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Ms. Marie-Claude Morin

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•(1105)

[English]

The Vice-Chair (Mrs. Tilly O'Neill Gordon (Miramichi, CPC)): Good morning, everyone.

We welcome Minister Rona Ambrose and Minister Bernard Valcourt this morning. We certainly appreciate your taking time to be with us. We know you are very busy people, so we feel very special that you're giving your time to be with us today.

You each have 10 minutes. Either of you may begin whenever you are ready.

[Translation]

Hon. Bernard Valcourt (Minister of Aboriginal Affairs and Northern Development): Thank you very much, Madam Chair.

Thank you for the opportunity to address the committee during its review of S-2, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves.

I am proud to be here today, with my colleague the Honourable Rona Ambrose, Minister for the Status of Women, to talk about the steps our government is taking to improve the rights of families living on reserves.

[English]

I will start by asking all of my parliamentary colleagues and Madam Chair to allow me to first express my consternation and incredulity at the arguments I have heard in opposition to Bill S-2.

If I may also characterize this opposition, what I have heard from the opposition party's spokesperson in the House at second reading was a dressing up of the bill with a lot of the concerns that we all share about the situation of too many first nations in this country. Whether it be housing, water, access to roads, access to electricity, access to legal services, or the health of first nation community members, the suicide rate on reserves, or access to education and employment opportunities, these are all concerns that we share, but they have been raised in the course of the debate as reason to object to the enactment of Bill S-2 as law in this country.

Why oppose a bill about family homes on reserves and matrimonial interests and the bill's remedial provisions because this legislation does not address other concerns? Bill S-2 is not about housing, it's not about water, it's not about access to roads or access to electricity, water, or to legal services, or the specific health problems that first nation members suffer from.

This bill is about the rights of married or common-law couples living on reserve in the event of breakup of their relationship, or at their death. It's about an equitable division of the family assets and, in the case of violent and abusive relationships, protecting the spouse, the child and the children, if any, by allowing the court to grant an individual spouse exclusive occupation right to the family home.

After you undress the bill of the concerns expressed, which the bill is not aimed at, and address it for what it really is, you end up with the pure, simple question of the equality of the status of couples and families on reserve in case of conjugal relationships breaking down so their treatment will be comparable to that of other Canadian couples not living on reserve.

Many Canadians are not aware, for example, that in the absence of legislation like Bill S-2, a spouse who holds the interest in an on-reserve family home can, on his or her own, sell that home without the consent of the other spouse and can keep all the money. Or, that spouse who holds the interest in the family home can bar the other spouse from their home on reserve, without regard to the welfare of the spouse and the child or children, if any. Or, in the event of domestic violence or abuse, a court in this country cannot order the right of exclusive occupation of the family home to the spouse who holds the interest in the on-reserve family home, even on a temporary basis.

•(1110)

These rights are available to all other Canadians not living on reserve, whether they are aboriginal people or not. It is simply unacceptable, I submit to you with respect, that in this day and age, people living on reserve are not afforded the same rights and protections as those living off reserve. Individuals living on reserve should not be penalized simply because of where they live.

Yet for more than 25 years, since the 1986 Supreme Court decisions in two particular cases, Paul v. Paul and Derrickson v. Derrickson, aboriginal women and children living on reserve have had no rights to matrimonial real property. For them, the breakdown of a relationship or the death of a spouse or common-law partner can mean insecurity, financial difficulties, or homelessness.

[Translation]

When the members of the Standing Senate Committee on Human Rights studied Bill S-2, they heard first-hand from courageous individuals who came forward to tell their stories about how they have personally suffered the consequences of the lack of legislation governing matrimonial real property on reserves.

Bill S-2 responds to calls for action not only from aboriginal women, but also from international organizations and parliamentary committees. Even Manitoba's NDP government understands the urgency of the situation. At the Legislative Assembly of Manitoba's request, the assembly's clerk informed me that they had unanimously adopted a motion urging Canada's government and Parliament to pass Bill S-2.

The bill—which I heard in the House—is neither paternalistic nor dictating to first nations. However, I submit that not passing it would be.

Under the proposed legislation, first nations can either choose to enact their own laws related to matrimonial real property rights and interests—laws designed to meet their particular needs and respect their particular customs and culture—or choose to follow federal rules.

By empowering first nations to develop their own laws in this area, Bill S-2 respects the diversity among first nations. They can adopt community-specific laws that may offer different and effective means—from the first nations' perspective—of addressing matrimonial real property issues on their respective reserve lands.

The proposed legislation would also ensure that, until such a time as a first nation is able to create its own laws, federal rules would provide families with the rights and protections they seek and deserve, just like all non-aboriginal citizens and aboriginals living off-reserve.

As a result, all men, women and children living on reserves will have equal rights related to the occupancy, transfer or sale of the family home that were not previously guaranteed to first nation members living on reserves.

• (1115)

[English]

More importantly, in situations of family violence, a spouse could now apply, with the benefit of this act, for an emergency order to stay in the family home at the exclusion of the other spouse, for a period of up to 90 days, with the possibility of extension. These provisions will allow victimized spouses or common-law partners in abusive relationships to ask for exclusive occupation of the family home for a specified period of time, providing victims and their dependants with a place to stay.

We have committed, as you all know, to the creation of an arm's length centre of excellence for matrimonial real property, which will assist first nations in the development of their own on-reserve matrimonial real property laws or in the application of the federal provisional rules.

Madam Chair, our government has undertaken an extensive two-year consultation process that included over 100 meetings at 76 sites across Canada. We have had ample opportunity to review, discuss, and debate the bill since it was introduced in 2008.

Time is flying, so I will allow my colleague Minister Ambrose to get in her 10 minutes also.

Thank you.

Hon. Rona Ambrose (Minister for Status of Women): Thank you, Madam Chair.

Thank you to the committee for your work on this matter and the opportunity to participate in the committee's review of Bill S-2.

As Minister for Status of Women, I feel strongly that this legislation will provide options to women and children living on reserve who are experiencing family violence. Wives, spouses, or common-law partners who are living on reserve face the reality that in the event of separation, divorce, or death, the law currently does not protect their matrimonial real property interests or rights.

As Minister Valcourt indicated, it's been over 25 years since the Supreme Court of Canada identified this shocking legal gap. This is now our government's fourth attempt to pass this legislation.

Our government is committed to ending violence against women and girls in communities across Canada, and this legislation is part of that process. We are taking action to protect those who are most vulnerable in Canadian society—women in immigrant communities, women living in poverty, and aboriginal women and girls—through essential women's projects, but also through legislation like Bill S-2.

Bill S-2, which you know as the family homes on reserves and matrimonial interests or rights act, will guarantee the matrimonial real property rights and interests of women who live on reserve, and will protect spouses from violent domestic situations.

Most Canadians do not know that aboriginal women on reserve do not share the same basic right to property as women who live off reserve. This legal gap has led to the suffering of countless aboriginal women. Their suffering makes it clear why we need this bill to be passed by Parliament this spring. These women have waited long enough. I urge all parties to vote in favour of this bill.

Statistics show that aboriginal women are almost three times more likely than non-aboriginal women to report being a victim of a violent crime, including spousal violence. In 2009, close to two-thirds of aboriginal female victims were aged 15 to 34. This age group accounted for just under half of the total female aboriginal population over the age of 15 who were living in 10 provinces. Among victims of spousal violence, 6 in 10 aboriginal women reported being injured. For comparison, the proportion was 4 in 10 among non-aboriginal women.

According to Statistics Canada's *Women in Canada* report published in 2009, 15% of all aboriginal women who were married or in a common-law relationship had experienced spousal violence in the previous five years. In the same report, the rate among non-aboriginal women was 6%.

Our government has taken several actions to eliminate violence against women and girls. Since 2007, we've invested over \$11 million in funding for projects specifically to end violence against aboriginal women and girls, and \$19 million in the same timeframe on projects to empower and protect aboriginal women and girls.

Our government proposes to close this rights gap in the matrimonial property rights law, once and for all, with the passing of this act. This legislation is about eliminating an injustice by giving on-reserve women, including the victims of violence, access to the options that are available to other Canadian women.

I'm particularly pleased, and I know all of you would be interested, that this bill will provide emergency protection orders to aboriginal women and children who are abused. Emergency protection orders save lives. They are recognized by child and family justice advocates as one of the most significant means for preventing family violence.

Sadly, as I mentioned, we know that aboriginal women are more likely to experience spousal violence when compared to non-aboriginal women. Aboriginal women on reserve who are not able to stay in the family home are forced to flee the reserve with their children, sometimes with nothing more than the clothes on their back.

As it stands today, a woman living on a reserve who is a victim of violence has no legal protection other than pressing criminal charges. There is no mechanism to allow a parent and children exclusive access to a family home. Again, I repeat, emergency protection orders save lives.

In the case of domestic violence and physical abuse, a court cannot order the spouse who holds the interest in the reserve home, which is usually the male partner, to leave the home, even on a temporary basis. When a woman and her children are evicted from a family home on reserve, no judge currently has the power to intervene.

Extending the same rights that women off reserve have to aboriginal women living on reserve will address this dire situation. For women in the rest of Canada who are not living in this situation, when faced with family violence, the situation is much different.

● (1120)

When emergency protection orders are enforced, as you know very well, abusers can be removed, allowing the women and children to find safety in the comfort of their own family home. If aboriginal women are granted the ability to remain in the family home on reserve, they can escape situations of domestic violence while continuing to care for their children and maintaining vital access to the support of their community. Again, importantly, emergency protection orders save lives.

In addition to the protections provided by these orders, Bill S-2 also provides for the granting of temporary exclusive occupation of the family home. This protection is twofold. First, in situations of family violence, women can be granted temporary exclusive occupation of the home for a period of time extending past the emergency occupation. Second, in the case of the death of a spouse or common law partner, the surviving spouse is allowed to stay in the home for 180 days. During that time the surviving spouse may apply for exclusive occupation of the family home for a period of time to be determined by the courts.

There has been a need for this bill for a quarter of a century. Our government has brought this issue before Parliament four times now, debating this issue in both chambers and in committee now for over

50 hours. This includes more than 15 hours of debate on this particular bill alone. Yet, after spending \$8 million on 103 consultation sessions, as Minister Valcourt spoke to, in 76 different communities across Canada, and after countless reports and studies going back a quarter of a century, the opposition is proposing more talk. But we say it is time to move forward.

We say it is time that aboriginal women living on reserve share the same rights as all other Canadian women, and this committee has the power to do exactly that. Members of this committee in particular have first-hand knowledge of the nature and extent of the problem, having recently studied the issue of violence against aboriginal women. You have heard the stories from aboriginal women and are aware of the factors that contribute to violence in their lives. This committee has a special understanding of what is at stake here.

As the Minister for Status of Women, I sought to address violence against aboriginal women by supporting many projects that address violence in a comprehensive manner and building economic security and developing the leadership skills that prepare women to successfully escape violent domestic situations.

As I mentioned earlier, since 2007, through the women's program, we have provided funding of more than \$90 million in support of projects that help to empower and protect aboriginal women and girls. For instance, in the Yukon, the Liard Aboriginal Women's Society is helping aboriginal women transition to violence-free lives by building relationships between aboriginal women, law enforcement officials, and local service providers. These often-neglected relationships between aboriginal women and service providers can make the difference between service providers or law enforcement officers overlooking or recognizing a violent domestic situation.

Similar work is also being done to prepare law enforcement officers at the community level through the development of protocols, law enforcement orientation documents, and community safety action plans.

Our government is also supporting women who have been victims of violence through projects like that of the Creating Hope Society in Alberta. Their projects specifically support first nations women and girls living on reserves within the Edmonton city limits who have experienced violence by engaging first nations groups, service providers, and women and girls themselves.

Actions taken by this government to end violence against women and girls include increasing funding to the women's program to its highest level in Canadian history, funding over 600 projects now in Canada since 2007, and launching a comprehensive national action plan to combat human trafficking to ensure the safety and security of women and girls across Canada who are being targeted for sexual exploitation by violent traffickers. We've also developed a five-year national strategy aimed at enhancing the response of law enforcement and the justice system to cases of missing and murdered aboriginal women and girls by supporting culturally appropriate victim services and, of course, Bill S-2, which will give aboriginal women equal rights and access to their matrimonial property rights and emergency protection orders in cases of domestic violence.

In conclusion, Madam Chair, let me reiterate that this legislation is about eliminating an injustice. It's about closing a legal gap that creates inequality and leaves aboriginal women vulnerable. It's about ensuring that all Canadians, whether they live on or off reserve, have similar protections and rights when it comes to family homes, matrimonial interests, safety, and security.

In the course of your committee's deliberations on this bill I urge members to consider the previous testimony—of which there has been quite a bit by aboriginal women and leaders across Canada—of Betty Ann Lavallée, in particular, national chief of the Congress of Aboriginal Peoples. She said about Bill S-2:

The bill is addressing the real human issue of an Aboriginal person, sometimes often taken for granted by other Canadians. A spouse within an Aboriginal relationship should not be denied or put out on the street alone and without any recourse because of a family or marital breakdown.

• (1125)

I agree completely with her statement. Her words are informed by her knowledge of the often-harsh realities of day-to-day life faced by many female residents of first nation communities.

At the end of the day, Bill S-2 is about taking action also. It's been over 25 years since the Supreme Court of Canada identified this legal gap, and our government is closing this gap with this bill. Bill S-2 proposes an effective solution to this injustice and we hope that members on all sides of the House will support this initiative moving forward.

Thank you, Madam Chair.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Thank you for your great presentation.

We'll begin our rounds of questioning, beginning with Ms. Truppe for seven minutes.

Mrs. Susan Truppe (London North Centre, CPC): Thank you, Madam Chair, and thank you, Ministers Valcourt and Ambrose, for being with us today to discuss this important issue.

The issue of the lack of matrimonial property rights on reserve has been raised a number of times in the last 25 years, and we've seen four independent reports and three parliamentary committee studies on this topic, all of which called for legislation to fill this legal gap.

Minister Valcourt, could you explain the gap between the current provincial and territorial legislation and the current situation on reserve with regard to matrimonial property rights.

Hon. Bernard Valcourt: As was alluded to earlier, since the Supreme Court of Canada rendered those decisions 25 years ago, the impact and the effect of those decisions was that the court made it clear that the provincial and territorial matrimonial property laws that aboriginal spouses living on reserve had attempted to use in the past, and had benefited from on occasion, did not apply to aboriginal people living on reserve. So first nation communities that are reserves under the Indian Act do not get the benefit, and that's the gap that Bill S-2 is trying to fill.

This government has been at it now for a number of years, and we believe it's time that the gap be filled.

• (1130)

Mrs. Susan Truppe: Thank you.

I can't believe that the Supreme Court did that to aboriginal women. What will the legislation do?

Hon. Bernard Valcourt: The Supreme Court is bound by the law of the land and the Constitution is clear as to the allocation of powers between the federal and provincial governments.

In terms of what this legislation does, and it is important that the committee consider this, there are two sides to it. The first is that there are provisional rules that will apply throughout first nation communities, but they are provisional until the first nation itself adopts its own laws, which they can. The reality of first nations in Canada is that they are different; they have different cultures and different customs. Now with this bill those who choose to do so will be able to draft and pass their own laws, which will be endorsed and approved by the community, and then be applicable on reserve.

This is why I said earlier that this is not at all paternalistic. This is giving the first nation communities the powers to adopt laws that will deal with the very issue at the heart of Bill S-2. For those who don't, then the federal rules will apply. We know that this will not happen overnight. That's why we have this one-year period from the day the bill receives royal assent. For one year nothing will happen. The first nations who want to adopt their own laws during that year will be able to do so. They will come into force one year after royal assent, just like the provisional federal rules will. At that time, either the federal law applies or the local community law applies.

I think it's a practical approach to a difficult problem in terms of implementation. What you also have to know is that the centre of excellence, which will be set up after royal assent is given to the bill, will help first nations in developing these laws for their own communities.

Mrs. Susan Truppe: Thank you.

Legislation on the topic of matrimonial property rights on reserve has been introduced into the House and Senate four times in its various forms, and has been debated for over 40 hours in the House of Commons, Senate, and at committee. A total of 103 consultations were held across the country in 76 different locations over the period of the drafting of this legislation. I was hoping you could speak to the pressing need for this legislation and the importance of resolving the issue as soon as possible.

Hon. Bernard Valcourt: Let me put it succinctly here. Every day that passes is one more day that women and children living on reserve do not have access to the same protections offered those living off reserve. We should not have second-class citizens in this country.

Mrs. Susan Truppe: Thank you, Mr. Valcourt.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Okay. We'll move to Niki Ashton for seven minutes.

Ms. Niki Ashton (Churchill, NDP): Thank you, Ministers, for joining us today.

We recognize there is a legislative gap that is important to address—no question about that. But we have real problems with the lack of consultation, the lack of respect for first nations jurisdiction. We've worked closely with the Native Women's Association of Canada and the Assembly of First Nations, who have expressed real concern about this piece of legislation, and of course with first nations across the country, who also oppose this legislation.

To both Minister Valcourt and Minister Ambrose, did you consult with all first nations across Canada around Bill S-2?

Hon. Rona Ambrose: I'll speak quickly to some of the issues around addressing violence against women, then I'll let Minister Valcourt speak to the actual consultation.

Ms. Niki Ashton: I'm more interested in the consultation, actually. That's the piece—

•(1135)

Hon. Rona Ambrose: Okay, but there is one thing I would like to share with you. Michèle Audette, who is now the president of the Native Women's Association of Canada, was one of the witnesses. During her testimony she said: ...we are giving this bill a favourable reception because it will put an end to the legal vacuum. It will protect women with regard to family and spousal violence.

For this committee, I think this is a really important issue.

When Minister Valcourt and I talk about the access to emergency protection orders and access to exclusive rights to the home, as I said, family justice advocates say that emergency protection orders—and we all know this, as women who care about ending family violence—save lives. These orders are one of the most significant tools that we can use to prevent family violence.

So I'll end there and allow—

Ms. Niki Ashton: Yes, and again on the consultation, because that's the point I didn't hear—

Hon. Bernard Valcourt: On the consultation issue, maybe you will remember that it was this government that initiated a four-phase comprehensive consultation process starting in 2006 and ending in October 2007. The national consultation phase took place from September 29, 2006, to January 31, 2007, and that's the one that included 103 sessions in 76 sites.

Over \$8 million was spent on the process conducted by the Native Women's Association of Canada, by the Assembly of First Nations, and by Aboriginal Affairs and Northern Development Canada, so it was not a consultation done only by the department. The Native Women's Association of Canada and the Assembly of First Nations each received \$2.7 million for their participation in the consultations.

Ms. Niki Ashton: Mr. Minister, with all due respect, I appreciate the figures and the timelines, but the question here is that there are over 600 first nations in Canada. Did the Department of Aboriginal Affairs and Northern Development, and you as the minister or your predecessors, consult with every single one of these first nations? Yes or no.

Hon. Rona Ambrose: Did we consult with every woman before giving them the right to vote? Seriously! Is this a question? Do you think we should continue to consult on equality of rights for women and access to emergency protection orders? Do you want to continue to consult? We've consulted for 25 years.

Ms. Niki Ashton: I don't think the questions are supposed to be directed to me. I think this is our opportunity to ask you the questions. And my question is very simple and around respect for first nations' jurisdiction.

First nation women have treaty and aboriginal rights and those rights need to be respected. This government—your government—signed on to the UN Declaration on the Rights of Indigenous Peoples, and in that declaration there is a duty to consult. We find it egregious that that proper consultation hasn't taken place.

Let me move on to another topic, because I understand, Ms. Ambrose, that the issue of violence against women is something that you've expressed real interest in. My question, perhaps to both ministers, is that if your government is interested in violence against aboriginal women, why not listen to the families of missing and murdered aboriginal women and call a national inquiry into missing and murdered aboriginal women?

Hon. Bernard Valcourt: On the issue of consultation—and you come from this very province—maybe you should listen to your father.

They told us clearly—

Ms. Niki Ashton: Excuse me, Mr. Minister.

Madam Chair?

Hon. Bernard Valcourt: The Legislative Assembly of Manitoba exhorted us to pass Bill S-2. If there is a province where there is an important aboriginal community experiencing serious issues and problems, it is Manitoba among others. You talk about consultation.

Ms. Niki Ashton: Mr. Minister, I feel offended by the comment you made.

Hon. Bernard Valcourt: The duty to consult—

Ms. Niki Ashton: Madam Chair, I have a point of order. If we're talking about paternalism, it takes many forms. Asking me whom I talk to or don't talk to from my family is not part of what we're talking about in this committee.

An hon. member: I have a point of clarification, Madam Chair.

Ms. Niki Ashton: I would ask witnesses to show me the same respect I am showing them.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): That's not a point of order.

Ms. Joyce Bateman (Winnipeg South Centre, CPC): I think it's important to clarify that it was not a paternalistic comment. The individual who has been referred to is a member of the Government of Manitoba who has sought the support of the federal government in this issue.

• (1140)

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Okay, we'll carry on with the minister.

Hon. Bernard Valcourt: Listen, I want to be clear. I did not want to sound paternalistic. If I have offended the member, I sincerely apologize.

My point is simply that we have been exhorted by the Province of Manitoba and by others across Canada to give spouses on reserves the same rights that other Canadians enjoy. As you acknowledged in your introductory question, this has gone on, this gap, for 25 years. I wonder why we want to wait any more. You know better than I do that the inherent right to self-government is not the answer to filling the gap. Right now the constitutional provisions we have, as well as the Indian Act we have all inherited, make it impossible for first nations, unless they are under the land management system, to pass these laws. This is about trying to fill a gap in the most reasonable way and to give couples on reserves the same rights that you and I enjoy.

Ms. Niki Ashton: Minister, for us this is an issue that your government has chosen to play politics with. We believe that proper consultation with first nations needs to take place. We also believe that there need to be measures to remedy this situation. We need a national inquiry into missing and murdered aboriginal women. We need to address the shocking lack of housing that leads to tensions amongst families, the extreme poverty that exists in communities, the lack of education funding, and the list goes on. That's the kind of action we'd like to see from this government.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Moving right along to the next questioner, we have Roxanne James.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Madam Chair.

Thank you to both Minister Ambrose and Minister Valcourt for being here today and speaking on Bill S-2. I know that both of you feel very strongly about this particular piece of legislation, as I do.

This past weekend I spoke to my husband about this very bill. I spoke about the current situation facing aboriginal women on reserves and what this legislation will mean to every one of those women.

Minister Valcourt, I know that in your opening remarks, you talked about this day and age—and my husband said exactly the same thing. He looked at me as if I were speaking a foreign language. He could not believe that in this day and age, in Canada, aboriginal women on reserves do not have the same interest and access to matrimonial property as does every person in this room today. He was shocked. I have to be honest, and I apologize for getting emotional, but as a member of the Standing Committee on the Status of Women, this is a priority. We have to pass this legislation

Minister Ambrose, I know that one of the things you said in your opening remarks is that you considered the most important aspect of this bill to be the access to emergency protection orders and temporary exclusive occupation orders. I agree with you on that. I think it's paramount. I think we need to protect women and we need to make it happen now—not in another year, not in another two years. We need to pass this legislation now.

I'll be honest with you, before I became a member of Parliament, before I read this bill, and before I understood the breadth of what this would mean to aboriginal women, I had no idea there was an issue of such inequality on reserves and this legislative gap. I was shocked. I think most Canadian listening to this committee today would be shocked and surprised to hear of this legislative gap. I think they're standing behind this government to make sure this legislation goes through.

Minister Ambrose, this question has to do with the protection of a violent spouse in one's own home, which is currently not extended to aboriginal women on reserves.

If someone were to break into one's home right now—hopefully not in my riding of Scarborough Centre or in any riding across this country—and became violent or abusive, the police would be called and that person would be removed. That's a given, and no one would question that.

When a spouse becomes violent and abusive, they should be the ones removed from the family home, not the victim of violence. Yet on reserves, the opposite is true today. I think Canadians need to understand that, and know this bill is going to protect those women. In cases where the need for protection is extended and where children are involved, having extended access to the family home is crucial.

Bill S-2, in addition to providing access to emergency protection orders, also allows the courts to take these factors into consideration and provide extended, exclusive occupation access to the family home. This is paramount. We need this legislation.

Minister Ambrose, could you speak in more detail to the need for emergency protection orders on reserves and the need for access to temporary exclusive occupation orders? I know you did in your opening remarks.

Thank you.

• (1145)

Hon. Rona Ambrose: Thank you for your comments.

I know I'm repeating myself, but emergency protection orders save lives. Anyone—any worker, front-line service provider at a shelter, or police officer—who works in any field related to violence against women will tell you that they are one of the most important tools for preventing family violence.

Of course, as you indicated, Canadian women have access to a number of legal protections right now that are not available to men and women living on reserve. As I said earlier, aboriginal women are three times more likely than other Canadian women to experience violent crime, including spousal violence.

The emergency protection orders that are provided in Bill S-2 are very important, because they extend these protections to women and children living on reserve.

Bill S-2 also gives first nations band councils the ability to create their own legislation—which I think is important, as Minister Valcourt said—related to matrimonial property rights and to enforce these orders on reserve. Should they not, then obviously the federal regulations would stand.

I wanted to go through a little bit of the process, because a lot of thought has gone into this. It has been 25 years. We've tried four times now to pass this legislation, and there has been a lot of consultation with first nations and with the Native Women's Association of Canada, as Minister Valcourt indicated.

When it comes to emergency protection orders, any spouse or common-law partner, whether or not they are a member of a first nation, will be able to make an application to a judge or a justice of the peace for an emergency protection order. That's incredibly important, as you said. The person seeking protection will not need to be occupying the family home at the time they make the application, which is also important.

A peace officer or any other person will be able to make the application on behalf of the person seeking protection—which is also very important and, of course, with their consent. They can also make the application without the person's consent, if they have permission from the judge or the justice of the peace. Again, those of you who are involved in issues around preventing violence against women know why this is also very important.

The application will be able to be made *ex parte*, which means that it is a proceeding that involves only the person seeking protection and does not involve representation or notification of the other spouse or common-law partner. Again, this is very important for a women who's going through issues around domestic violence.

If the designated judge is satisfied that family violence has occurred and that the victim is at risk and in need of protection, he or she will be able to make an order excluding the other spouse or common-law partner from the family home for up to 90 days as well as indicating other measures that the designated judge considers necessary for the immediate protection of the victim or of the property that is at risk of damage.

Again, this is what all of us are used to dealing with when it comes to domestic violence in every other part of the country, but on reserve this is not the case today.

In making the order, the designated judge will be required to consider the broader details and circumstances surrounding the family violence, including, for example, the history and nature of the violence and the best interests of any children.

A peace officer will be able to serve a copy of the order on any person who is specified in the order. A person will be bound by the order as soon as they receive notice of it. The peace officer will also let the applicant know that the order has been served on the spouse or common-law partner. The contents of the order may, for example, direct the peace officer to remove the spouse or common-law partner from the family home.

Emergency protection orders are often the initial procedures in a relationship breakup, which would be followed by application for exclusive occupation and valuation.

One of the greatest hardships for women fleeing a violent family situation is that they often leave with only the belongings on their backs, often going to a shelter and ending up without long-term housing.

Bill S-2 will ensure that women seeking protection from a violent spouse will not be revictimized by needing to run, often to the nearest town or miles away.

Obviously, you know how I feel about emergency protection orders. Every day that goes by without passing this bill, these women have less protection.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Now we'll move to Madam Sgro for seven minutes.

Hon. Judy Sgro (York West, Lib.): Madam Bennett is replacing me on the committee today.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

In 2006 Minister Prentice, I think appreciating the complexity of this issue, appointed Wendy Grant-John to do the study. In her report she proposed that there would need to be stand-alone federal legislation, but in her final report she actually said:

The viability and effectiveness of any legislative framework will also depend on necessary financial resources being made available for implementation of non-legislative measures.... Without these kinds of supports from the federal government, matrimonial real property protections will simply not be accessible to the vast majority of First Nation people.

I think, as my colleague has said—and we on this side agree—the legal gaps need to be filled but without doing what the ministerial representative recommended. I remember when that report was tabled there was a huge caution from all across this country not to cherry-pick from her report. You had to do all of it, not just one bit.

So my first question is that seeing as it seems that Wendy Grant-John has, unfortunately, not been able to speak freely, will you allow her to appear before this committee?

• (1150)

Hon. Bernard Valcourt: Well, I—

Ms. Roxanne James: On a point of order, I don't think the opposition member can ask a witness on whether they're going to allow someone to appear before our committee. That's a decision of the committee.

Hon. Carolyn Bennett: The member should understand the issue. Perhaps I didn't explain myself properly.

Wendy Grant-John cannot speak publicly without the minister's permission. Will she have the minister's permission to come before this committee?

Hon. Bernard Valcourt: Let me be very candid: I'm not aware of the status of Madam Wendy Grant-John. I don't have the privilege of knowing the lady, but this is something I could look into.

Hon. Carolyn Bennett: That's great.

In 2006, the department commissioned the Johnston report to look at shelter funding methodology on reserve. It was to bring on-reserve shelters up to par with other shelters in Canada. Unfortunately, according to a report commissioned by the Alberta Council of Women's Shelters, it determined that the six on-reserve shelters in Alberta were underfunded by approximately \$2.2 million in 2010-11.

I need a commitment from the minister: Can you get the shelters on reserve at least up to par?

Hon. Bernard Valcourt: I did not prepare to discuss shelters today. I prepared to discuss this bill.

I can take note of your question and get back to you, Madame Bennett.

Hon. Carolyn Bennett: As you know, the reason we have withheld support for this bill is that native women across the country are feeling that it will not solve the problem on its own. We actually need to see the full suite of initiatives in order to give support.

Minister, you used the words "not afforded the same rights", but what we're hearing from native women across Canada is that they can't afford to access the rights that would be present in this legislation.

It means that if you kick this to a provincial system and there's not the capacity within first nations to do alternative dispute resolution—there's no capacity to keep women on the reserve where they prefer to be and, again, build the capacity first nation by first nation—they will not be able to access the provincial courts. They won't have access to ensure there is the expertise to deal with unique legal and cultural issues regarding first nations.

Hon. Bernard Valcourt: Let me answer you in three ways.

First, as you know, there will be a centre of excellence, created in order to do just that, to deal with the capacity and give—

Hon. Carolyn Bennett: When will that be?

Hon. Bernard Valcourt: This will be when the act receives royal assent.

After it receives royal assent, we will establish this centre of excellence to do—

• (1155)

Hon. Carolyn Bennett: Was there money in the budget?

Hon. Bernard Valcourt: —that, to help the communities, the first nations, to pass the laws.

Coming back to your other argument about access, let me characterize this as legal aid. I was a member of the bar in New Brunswick when the first matrimonial property act was passed. We got the same argument from several men, who were opposed to the bill because many women would not have the legal or financial resources to access the benefits of that law. The experience in all provinces, not only in New Brunswick, is that all of the married couples, especially women, have benefited greatly, even if they didn't have the financial resources for these high-priced lawyers. It's not a concern that I share with you.

I find it interesting that you said you were withholding your support for this bill. I don't want to be political, but on the second

day of your new leader being in the House, I thought it rich that he would stand up to talk about the Charter of Rights and Freedom and then instruct his caucus to vote against this bill.

I don't dismiss the concerns you have about the side issues that do influence this, but the fundamental question is equal rights for women and children on reserve.

[*Translation*]

Hon. Carolyn Bennett: I accept my role of critic.

[*English*]

Minister, I'm speaking with the instruction of native women across the country. They do not feel protected by this bill without the other issues being dealt with.

Maybe there's something simple you could help me with, then. Can you address the concern over creating the potential for open-ended interests for non-first nation individuals on reserve?

Hon. Bernard Valcourt: This concern is addressed in the bill. As you know, the bill allows first nation councils to intervene in the court processes that will decide those issues. These are considerations that are legislated in the bill and that the court will take into account, just to avoid the problem that you raised.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Thank you.

Moving right along, Ms. Bateman, for five minutes.

[*Translation*]

Ms. Joyce Bateman: Thank you, Madam Chair.

Ministers Ambrose and Valcourt, thank you for participating in our committee's review of Bill S-2. This is a very important bill.

[*English*]

Minister Valcourt, I share your utter incredulity with the fact that this legal gap has existed for 25 years. If my colleague's husband was incredulous, I can't even describe the shock my 15-year-old daughter has that this is the law in Canada. So I'm delighted that you're helping us all to change this.

This legislation is quite unique because it's interacting alongside both provincial and territorial legislation, it has to take into account the first nations law, and the First Nations Land Management Act. Obviously, there are a few first nations that have been proactive and have changed this in their own communities, but the vast majority of first nations are not protected. There remains a legislative gap.

I have a few questions. Either minister, as you wish, can respond.

First of all, I'd like a little bit more information on how Bill S-2 is allowing first nations to enact their own laws on the topic of on-reserve matrimonial property rights. I'd like to add that notwithstanding the comments from the colleague from the Liberal Party, who indicated that shelters are preferable, they really aren't in my view as a mother. I think in the case of a marriage or a family breakup, it's always preferable for the child to stay in the home, regardless of which parent stays with them.

To the other question, could you describe how this bill will apply to first nations, including those that are already under the first nations land management regime and the self-governing first nations?

•(1200)

Hon. Bernard Valcourt: Briefly, you rightly point out that some current first nations will be excepted from the application of this act. There are those that have concluded self-government agreements and they already have the power to enact laws with regard to matrimonial property. We have canvassed those that they have, and these laws are working perfectly well. They are in line with the rights that other women and other couples in Canada enjoy in case of a marriage breakdown or a death.

As to the ability of first nations to pass these laws, the act is clear about this. But what I think is more important is that the provisions are culturally sensitive. We know that first nations have different customs, different cultures, in regard to their day-to-day lives. They will have the power under the act to propose to their community members a law that is respectful of their customs, of their culture. We think this is an important aspect of this bill.

I share the concerns expressed by the opposition members, and I've also heard from our caucus members that the timeline during which they will be able to pass their own laws is a concern. That's where the centre of excellence comes in. We think they can do an enormous task in helping the first nations develop these laws so they can be in effect as soon as the first nation determine them.

Do you want to add something?

Hon. Rona Ambrose: I would just continue to add to the urgency of implementing family protection orders and address an issue, a legal gap when it comes to dealing with violence against women and girls on reserve. I've said it repeatedly, but every other Canadian woman in this country who is not living in a situation on reserve has access to legal protection that aboriginal women and girls on reserve do not have access to. When we look at the statistics around violence against aboriginal women and girls, it's very concerning that we don't have those. It's about prevention, and it's about intervention, and about prosecution. That's how we end violence against women, and we don't have that right now on reserve. So I urge all parties to study this bill, but also to pass it as quickly as possible.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Thank you.

We'll move on to Jean Crowder.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Madam Chair.

It's good to see the ministers here on such an important matter, and I guess where we would all agree is that it's well past time to deal with the issues of matrimonial real property. Where we would disagree is on the methodology.

I just want to add a bit to something the minister had said about testimony that Michèle Audette, from the Native Women's Association of Canada, provided.

She said in her testimony at the Senate that:

Once again, after everything that our sister here has been through, yes, it's a salve, but if our communities don't have the financial, human and material resources

needed, it's going to be a failure. When you live far from the urban centres and you wait a long time for a sentence, a decision or some protection, you just give up and say, "What's the point in filing a complaint or reporting something?"

So I want it to be clear that Madame Audette did not give unqualified support to this bill. She raised grave concerns with the ability of first nations communities to actually implement the bill.

I know you are very familiar with this process, so I would appreciate a yes or a no answer to my next question. Did either of your departments conduct a constitutional, section 35 analysis about whether this bill would infringe on aboriginal rights and title? Just yes or no would be fine.

Minister Ambrose, did Status of Women do so?

Hon. Rona Ambrose: This is something that I'll let Minister Valcourt—

Hon. Bernard Valcourt: Absolutely. Every piece of legislation that is submitted to the Parliament of Canada is subjected to a section 35 assessment.

Ms. Jean Crowder: Great. Would you be able to provide that analysis to the committee members so we could review that section 35 analysis?

•(1205)

Hon. Bernard Valcourt: The legal advice given to ministers is privileged.

Ms. Jean Crowder: Okay, so we'll have to look elsewhere for whether we think there's been an infringement.

Hon. Bernard Valcourt: Right. Yes.

Ms. Jean Crowder: With regard to the report of the ministerial representative on matrimonial real property from 2007—and this touches a bit on the concerns Madame Audette raised about the difference in resources—she says on page 75 in her report:

If First Nation governments are to be looked to, to provide rights and remedies comparable to those available under provincial and territorial laws, while taking into account the distinct nature of the land regime in First Nation communities, there must be a comparable scope of recognized jurisdiction, resources, capacity and institutional development. Otherwise First Nations would be placed in a catch-22 situation—they would be held to the same standard as provincial governments but not have the resources and capacity to achieve it.

Have either of your departments done an analysis of the gaps between what is available to first nations on reserve versus what would be available in terms of legal aid, access to police officers, and the ability to enforce these? Have you done that kind of analysis of this legislation?

Hon. Bernard Valcourt: This question has certainly been considered in the department, and of course we are always analyzing what the capacity is. There are certain communities where there is no capacity issue, but with others there is. That's why we trust that the centre of excellence will be a useful tool to help address—

Ms. Jean Crowder: Mr. Minister, forgive me—

Hon. Bernard Valcourt: Can I answer the question?

Ms. Jean Crowder: Actually, you're not answering my question. The centre of excellence—

Hon. Bernard Valcourt: Can I answer the question, Madam Chairman?

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Yes.

Hon. Bernard Valcourt: The centre of excellence, we trust, will be able to help those communities that face more difficulties in implementing this kind of legislation. But what we must not lose sight of is the fact that if a first nation does not have that capacity, the federal rules will apply. At the end of the day, those women, those children, those couples living on reserve, will get the same protection as other Canadians have.

Ms. Jean Crowder: Mr. Minister, forgive me, but my question was not to do with whether or not first nations needed support in terms of developing custom codes. My question was about whether or not your department has done the analysis of whether first nations will have the capacity to actually enforce Bill S-2 once it's passed, and whether they will have the capacity to provide support around transition houses. We know that oftentimes when there has been some dispute between partners, people are faced with the difficulty of whether or not there will be legal aid.

Those are the questions that I was asking, not whether or not they would have the capacity to support development of custom code.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): You have only five seconds at the most.

Hon. Bernard Valcourt: Listen, I will admit candidly that I am not in a position to answer that question because I'm newly appointed here. I do as best I can, so I undertake to answer the question in writing if that will satisfy you.

Ms. Jean Crowder: That would be very helpful. Thank you, Minister.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Thank you.

Ms. Ambler.

Mrs. Stella Ambler (Mississauga South, CPC): Thank you, Madam Chair.

Thank you, Ministers, for being here today to talk about this very important bill.

We've been talking a lot about consultation today.

Frankly, I'd like further elaboration, Minister Valcourt, if you wouldn't mind, because I think Canadians need to know that there has been adequate consultation. Can you tell us about the consultation process and the way that Bill S-2 has been amended to respond to the information gathered in that consultation process?

Hon. Bernard Valcourt: At the risk of repeating myself, this legislation responds to calls for action over the last 25 years from

aboriginal women, from international organizations such as Amnesty International, and from parliamentary committees. Also, as I've indicated, a province, the Legislative Assembly of Manitoba, has urged us to pass this legislation.

Again, this has been going on, at least on our watch, since 2006. As Minister Ambrose has indicated, this is the fourth attempt at passing a bill that would fill this gap. Back in 2006, we initiated an extensive consultation process that included—and I repeat—over 100 meetings at 76 locations across Canada, which helped lead us to the legislation we have before us today.

• (1210)

Mrs. Stella Ambler: That's great.

Could you elaborate on the amendments that were made as a result of those consultations?

Hon. Bernard Valcourt: Yes, and that's an important point you raise, because indeed the bill has been improved as a result of these consultations.

For example, some of you may remember the verification process that was contained in the original bill. This has been removed. The first nation council is now responsible for reporting the community approval outcome in writing to the minister if a first nation law is approved. Its removal eliminates confusion and misunderstanding about the role of the verification officer and addresses the concerns expressed by first nations and aboriginal groups that this process was paternalistic.

The other change is the ratification threshold, which has been lowered. There was a double majority required for the adoption of first nation laws, which meant that the majority of the eligible voters had to participate in the vote—50% plus one—and of those, a majority had to vote in favour. This has been lowered. The ratification threshold now requires a single majority vote with participation in the vote of at least 25% of the eligible voters.

The third change is a transition period that has been added. Before this change, upon royal assent this became law. A 12-month transition period was added before the federal provisional rules come into force. The government recognized that some first nations are well advanced in developing their own laws, and the transition period provides time to enact their laws under this legislation before the provisional federal rules take effect. First nations, as I said earlier, are not limited to the 12-month transition period to enact their community-specific laws, but they will start applying on the day that the federal rules will apply.

Mrs. Stella Ambler: Thank you.

When you talked in your opening remarks about how incredulous you were that there is opposition to this—and Ms. Bateman referred to it as well—I have a feeling you were referring to some of the misinformation that's going around, the myths about what this legislation does or doesn't do. Could you clarify for us the involvement of the ministerial representative? Because some are saying those suggestions were not incorporated into the proposed legislation.

Hon. Bernard Valcourt: When I talk about my incredulity and consternation—

[*Translation*]

We have an expression in French. I don't know how our interpreters will decide to translate it, but it basically means that you are trying to dodge the issue.

[*English*]

You try to evade the issue or you try to sidestep the issue. I'm not saying that these other questions are not important.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): The time is up, Mr. Minister. I'm sorry.

Hon. Bernard Valcourt: But this is fundamental.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Next is Ms. Day.

Ms. Niki Ashton: Actually, I'll be sharing my time with my colleague, Ms. Day.

I want to note that my province, Manitoba, has been referred to many times, and I wish that the first nations of Manitoba received the same kind of adoration and, certainly, commitment that the province is receiving today.

I want to read into the record the final paragraph of a speech by the Attorney General from Manitoba, in which he says:

So we have concerns about process. We've concerns about certain provisions, and we certainly have concerns about the supports to make Bill S-2 work. But we do want to fill a legislative void. Let's call for improvements to Bill S-2. Let's do that today, Mr. Speaker.

Thank you very much.

I've certainly had the chance to speak with colleagues who've noted support in principle but have expressed real concern about various provisions, including the kinds of supports that provinces would need to go forward, if this bill were to be implemented.

My question is—and again a yes or no answer would be preferable—was there a consultation done with every single one of the provinces?

● (1215)

Hon. Bernard Valcourt: In answer to the question, I'd like to read something that was sent to the minister by my good friend, the Hon. Eric Robinson, the Minister of Aboriginal and Northern Affairs in Manitoba. It reads as follows:

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba urge the federal government to pass Bill S-2: Family Homes on Reserves and Matrimonial Interests or Rights Act.

[...]

THEREFORE BE IT FURTHER RESOLVED that a copy of this resolution be sent by the Speaker to the federal Minister of Aboriginal Affairs and Northern Development.

There was no qualification in the call by the Legislative Assembly of Manitoba to pass Bill S-2.

Ms. Niki Ashton: It was a private member's bill by the leader of the Progressive Conservative Party, so in fact the actual words of the resolution were the words of the Progressive Conservative Party in Manitoba.

But my question, which you didn't answer, is was there consultation with each of the 10 provinces?

Hon. Bernard Valcourt: Could you help me here, Karl?

This is Karl Jacques, an official with our department.

Mr. Karl Jacques (Senior Counsel, Operations and Programs, Department of Justice): Thank you.

The provinces have been consulted and did comment on the draft bill when it was in development.

Ms. Niki Ashton: Could we get a briefing on that?

Mr. Karl Jacques: I'll have to get back to you on this question.

Ms. Niki Ashton: Obviously it's seems pretty critical, given the impact of this legislation on the provinces. Has there been an analysis of the costs that will be incurred by provincial legal systems?

Mr. Karl Jacques: I'm not in a position to answer that question.

Ms. Niki Ashton: Is anybody else in a position?

Hon. Rona Ambrose: I could probably give you the cost of violence against women on first nations, which is one reason this needs to move forward.

Ms. Niki Ashton: Actually my question was about the legal costs.

Minister Ambrose, I certainly appreciate going back to the broken record, but the reality is that people—

A voice: It's not a broken record.

Ms. Niki Ashton: I'm sorry. This is my time to address the fact—

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Keep to the question. Keep moving. You only have a few seconds—

Ms. Niki Ashton: Excuse, Madam Chair, I am keeping to the question. The point that I would like to raise, which ought to be on the record, is that if legal systems do not have the resources, whether in terms of legal aid or in terms of allowing courts to access remote communities, there is no access to justice. I think that is something that we clearly haven't heard from this committee.

My last question is, would you be open to amendments to Bill S-2?

Hon. Bernard Valcourt: You know, this has been amended a number of times. The committee is master of its own procedure, so it's not for me to say whether or not the committee would welcome amendments or not.

Ms. Niki Ashton: So you are open to amendments.

Hon. Bernard Valcourt: Listen, I'm a very practical person. If there are amendments that can add to this bill without affecting its execution or its principle, we'll look at them. But I think after so many years, with so many groups, so many people having looked at and studied and discussed and debated this bill, I trust it can pass as it is. But who am I to say that you can't come up with a beautiful amendment that would solve all of the problems of the world? However, if you talk about legal aid, it's not in the ambit of the bill.

You know, we're talking about basic rights and I don't see what has to be added.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Your five minutes is up.

Moving right along to Ms. Crockatt.

Ms. Joan Crockatt (Calgary Centre, CPC): Thank you very much, Chair, and thank you very much to both ministers for coming here and appearing before the committee. I want to commend you for this very much-needed and long-awaited bill.

The reason we're here today is that we believe it is absolutely unacceptable that aboriginal women do not have equality with other women in this country, and I think it is important that we state that moral cause. I find it particularly shocking that the women across the table here, from the NDP and Liberals, are holding back what is a very important step for aboriginal women's rights.

I have some particular background in this because my mother started one of the first women's shelters in Alberta, and the majority of the women by far who were left destitute and homeless after spousal violence were aboriginal women. To be holding this back at this point, based on methodology and saying you want to consult with every single reserve in the country, when some 25 years have passed, \$8 million has been spent, and 103 communities consulted, I find shocking.

I'd like the minister, and whoever feels they can properly address this, to respond to the following. One of the most important things we've heard today is that emergency protection orders save lives. I think we are talking lives here. The journey of a thousand miles begins with a single step. This is, in my view, a very good single step forward, but I think we should make it clear. I'd like to hear how this bill will save lives.

•(1220)

Hon. Rona Ambrose: Well, the point you made about shelters is interesting because there have been a number of witnesses before the committee that studied S-2 and on this particular issue. One was Jojo Marie Sutherland, who's a staff member at the Native Women's Transition Centre. She appeared before committee in January of 2011 and she said: On the reservation in the seventies, family violence was an everyday thing. You married the guy and you had to stick with the guy. The band house gets given to you. The band house doesn't belong to the female, it belongs to the male. If you decide to leave, you have to leave the house. That's what happened to me.

She talks about the real, practical issues that women are faced when, predominantly, it's the man who has title to the house. So if he's able to sell the house without her permission and keep all the money or ban her from the house, or no judge can order an emergency protection order to remove him from the house if there's spousal violence, you can only imagine what that means for women.

This really is a question of justice. It's justice for aboriginal women and children who do not have the right to protect themselves in these kinds of situations, when it's either a situation of family violence or a dissolution of the marriage. So without this proposed legislation, aboriginal women cannot go to court to seek an exclusive occupation of the family home or apply for an emergency protection order while living in their family home on reserve.

This bill does not propose anything new; rather, it will provide access to the same rights. So it's not different, it's just providing the rights and legal protections that we all have access to. They're already available to every other woman in this country.

The current situation provides no legal certainty on the dissolution of the marriage and of course, Bill S-2 will allow individuals on

reserve to apply to the courts to negotiate the division of their matrimonial real property.

We understand that aboriginal women are often in remote areas with limited access to the courts and transportation. Importantly, the issue around emergency protection orders is acting quickly and needing to enforce and apply an emergency protection order quickly.

This bill does one thing that's unique. It allows an emergency protection order to actually be done by phone or e-mail because of the remote locations. A peace officer or any other appropriate person can apply that way on behalf of a spouse or a common-law partner if they live in a remote location. In a situation of abuse or violence where it's often dangerous to signal an intention to break off the relationship or to seek the protection of the police, the ability to have a peace officer or other appropriate person make the application for an emergency protection order can keep the victim from having to confront the violent spouse and possibly placing themselves in further danger. Again, it's very important for the protection of women. Perhaps it's something that Minister Valcourt will speak to in more detail later.

Bill S-2 also provides for the creation of a centre of excellence, which Minister Valcourt alluded to a number of times. I recognize that implementing any legislation where there isn't a great deal of capacity will require support, and we're committed to that. We're committed both in our department and in Minister Valcourt's department to support women who need access to building this capacity and to communities that need to build this capacity. At the end of the day we need to move forward.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): The time is up.

Thank you.

We'll go right along to Ms. Young.

Ms. Wai Young (Vancouver South, CPC): Again, I want to thank the ministers for being here today and providing us with such a comprehensive overview of Bill S-2.

I used to work in the downtown eastside in Vancouver where I was a native youth and family worker and there I saw the effects of not having Bill S-2, where women and children were routinely on the streets because they were not able to stay in their matrimonial homes. So I also believe that this is a very important bill and one whose time has come. I think, as we've heard today in terms of saving lives, this will create safe places for women and children to stay in, as well as give equal rights to women.

I want to ask Minister Valcourt about the centre of excellence, because in my work there, as well as over the many years that I've done policy and program development for different levels of government, we recognize indeed that building capacity is very important.

Therefore, I was struck by the addition of the centre of excellence, which I think is a brilliant idea. It's not a presupposed formula, so that centre of excellence is there to assist and support the various communities and first nations to implement their own laws and acts. Where that doesn't happen within a certain time frame, my understanding is that the federal rules will apply.

So I'd like to ask the minister about how this centre of excellence is going to transfer the knowledge, information, and education about rights to these various communities across Canada and also create the centre of excellence to provide links, supports, and program expertise, all of the things the opposition members are talking about, and provide access to all those things, to existing experts and program services for those women and children who so need this Bill S-2.

Thank you.

• (1225)

Hon. Bernard Valcourt: Thank you.

Just to clarify an earlier answer concerning legal aid, right now legal aid is, as you know, provided at the provincial level by all provinces, and there are federal transfers to the provinces for these legal aid systems. If you look, for example, at provinces such as Ontario or New Brunswick, the family services that are available to women in need are available indiscriminately: whether you are on reserve or off reserve, you get the same service. The only thing is that on reserve, they have no rights.

To respond to the question you raised about the centre of excellence, it will be established hopefully within an existing national first nation institute or organization and will operate at arm's length from the Government of Canada and from the first nation seeking its services. The centre of excellence will support, as I said earlier, first nations in developing their own matrimonial real property laws, in implementing the provisional federal rules, and in providing assistance to create alternative dispute resolution mechanisms.

I ask members of the committee not to underestimate the genius of first nations in Canada. Everyone takes for granted that it will be high-priced lawyers who are going to settle this. There are many first nations in which a council of elders can be used to solve many of

these issues, as long as those rights are acknowledged and recognized. Don't underestimate the potential and the genius of first nations in Canada.

We have an implementation plan for this legislation that will call upon my department, the Royal Canadian Mounted Police, and Public Safety Canada to play into the implementation. We have a public education and awareness campaign. The centre of excellence is another aspect of this. We will have training and education for key officials at the provincial level, including police officers on reserve and provincial superior court judges. This is not something we are just throwing out there irresponsibly; there is an implementation plan to ensure that finally aboriginal women, aboriginal spouses, and couples on reserve enjoy the same rights that too many of us take for granted.

Ms. Wai Young: I'd like to direct this next question to Minister Ambrose.

The Vice-Chair (Mrs. Tilly O'Neill Gordon): You only have five seconds.

Ms. Wai Young: Then I guess I would like to say that the centre of excellence sounds like a very fluid model that can be used to direct Bill S-2 in the way it is going to evolve and be integrated into the various communities so as to give women and children these rights.

• (1230)

The Vice-Chair (Mrs. Tilly O'Neill Gordon): Thank you very much for your attendance here this morning. We will now clear the room in order to move in camera for our business meeting.

We thank you very much. We will return in a few minutes for our business meeting.

[Proceedings continue in camera]

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