more time. Bear in mind that there are some young people who might still feel left out. You're still going to leave some out, but just take the time. I don't even want to say another year, but soon. It

doesn't make sense. It's too rushed. I think you have to take the time, whether it's a year...but not too long.

What's the balance? I don't have the answer here. All I know is that February 3 is not the right time.

**Mr. Gary Anandasangaree:** You have 30 seconds.

**Grand Chief Denise Stonefish:** As the chair of the Women's Council for AFN, I agree that you should go to court for the extension, because you do need to take the time.

This is an issue that's been on the table for a number of years. However, I don't think you covered it in a sufficient way or that you provided the opportunity for the first nations and their women to have input and feedback.

**The Chair:** There's a minute and a half.

**Mr. Gary Anandasangaree:** I'll yield it to Ms. Michel to respond to this.

[*Translation*]

**Mrs. Viviane Michel:** When I spoke earlier, I said that the lack of time was a real problem. We need more time to conduct better consultations, and they cannot only last one day. The issues at stake are identity as a whole, language, culture and the general picture. I can see that this exasperates you, but it is reality for the first nations.

Identity is related to territory, and includes culture and language. So it is quite a broad concept. If you alter my integrity, you alter my person. I think it is up to us to say what we want.

If you really want to make changes, give us the time we need, and we will suggest ideas. We need more time and appropriate funding to conduct a better, more adequate consultation.

[*English*]

**The Chair:** This is the final question, so please keep it short, if you would.

**Ms. Cynthia Smith (Legal and Policy Analyst Coordinator, Quebec Native Women Inc.):** Thank you.

I think what's very important to also keep in mind when you look at the Descheneaux case is to request that all gender-based discrimination be tackled. The thing is, with what you're bringing to the table with Bill S-3, you only go as far as 1951, but gender-based discrimination started way before that. I think this is something that is very important to keep in mind.

**The Chair:** Thanks for that.

Those will be, unfortunately, our last words from this joint panel. We have another panel coming up right behind you for the next hour.

I want to give my sincere thanks to each of you for sharing your wisdom and well-considered testimony today.

We'll suspend briefly while we switch quickly switch to the next panel.

•(1625) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1630)

**The Chair:** We'll come back into session now.

I'm very happy to welcome two groups to the panel in the second hour. The first is the Congress of Aboriginal Peoples. Welcome to Robert Bertrand, national chief, and Frankie Coté, senior manager, engagement.

Welcome, and thank you for giving your time to us today. I'm happy to turn the floor over to you, for ten minutes, to share between the two of you as you would like.

Thank you very much. We'll get under way.

**Chief Robert Bertrand (National Chief, Congress of Aboriginal Peoples):** For opening statements, Mr. Chairman, I'll be using the 10 minutes.

Mr. Chairmen, vice-chairs, committee members, representatives, and guests, my name is Robert Bertrand. I am the national chief of the Congress of Aboriginal Peoples.

[*Translation*]

I would like to acknowledge the traditional Algonquin territory we all have the privilege of meeting on today.

[*English*]

I would like to thank the Standing Committee on Indigenous and Northern Affairs for inviting the congress to address this important and necessary discussion on Bill S-3.

I would like to commend Prime Minister Justin Trudeau and the federal government for withdrawing its appeal concerning the August 3, 2015 Superior Court of Quebec decision on the Descheneaux case to the Supreme Court of Canada. The decision to address the Descheneaux case through a two-stage approach to eliminate known sex-based inequities in Indian registration, and not to be limited to the specific facts of the Descheneaux case, is promising to hear.

Since 1971, CAP, formerly known as the Native Council of Canada, has committed itself to advocating for the needs of off-reserve status and non-status Indians, Métis, and southern Inuit peoples. We also serve as the national voice for its provincial and territorial affiliate organizations, or PTOs. Our PTOs are located across the country, from the western coast of B.C. to the eastern reaches of southern Labrador. CAP also has a national youth council.

•(1635)

[*Translation*]

The congress represents a large number of aboriginals in Canada. It currently represents over 70% of the aboriginal people who live off-reserve.

[*English*]

For over 45 years, CAP has committed itself to addressing issues affecting our constituency, and has been actively involved in cases that involve sex-based inequities in registration. That led to the passage of Bill C-31, and Bill C-3, known as the McIvor case.

Having reviewed Bill S-3, CAP feels two current instances are models for effective change towards reconciliation with off-reserve indigenous peoples. Number one is the United Nations Declaration on the Rights of Indigenous Peoples, UNDRIP, and number two is the Supreme Court of Canada's historic decision on Daniels v. Canada. Seventeen years ago, our former national leader, the late Harry Daniels, along with CAP, went to the court to force the Canadian federal government to acknowledge that Métis and non-status Indians are Indians under subsection 91(24) of the Constitution Act, and that the federal government has a fiduciary responsibility to them.

[*Translation*]

The congress launched that lawsuit, funded it at each stage of the proceedings and provided support at every stage of the legal process. I am very proud to have announced on April 14, 2016, that we finally won.

[*English*]

It took the Daniels decision, accorded by the Supreme Court of Canada, to end the judicial limbo of Métis and non-status Indians stuck in the passing of the buck between the provinces and the federal government, as to who we should deal with and who has fiduciary responsibility. The road to reconciliation with indigenous peoples, on whose behalf CAP advocates, could not have happened until the Daniels case was addressed.

Regarding Daniels, Supreme Court of Canada Justice Rosalie Abella stated that "as the curtain opens wider and wider on the history of Canada's relationship with its Indigenous peoples, inequities are increasingly revealed and remedies urgently sought."

An opportunity for such remedies lies in the distinct possibilities for the federal government and the congress to come together on their progressive reconciliation, in the form of engagement and consultation on all issues affecting our people. This most certainly includes stage one action on Descheneaux v. Canada.

As part of the proposed legislative amendments to address residual sex-based inequities in Indian registration, some individuals who identify as Métis and non-status will become eligible for Indian status. I would like to clearly state that the Métis nation, as expressed by the Métis National Council, does not speak for all Métis. However, the congress respects the fact that they are a Métis nation as defined by themselves. I respectfully submit that we, as an indigenous people who are part of the Congress of Aboriginal Peoples, have for 45 years embraced the rights articulated in article 33 of the United Nations Declaration on the Rights of Indigenous Peoples, or UNDRIP, which states that:

Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions....

Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Under article 4 of UNDRIP:

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs....

Under article 18 of UNDRIP:

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

I quote these articles because they carry a direct impact on CAP's constituency. We have a multitude of different indigenous peoples from different nations who live off reserve in communities.

In terms of Bill S-3, as I previously stated, I am pleased that the government decided to withdraw its appeal in the Descheneaux case and that it has undertaken this process to address the gender inequalities that continue to exist in the Indian Act, even after the enactment of Bill C-31 and Bill C-3. Bill S-3 will give Indian status to those who should have had status all along, and will see those born after 1951 become status Indians. However, the Superior Court of Quebec was clear that amendments should not be focused solely on the facts in Descheneaux.

With that said, I do not see why the government stopped at 1951 and did not go back further. For example, Bill C-31 went all the way back to the 1860s. Why is Bill S-3 different? There could, and almost likely will be, individuals falling through the cracks due to the gap between the 1860s and 1951 not being addressed.

I acknowledge that these issues may be addressed in stage two, but that does not immediately help the person who may be entitled to Indian status and the benefits that come with being a status Indian, such as the non-insured health benefits, NIHB, and post-secondary education.

● (1640)

[Translation]

These are issues that remain very important to CAP and to its mandate as the national organization that speaks for status Indians, non-status Indians who live off-reserve, Métis and southern Inuit.

[English]

I would like to thank you again for giving me the chance to speak with you today. *Meegwetch. Merci.* Thank you.

**The Chair:** Thank you very much, Monsieur Bertrand.

We'll move next to the Union of Ontario Indians. With us we have Jeannette Corbiere Lavell, citizenship commissioner with the Anishinabek Nation.

Welcome. I give you the floor for 10 minutes.

**Ms. Jeannette Corbiere Lavell (Citizenship Commissioner, Anishinabek Nation, Union of Ontario Indians):** *Meegwetch.*

[Witness speaks in Ojibwe]

I'm giving you greetings from my people, the Anishinabek Nation in Ontario. I am a member of the Wikwemikong unceded territory based on Manitoulin. I also shared my Anishinaabe name, which is Giiwedanang, which is North Star.

Having listened to the previous presentations, I am here to share with you the work that we have been doing within the Anishinabek Nation. It is what we are all talking about. It's called the Anishinabek Nation Citizenship Law or E-dbendaagzijig—"Those Who Belong." This is the appointment I was given by the Grand

Chief of Anishinabek Nation many years ago—well, not that long ago: in 2007, actually.

Just listening to everyone and looking around the table, I was thinking it might be good to take a few steps back and take some time to share with you my own personal experience with the Indian Act. It might have some relevance and bearing on what we're going through right now.

This is my status card. It says: "Jeannette Corbiere Lavell". For 15 years, I didn't have it.

By the way, this one expired too. The irony is how can a citizen or a status member expire? But that's what happens.

In 1970, I married David Lavell, who is non-Indian—and as I pointed out, I was a member of the Wikwemikong unceded reserve—and then my rights as a member of my community were automatically taken away. I received a cheque in the mail for \$35, which said that's it; you're no longer a member.

It was really hard-hitting for me, because I grew up there; my family is there; and that was my whole life—even though I did travel to Toronto, where I met my husband, but that was for work.

What I want to share with you is that changes and revisions of the Indian Act have been ongoing. Prior to that, it was revised so that our people could imbibe liquor. In 1970, when I looked at the Indian Act and the impact it was having on me, when I had no choice in the decision, it gave me that challenge. I took it all the way to the Supreme Court of Canada. That's the Lavell case, from which Bill C-31 was the result, many years later.

In 1970, we approached the chiefs—at the time it was the National Indian Brotherhood, and now it's the Assembly of First Nations—but no one really wanted to tackle this discrimination within the Indian Act, because of course it only affected indigenous women or Indian women with status.

We're still dealing with this. Here we are, 46 years later, with the same problem, so it has been ongoing. Nonetheless, this is the task you have been given as members of this committee. I understand the timeline; however, realizing the hardships that have taken place among many of our people in our communities, I say that decisions have to be made and change must be made. It is not relevant in this day and age to continue to have this kind of discrimination, especially against our women, within the laws of Canada. It must be changed.

I would like to see whatever we can do as members within our Anishinabek Nation to assist in bringing about this change.

● (1645)

Just to also relate, in 1973, we lost by one vote, so there wasn't any change for me and, as I've said, I didn't have my Indian status for 15 years. However, I guess the biggest impact was that legally I would not have been able to even visit my family or reside with my parents, my aunts, and my community, and this is also who I am. I have my language; I grew up there. We have our own spirituality.

When we say that Indian status is only getting access to health benefits, that's not true. To us, this is who we are as a people, that recognition. No matter where you go, you can say, "I am a member of my community, I am Anishinabek". For me, I'm an anishinaabekwe, which is an Indian woman.

When we dealt with it in 1972-73, we didn't have any aboriginal women's organizations, but because of the determination of our women and the fact that no one was listening to us, we had to get that word out. So we formed our own provincial aboriginal women's organizations in 1973, and here they are. They just left. I am a member of the Native Women's Association of Canada as well through our provincial group.

I guess what I'm really trying to say is that there have been changes, and they have been good. They haven't been perfect, and here we are. Then Sharon McIvor worked on behalf of her grandchildren. That went through the B.C. Supreme Court and, as you well know, then we had Bill C-3. So we have Bill C-31, Bill C-3, and now we have the next step. So it's ongoing, and it won't be resolved because there will be other aspects coming out.

I hear what you're saying, that the Indian Act is not the best. However, it is the only protection that many of our people recognize, the only protection that we have. Unless we can be assured that we will have something that is strong, and that we will be a part of it, and we will have a say in the development of a governance structure, our own constitutions, and our own citizenship act, it just can't be done away with. It may take a little while longer, but as members of the Anishinabek nation in Ontario—there are 40 first nations who are members—we have started on that process.

I don't know how much time I have.

• (1650)

**The Chair:** You have two minutes.

**Ms. Jeannette Corbiere Lavell:** I was asked, because I had this challenge and the passion to rectify this legislation and to remove the discrimination towards our women. As you probably heard, within our traditional culture, we were not one step behind or looked down upon. We had the same recognition. We had our roles, and we had our rights. The women in our communities were very strong. That was the balance and harmony.

When the Anishinabek Nation asked me to be the commissioner on citizenship, I did community consultations within the 43 first nations, and I drafted our own. I heard many heartbreaking stories from our people. We heard about divisions and families torn apart.

I have a draft, and it's called "E-dbendaagzijig: Those Who Belong, Anishinabek Nation Citizenship Act".

It's here, and I've asked for copies. I want to stress one thing, and I will take my last minute to read this to you. This is from our people.

We have decided that we will recognize the following members as members or citizens, e-dbendaagzijig, within in the Anishinabek Nation.

Every citizen of an Anishinabek First Nation is an Anishinabek Nation citizen. A person is entitled to be an Anishinabek Nation citizen provided that the person can trace their ancestry, their

descendancy through at least one parent to the original people of the Anishinabek First Nation, or they have at least one parent who is a member currently registered with an Anishinabek First Nation, or the person can trace descendancy through at least one parent to a status Indian who is registered or entitled to be registered with the Anishinabek First Nation.

There was a fourth one that was added recently by a first nation resolution: These people will be members and recognized according to our Anishinabek citizenship act.

There is one last thing. As you know, the Indian Act wasn't decided on by us. There is another aspect, and I'm sure there will be another court challenge. It has to do with the treaty rights. Treaty rights haven't even been looked at, but there is something coming up. My mother had her treaty rights, but when she married my dad, who was non-treaty, it was decided by someone, somewhere that she also lost her treaty rights. It's much like marriage, but someone decided somewhere. No one knows. I asked a lawyer in the justice department. He said it's not written anywhere. It's arbitrarily decided. That's another aspect that will need to be rectified.

*Meegwetch.* Thank you for listening.

**The Chair:** Thank you very much to all of you for your testimony. We'll move now into questions.

This is a round of seven-minute questions.

The first question is from Mike Bossio.

Go ahead, please.

• (1655)

**Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.):** Thank you so much for being here.

Jeannette, I doubt you'll remember, but we met in 2014. You were at the Mohawks of the Bay of Quinte for the restorative justice, for the Native Women's Association.

**Ms. Jeannette Corbiere Lavell:** That's right.

**Mr. Mike Bossio:** It was at a symposium I happened to be in. I heard your full story. Your daughter was with you at the time, I believe. The book I'm writing in right now we received that day, funnily enough.

**Ms. Jeannette Corbiere Lavell:** Oh, that's good.

**Mr. Mike Bossio:** Your story was beautifully told that day. It was touching, and it was my first real introduction to that history of indigenous women, and the injustice that occurred and that is still occurring.

This is such a complex issue, as has been raised by many different people. I know some people are saying we should go back to the courts and we should ask for an extension because we need more time to study this. I don't think anybody disagrees that we need more time. We absolutely need more time. But right now we have an opportunity to add that status for up to 35,000 people. Through an extension for more time, we all recognize, as Chief Bellegarde said, that we're putting a band-aid on a large cut, and I don't think anybody would deny that. But that has been, and continues to be, a generational evolutionary change.

I say we have an opportunity to add 35,000, or we can fix it and we can add hundreds of thousands, but how long is that going to take? It's not just getting it through the courts to get that recognized, or getting it through consent and negotiation to get it recognized, but also even just to prepare for that outcome as well. Right now in my community, it takes two years for a Mohawk to get a status. How long is it going to take if today we add hundreds of thousands to that number, let alone health, housing, and land, as Chief Bellegarde pointed out? Land is a huge issue. I know in my community, the Mohawks of the Bay of Quinte—you were there—it's a small piece of land to add a lot more people to.

I would ask you for your opinion. Do we need to make this a multi-staged process so that we can get it right, we can finally get it dealt with, and hopefully we can finally deal with the Indian Act once and for all? That is going to, in my view, take time. I'd like to hear from both of you on your opinions.

**Ms. Jeannette Corbiere Lavell:** Having listened to the previous presenters, I think it would be best for the people within our communities if we could make the change now or in February, and bring that recognition to those people. To me that would be good. In 1985, when we were reinstated, it was major. You just felt it. And my children were getting their status. It made a big difference. It will have a tremendous impact on those 35,000 members who may be affected as part of that. It will boost them, their sense of identity, their recognition of their family, and their history. All of that is really important. If we're striving for nationhood, then nationhood definitely has to have land, has to have people. If we continue the way we are with the Indian Act—and that was pointed out.... There's a reserve right now in Ontario, called Scugog. In 2013 it had its last status Indian. What's going to happen to that community?

Changes do have to be made. That's what we were talking about within our Anishinabek Nation citizenship law: we want to recognize all those members who can trace their descendancy. The Grand Chief, and all the chiefs within our nation, have agreed. The only way we can continue to be a strong nation is by being able to go forward, by maintaining our language, and by having our history and our spirituality. All that is key. If we're going to be recognized on a nation-to-nation basis when dealing with the government, we have to have that strong basis, and that's what we're striving for.

Grand Chief Pat has recognized that your deadline is February. However, we will continue to work with the government because we've already started it. We have that knowledge, that expertise. We can contact our communities and bring the elders in. They still have that history, and they'll be able to tell us that this is what happened in those times when those treaties were signed. That's all really important. I don't think I can speak on behalf of our Grand Chief Pat

Madahbee, but I think you should do it in February, and it will make a positive change.

● (1700)

**Mr. Mike Bossio:** Go ahead, Robert, if you'd like to add to that.

**Chief Robert Bertrand:** I have the same thought as my friend here. I think we should go ahead. There will be people who fall through the cracks, but let's hope that in phase two this will be looked at and remedied. This has lasted so long. Let's get as many people as possible on board now, with corrections coming forward after February 2017.

**The Chair:** Thanks. We are out of time on that one.

The next question is from Arnold Viersen.

Go ahead, please.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Mr. Chair.

My question is for Ms. Corbiere Lavell. Just a minute ago, you said that the Indian Act is your only protection. What did you mean by that?

**Ms. Jeannette Corbiere Lavell:** This is the only piece of legislation that has been determining who we are. For a while, we weren't persons, but I guess that particular section was changed. It's the only protection we have in terms of protecting our land, the little bit of land that we have left. If we didn't have the Indian Act, if we went to some of those other proposals such as fee simple, then even that might not be protecting our lands anymore, and we would see our territories and our reserves diminish.

Our people, the elders especially, don't like what the Indian Act did to them, how they couldn't leave the reserve or sell their produce. All those inequities were there, but we are looking forward to working together to make it better. It won't be perfect, but little by little....

We have, under Bill C-31, brought many more of our people back to our communities and to feeling that sense of pride and identity. The Indian Act will probably have to be done away with eventually, but when that time comes, hopefully we will have our own constitution, our own governance, and we'll be able to provide that kind of leadership to our people.

**Mr. Arnold Viersen:** I see here that you are the citizenship commissioner for the Anishinabek Nation. I learned yesterday that there are section 10 and section 11 first nations, depending on how you fall in. Which one is Anishinabek Nation?

**Ms. Jeannette Corbiere Lavell:** I don't think I understand what you are asking me.

**Mr. Arnold Viersen:** It looks like you are building your code right now.

**Ms. Jeannette Corbiere Lavell:** Yes. We are working on it.

**Mr. Arnold Viersen:** Do you have members who are part of your nation but who are not status?

**Ms. Jeannette Corbiere Lavell:** Yes.

**Mr. Arnold Viersen:** So they are bona fide by your nation but not by the Indian Act.

**Ms. Jeannette Corbiere Lavell:** Yes, exactly, that's what I said. We recognize that if you can trace your descendancy through one parent, on either side, then you are entitled to be registered as a member of the Anishinabek Nation, or *E-dbendaagzijing*, those who belong.

• (1705)

**Mr. Arnold Viersen:** Would you be appreciative if those whom your band recognizes as members of your band got status through that process as well? Is that something you'd be interested in? Is that something you are working towards?

**Ms. Jeannette Corbiere Lavell:** Exactly. That's what we are aspiring to, because right now we are losing so many more of our members under the current system. This is one way of ensuring that we don't lose any more of our people. We cannot afford to lose any more of our members.

**Mr. Arnold Viersen:** You would be appreciative if, when you grant somebody membership to your band, the status would automatically come with that.

**Ms. Jeannette Corbiere Lavell:** If that's what we are going to be working towards, it would have to be.

**Mr. Arnold Viersen:** Is that what you are working towards?

**Ms. Jeannette Corbiere Lavell:** Yes, because we will have our own registrar. We'll have our own body of governance and leadership to determine all that. It has all been drafted already. I didn't have time to really get into it.

**Mr. Arnold Viersen:** You mentioned a band that has no more status members as of 2013.

**Ms. Jeannette Corbiere Lavell:** That's under the current Indian Act.

**Mr. Arnold Viersen:** Do they have a band and council then?

**Ms. Jeannette Corbiere Lavell:** Yes, they do.

**Mr. Arnold Viersen:** They do?

**Ms. Jeannette Corbiere Lavell:** I believe that because so many of their people had lost their Indian status over the years, it dwindled to the point where we have to continue to ensure that the grandchildren, or maybe even the great-grandchildren, of those original members are not lost. Bill C-31 made a slight change

I think that is what those other bills and Bill S-3 are going to do.

**Mr. Arnold Viersen:** So there's still a reserve there, and there's still a band and council that are operating it.

**Ms. Jeannette Corbiere Lavell:** Yes.

**Mr. Arnold Viersen:** Have any interesting conundrums come out of that or has it continued to function fairly normally?

**Ms. Jeannette Corbiere Lavell:** It's still functioning right now, because it just happened.

They did a study, and that was the outcome of the study. With their current membership and the way things were going, they said that was going to be the end of the members who could be registered as status Indians, unless changes were made.

This is why we came up with our *E-dbendaagzijing* citizenship act. If they could trace their descendancy, their ancestry, to one parent on

either side, they would be able to be recognized and be members of that community.

**Mr. Arnold Viersen:** The worry is that you would have a reserve with no people tied to it.

**Ms. Jeannette Corbiere Lavell:** That is the ultimate worry. I believe there are several.

On Manitoulin, there's a reserve. It's a small one. There are no members there, but it's still a reserve.

**Mr. Arnold Viersen:** No one lives on the reserve anymore?

**Ms. Jeannette Corbiere Lavell:** No.

**Mr. Arnold Viersen:** Okay. That's interesting.

I'll cede my time, Mr. Chair.

**The Chair:** Thank you.

The next questioner is Romeo Saganash.

Go ahead, please.

**Mr. Romeo Saganash:** Thank you, Mr. Chair.

I want to thank the panellists for their presentations.

I find it ironic that we wouldn't be able to get an extension to look further into this issue. The government certainly has no problem right now in not respecting the orders of the Canadian Human Rights Tribunal over first nations children.

This government has proposed a new relationship with indigenous peoples, based on the implementation of the UN Declaration on the Rights of Indigenous Peoples. I also heard the Prime Minister, not too long ago, almost a year ago, in Gatineau, promising to—and this is his word—“rescind” any legislation unilaterally imposed on indigenous peoples by previous governments. He did not say the “previous government”; he said “previous governments”.

When I heard that last year, my first thought was about the Indian Act. Naturally, of course, I think everybody thought about that.

[*Translation*]

I would like to put my question to Mr. Bertrand and Ms. Coté.

Do you think that the legislative proposal made by the Senate and the United Nations Declaration on the Rights of Indigenous Peoples are compatible? You quoted a few articles of the declaration, such as article 33, but we are also concerned with article 9 here.

• (1710)

**Chief Robert Bertrand:** Thank you for your question, Mr. Saganash.

It's very important. It is also very interesting. What is throwing a wrench into the work is the famous deadline of February 2017. The Congress of Aboriginal Peoples would certainly like more time. I think that everyone who spoke this afternoon said that they would like to have more time. Unfortunately, the Superior Court of Quebec imposed this date.

We discussed this at length and we came to the conclusion that we might be better off starting with this first step. We hope that the other questions will arise during the second phase. In fact, I am convinced that other topics will be added during the second phase.



Mr. Saganash, I would compare this to the situation of a person who is hungry and is looking at an apple tree. There are five or six apples that are ready to eat, but the others are not ripe. However, the fellow is hungry. Is he going to wait for all of the apples to be ripe before he eats them, or will he eat the five or six apples at the bottom of the tree? I am among those who would eat the apples at the bottom and wait for the others to ripen later.

[English]

**Ms. Jeannette Corbiere Lavell:** I would totally agree with you.

We had a workshop in September, in Sudbury, and it was agreed that we have done quite a bit of work already within our own governance structure. We just need to get to the next phase, which will be the implementation. This is where we will be looking at phase 2 to assist us in the next phase of implementation of our citizenship act.

We need to start because it will help certain people. Otherwise, who knows how long it's going to take.

**Mr. Romeo Saganash:** But my question was specific.

Are these proposed amendments to the Indian Act compatible or consistent with the United Nations Declaration on the Rights of Indigenous Peoples?

**Ms. Jeannette Corbiere Lavell:** Well, you would have to tell me if they are.

[Translation]

**Mr. Romeo Saganash:** What do you think of this, Mr. Bertrand?

[English]

**Chief Robert Bertrand:** Mr. Saganash, I will let Mr. Côté answer that one. He's a lawyer.

**Mr. Frankie Côté (Senior Manager, Engagement, Congress of Aboriginal Peoples):** The answer to your question is, plain and simple, no.

This is being imposed. As was previously stated by Robert and Jeannette, as well as by the witnesses who appeared earlier, there's a tight deadline, and this is being done because of that tight deadline.

I would only hope that the government commits to first enacting UNDRIP, but also to enacting it within a certain form that's consistent with Canadian law.

I would hope that they would take article 33 in this case, and use that as a guide when they're moving on to stage 2 of this phase, because indigenous people should be able to determine their own citizenship. We're in this problem with the Indian Act because it's been unilaterally imposed since 1876.

**Mr. Romeo Saganash:** I rest my case, Mr. Chair.

**The Chair:** Thank you very much for the question and answer.

The next question is from Don Rusnak.

Go ahead, please.

• (1715)

**Mr. Don Rusnak (Thunder Bay—Rainy River, Lib.):** I expire in 2020, and I don't need this piece of plastic to tell me who I am.

One of the questions I have is this. Who are these 35,000 people who are going to be able to get one of these? What are the benefits to them?

I'm one who looks at the long term, and where we should be going as nations. One of the things we're doing as the indigenous caucus of the Liberal government is looking at nation to nation, and what that will look like in the future. I was the executive director of Grand Council Treaty No. 3—it seems like forever ago—and we were developing our own laws. We had the natural resource law and a citizenship law, and it wasn't some other government or some act that told us who we were. We decided as a people, as a group, based on our cultures and traditions. In all honesty, I was learning because I grew up in the city of Thunder Bay. I grew up away from the culture and away from my people.

The other thing that strikes me while we're sitting here talking about citizenship or status is how ridiculous this conversation is. I was just talking to my colleague. Imagine someone from Norway right now watching us talk about other Canadian citizens governed by an act and fighting to be part of that and not being your own people. We have to move beyond the Indian Act, and I understand what you're saying. Mr. Viersen asked why we need those protections. The answer is because there's a certain class of people, and unfortunately there is a class of people who live in a lot of my first nation communities across my riding, who would suffer if the Indian Act were to disappear. I don't think a lot of Canadians understand that the dependency is so deep. The Indian Act did its job. It destroyed our people.

My first question is this. Who are the 35,000 people who would be helped by getting them under the Indian Act and getting them some of the benefits under the Indian Act? Can you answer that question, or should I be asking someone else that question?

**Ms. Jeannette Corbiere Lavell:** I don't feel comfortable answering that question simply because it's a Quebec case, and it's a first nation in Quebec. If I look at the Indian Act and the implications for the non-recognition of certain members of their family, I can see the impact that it would have. Maybe they're going through the same process whereby their communities are dwindling, and there's seen to be extinction of those communities. Maybe that's what they're concerned about, and this would be a way of alleviating that problem so that there will continue to be members within that Abenaki first nation. For whatever reason, they're not recognized right now.

Sharon McIvor did it for her grandchildren, and then this is the next step. I believe my son's grandchildren would be affected like that. We haven't reached that point yet because we were so happy to get onto the first level, and I didn't realize the implications.

My opinion is that we cannot afford to lose any more of our people. If we can assist and ensure that they have that right to be part of their community, to be strong within their ties to their people, to me that's all we would need to know. They can trace their ancestry to one parent, so that would fall within our Anishinabek Nation E-dbendaagzijing citizenship act. I can see that being applicable there. Maybe we should share it with them.

**Mr. Don Rusnak:** I have a similar history. My mother regained her status. Again I hate saying that means something, but it does in a weird way. It's horrible that it does, but it does because it reconnected the community.

I come from a community that was flooded out, and a lot of people dispersed. What kept the members together was that we of course had other first nation communities around the area. The history was originally that they got kicked out of Quetico Provincial Park, and they dispersed. Some kept ties, and some didn't. Bringing that community back and getting a lot of the people together to have status under the Indian Act helped a bit to get that community spirit going again. I understand that part.

• (1720)

**Ms. Jeannette Corbiere Lavell:** It's history, too. We have our own oral history, and that's part of that. That would just be verifying that.

**Mr. Don Rusnak:** If we're making these amendments to a horrible piece of legislation, I understand the argument for putting it off to get it right, but if we rush this through, are we going to be letting people slip through the cracks? At least we're getting some people connected before.... In the case of some communities it may be too late. The rest of it can come in a second phase, as long as this government is committed to that phase, which I believe it is.

**Chief Robert Bertrand:** If you'll permit me, I'd like to answer your first question.

**Mr. Don Rusnak:** Absolutely.

**The Chair:** Be brief, if you can, because we're almost out of time.

**Chief Robert Bertrand:** Okay.

I believe it was INAC that came up with the number 35,000. If it came up with that number, then I am convinced that it has the necessary information to find out everyone it applies to.

**The Chair:** Thank you.

**Mr. Don Rusnak:** Perhaps that's something the clerk can ask the department—whether it has the list to get the information.

**The Chair:** Okay, good.

We are going to our final question of the round. It's a five-minute question, and it goes to David Yurdiga.

You have a full five minutes.

**Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC):** Thank you, Chair.

I'd like to welcome you guys to our committee here.

I think Bill S-3 is a good start, but I think it could have been much better if the consulting process were much longer. Obviously, we do feel for anybody who is going to be falling through the cracks.

Earlier we heard from National Chief Bellegarde regarding land adjustments. Do you agree that you cannot just give a person status without a land adjustment?

Does anyone want to answer that?

**Ms. Jeannette Corbiere Lavell:** Well, it's obvious. If you have more people, then you will have to expand.

Some of our first nations have been doing that, and they're making arrangements with municipalities that are surrounding those first nations, so that the land would be acquired and be able to be used by the first nation.

Land is a key part of our teachings, with our connection to the land and also with the waters that go with the land. These are all key resources, and our people recognize the importance of them, so land would have to be part of that.

We would have to include that in the second phase of the consultations, I'm sure.

**Mr. David Yurdiga:** We were just looking at Bill S-3, and it is definitely going to bring more people to reserves. A lot of people want to attach their land and use the resources.

My biggest concern is that if there is no money attached to this, it's going to put a strain on a lot of the budgets for you guys and for the schooling. Can the schools accommodate it? There are other programs that will also be put under pressure.

Do you think that as part of implementing Bill S-3 there should be money attached to it?

**Ms. Jeannette Corbiere Lavell:** In the best of worlds, there should be. There would have to be.

**Mr. David Yurdiga:** Go ahead.

**Chief Robert Bertrand:** Just coming back to the first part of your question, as you know, CAP represents off-reserve aboriginals.

I would ask Mr. Coté to answer the question you asked.

• (1725)

**Mr. Frankie Coté:** I just find it a little odd—and please don't take this as an insult or anything, because I don't mean any disrespect—coming from the Conservative side, considering that the Harper government appealed this decision from the onset, and the Liberal government is the one that withdrew the appeal.

That being said, let me finish that first part. For consultation, yes, it's guaranteed that there needs to be more consultation, but that's just in general on all aspects. The courts have been clear about consultation within the legislative body. In the legislative process, through Mikisew, they went to court and they won in dealing with the omnibus bill and the changes to CEAA.

Going to the second part of your question, yes, there needs to be more money injected into it. When Bill C-31 was enacted, there was some money, but definitely not enough. There was some housing money given, but definitely not enough to meet the demands that the communities faced. With Bill C-3 there was no money injected when it came into effect.

When these people returned to their communities and asked for programs and services, it was a huge strain on communities, so definitely more money is always welcome and needed.

**Mr. David Yurdiga:** Mr. Chair, I'd like to give the rest of my time to Cathy.

**Mrs. Cathy McLeod:** I want to note for the record that this decision came down during the election. Cabinet does not meet during that time. Caretaker provisions kick in to keep options open for a future government. I think that was an important piece for the record. This was during a writ period when there are caretaker provisions only and options remain open.

Thank you.

**The Chair:** Are we all done?

We are out of time on that question.

Do you have a short...?

**Chief Robert Bertrand:** Yes, Mr. Chair.

I would just like to leave the committee with one small bit of information. I mentioned it in my notes, but I want to make sure that everybody goes home with it.

Right now, 70% of aboriginal peoples live off reserve. CAP is the one that is out there helping them. I just want you to take that back

and, whenever you write your report, to make sure that is included. We find that sometimes we are set apart, and I think with all our constituencies that we represent, we should take a more active role, Mr. Chair. That's all I have to say.

Thank you so much for taking the time to listen to us.

**Ms. Jeannette Corbiere Lavell:** Can I make one comment about off reserve?

I totally agree, that we should not be concerned about our reserves being flooded by people returning. Of my three children, only one is living on the reserve. The other two are out within the broader Canadian society. There will be that give and take. I don't think it will be that big a problem.

**The Chair:** Thank you all for your testimony and your time today.

Thank you.

The meeting is adjourned.

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