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Chair

Mr. Andy Fillmore

Standing Committee on Indigenous and Northern Affairs

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● (1535)

[*English*]

The Chair (Mr. Andy Fillmore (Halifax, Lib.)): Good afternoon, everyone. Welcome to the House of Commons Standing Committee on Indigenous and Northern Affairs.

We are meeting today to continue our work on Bill S-3, an act to amend the Indian Act, specifically the elimination of sex-based inequities in registration.

I want to explain to our witnesses today that, as you can hear from the bells that are ringing, there will be a vote in the House of Commons in 20 minutes. This gives us enough time to hear from one of the groups, the Mohawk Council of Kahnawake, and then we'll have to recess for a moment. Committee members will go and vote —it will take about 15 minutes—and then we'll come back and hear the other two witness groups and proceed through our questions at that point.

Cathy.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): For proper protocol, perhaps we should ask for unanimous consent to continue while the bells are ringing.

The Chair: Is there unanimous consent?

Some hon. members: Agreed.

The Chair: Yes, there is unanimous consent.

Thank you very much for that.

I will also add that we're meeting today on ceded Algonquin territory, for which we're very grateful.

I'd like to welcome the Mohawk Council of Kahnawake, Joseph Tokwiro Norton, grand chief, and I'm going to have to ask for help with your name, I'm afraid.

Could I ask you to say your name?

Chief Kahsennenhawe Sky-Deer (Chief, Mohawk Council of Kahnawake):

Chief Kahsennenhawe Sky-Deer.

The Chair: Thank you very much.

Welcome to you both.

I'm happy to turn the floor over to you for 10 minutes. When we get to the ninth minute, I'm going to hold up a yellow card. That means one minute to go. Then the red card means please try to conclude. I am happy to have you share that 10 minutes between you, anyway that you would like to.

Thank you very much.

Grand Chief Joseph Tokwiro Norton (Grand Chief, Mohawk Council of Kahnawake): I don't know how we're going to squeeze 500 years into 10 minutes, but we'll give it a try.

This has been a long-standing issue ever since the Europeans first arrived here in our part of the world, the world that we call Turtle Island. This is not something new. It didn't start with the imposition of the Indian Act. It goes way beyond that. Way beyond means the imposition of the cultural beliefs, the language, and all the other things that have been brought here and have been imposed on us.

We're amazed we're still here. We still speak our language. We're still able to talk about the things that our ancestors passed on to us and made sure that we did not forget so that the coming generations would also not forget. That's what makes it a very challenging time for us in a period in which we need to again remind some fresh faces, some new faces who have come into government, about what's happened, and in particular, more specifically about Kahnawake.

We consider you younger brothers and sisters because we've been here for countless ages. Even recent research into archeology and findings on the Island of Montreal show that we go back 12,000 years. We didn't come from New York State and places like that, as they claim. There was no New York State back then. In any event, we just want to make it clear about our presence here today. This is not the first time for me. I was first elected in 1970, then 1978, and I retired in 2004. I came back again last year. It's been a long time. From that time until now, it's been the same struggle.

Previous to my being on council, previous to my being born back in 1949, there was a problem back then also, and our community has fought very selfishly for the jurisdiction, for the need to establish what we believe is our way of identifying our people, and our way of allowing people to reside among us in our community. It's always been a very controversial issue. It's been a fight.

One of the things I'd like to raise is the fact that this government is talking about nation to nation. Nations don't impose their will or their ways or their thinking on other nations. If we are to allow that to happen, then we do it of our own free will, and we have not. We will not be persuaded to do otherwise, although it causes us some very uncomfortable situations. We've been accused of racism. We've been accused of all kinds of things. Because of the fact we've had to take this stand, that's what we have to do. We have no choice. That's our goal, to be able to maintain the stand, if you will.

I have to be very blunt and up front about it: no committee, no provincial or federal government, no court is going to impose its will on us. That comes not just from me and my fellow chief here, Kahsennenhawe. It comes from the community. That's the stand we have. That's why we're here to provide you with this information. It's not necessarily to ask you for anything to help the circumstances, but perhaps your understanding and your co-operation is what's needed. Even if you can't co-operate, then at least understand.

I would like to have Kahsennenhawe take it from here and give you some insight into more specific issues.

● (1540)

Chief Kahsennenhawe Sky-Deer: First I want to speak specifically about Bill S-3.

As the grand chief mentioned, the matter of membership and registration we feel is one that's integral to governance matters for first nations. The fact is there has been no meaningful consultation. We're aware there are going to be two phases, but the amendments are going to happen, and then there is going to be consultation after the fact, which, in our opinion, is a serious breach of Canada's duty to consult first nations and to accommodate.

The proposed amendments to the Indian Act registration criteria in response to the Descheneaux decision raise extreme concerns for Kahnawake. We have our own membership criteria and registration of who could be a status Indian.

It goes so far that now it's exacerbating the problems that we see in our community. We're going to have more people coming to our community with band cards who want to belong. They want ownership of land. They want to be part of the community, but they might never meet our criteria of who we recognize as Kahnawake, who are Haudenosaunee, who are Mohawks of Kahnawake.

There is a clear distinction, in our opinion, of who could be Mohawk, or identified as such, and what Canada's registration for status is. There is a big discrepancy there.

With regard to the specific legislation, we're aware that the amendments are targeting three main groups: siblings, cousins, and omitted minors. While the Descheneaux decision drove the proposed Bill S-3 amendments that are going to happen in February for siblings and cousins, the amendments pertaining to omission of minor children extended beyond the decision that was rendered in the court. This unilateral revision to registration criteria, again without consultation of first nations on this integral matter, goes even deeper and is another breach of Canada's duty to consult and accommodate.

The legislation lacks any provision for opting out. As the chief mentioned, we don't feel that any government or any court can decide who can be our people. That should be the sole jurisdiction of first nations. Again, the effects on membership are definitely going to impact on our right to self-determination.

The absence of some kind of provision or mechanism is going to increase what we call the discrepancy population. Kahnawake has its own membership list. The federal government maintains a list for the Mohawks of Kahnawake. That population is going to continue to grow after the Bill S-3 amendments, and, as I mentioned earlier, cause further problems. There is no additional money that is going to be promised to our communities to accommodate these people.

Again, as the chief mentioned earlier, in terms of ethnocultural erosion, we want to ensure that we protect for our future generations what it means to be a Kahnawake, what it means to speak our language, and what it means to know how to preserve our identity as a distinct people. When you have generations so removed, who have no ties to our community, no connection to those lands or to our ancestors, but who might have had an ancestor a long time ago, and still feel that they should go and be a part of that community....

We're seeing, as a result of the CAP-Daniels decision, that there are now groups that are popping up all over the country that want the benefits that go along with being a status Indian. However, they don't really understand what it means to be born into nationhood, with those rights, and to have that citizenship. To a lot of people it's "Well, I have a tax exemption card now—free this, free education." As I said, they don't have that understanding and that sense of identity that we're trying to protect and ensure.

We're fearful of the ramifications that Bill S-3 is going to have not only on Kahnawake as a community, but on other first nations that are in a revitalization process after the Indian Act, after the residential schools. We're trying to rebuild our nations, and for Canada to unilaterally keep expanding the registration criteria of who can be a status Indian is going to further erode our identity as first nations people, the real authentic Haudenosaunee of this land.

That's all I have to say.

● (1545)

The Chair: That takes us to just about a minute remaining, if Chief Joseph—

Grand Chief Joseph Tokwiro Norton: May I add one more thing? It's essential to understand that in an area such as land claims, as the government likes to call it, in a decision to accept an agreement between Canada and, if it's the Mohawks of Kahnawake, there's going to be, and there has been already, a demand that all these people, over 4,000 of them who are on the list here in Ottawa, be a part of a vote. Those people don't know anything about what's going on. All they're going to vote for is money. Forget about the land. We've seen that happen continuously right across the country.

I would say keep your money. Give us back the land that we hold dear to ourselves. It's the complete opposite for many of those people because they don't know anything about it, and they don't care about the culture and history. As Kahsennenhawe has pointed out, all they care about is the tax card, and so on and so forth, and all the benefits that they can get from that.

The Chair: Thank you very much, Grand Chief, and thank you, Chief, for your testimony.

We will have to take a short recess of about 15 minutes now, and we'll come back to hear the other witness, Ms. McIvor.

I'll let the committee members know at this point that the vote is in seven minutes. Thank you.

We'll suspend.

● (1545)

(Pause)

● (1605)

The Chair: Okay, we'll come back to order.

Thank you for your patience during the vote.

We did have four organizations represented today. One has agreed to reschedule.

We have already heard from one of the three remaining, which is the Mohawk Council of Kahnawake. We're now going to hear from Sharon McIvor with the Union of B.C. Indian Chiefs, for 10 minutes, followed by Jeremy Matson, who is appearing as an individual. He also has 10 minutes.

Ms. McIvor, I think you saw how the cards worked in the previous round. You have 10 minutes, and when you get to nine, I'll show a yellow card so you know it's time to wrap up, and I'll show you a red card at 10 minutes.

● (1610)

Mrs. Cathy McLeod: Mr. Chair, we know that the bells are going to ring at 5:15 p.m. I'm just wondering—we're lucky to be in Centre Block today—if we can have an agreement now to go straight through until 5:30 p.m., so that we can plan accordingly.

The Chair: Is there unanimous agreement to that?

Some hon. members: Agreed.

The Chair: Very good. We'll carry on right through until 5:30 p. m.

Thank you for that, Cathy.

Ms. McIvor, the floor is yours. Thank you.

Ms. Sharon McIvor (Union of B.C. Indian Chiefs): Thank you.

My name is Sharon McIvor. I'm appearing at this committee for the Union of B.C. Indian Chiefs, which is a B.C. group of chiefs that has been in existence since the mid-1970s, and whose major focus is aboriginal title right and treaty rights.

Today I'm just speaking specifically to Bill S-3, the amendment to the Indian Act. You have to understand that status under the Indian Act is exclusively the jurisdiction of the federal government. It's in 91(24), so it's a relationship or recognition of who the federal government recognizes as Indians. It has nothing to do with self-determination or self-government. Those issues are out there to be discussed at another time and place.

Up until 1985, the Indian Act was blatantly discriminatory against women. Lots of pressure was brought, but mainly the Charter of Rights and Freedoms kicked in on April 17, 1985, and forced the government to deal with that ongoing discrimination.

With Bill C-31, there was an agreement at that time between Minister Crombie and his department that although he wanted all the discrimination gone, I understand that it was too expensive, so he allowed the second-generation cut-off and said that those guys could come and fight for themselves.

I took up the challenge. In July 1989 I started a case that was called the McIvor case about the ongoing discrimination in the Indian Act.

In 2010, after court decisions, the government got together to do Bill C-3. Bill C-3 continued with the discrimination. We've been here before and done this before because of the ongoing discrimination, and the government decided it was okay to continue to discriminate against aboriginal women and their descendants.

Looking at Bill S-3, it's exactly the same thing.

I can tell you what happened in 1985. The government threw out this thing to say that they had to consult with the people about whether or not they should end this discrimination.

From my perspective, and for most people who believe in human rights, discrimination isn't negotiable. As the Government of Canada, it's your responsibility to make sure your legislation complies with the charter, so you can't go out and ask all of those aboriginal organizations, which are mainly led by males, if it is okay to continue to discriminate against the Indian women. I can tell you that most of them will say, yes. We know, because in Jeannette Corbière-Lavell's case, the Assembly of First Nations and their allies were sitting against her with the government. In other cases we've taken, those male-dominated organizations sit on the other side.

It's your fiduciary responsibility to make sure that your legislation, no matter what you pass, complies with the charter. Bill S-3 does not. What Bill S-3 does is it continues the discrimination.

I have a petition with the UN Human Rights Committee to say that Bill C-3, the McIvor amendment, did not take all of the discrimination out of the Indian Act. That's sitting there. It was to be heard in July 2016. The Department of Justice put in a request to the UN committee to suspend the hearing of my petition, because of the bill—now S-3—that will bring gender equality to the Indian Act in February 3, 2017.

I handed a package to the clerk. There is a media release in which Carolyn Bennett promises that. I also have in the package the request to the UN committee by the Government of Canada, and in several places they said that by February 3, 2017, all known discrimination will be out of the Indian Act.

● (1615)

They knew it and they could do it, and then they were going to do a second phase, consulting nation to nation with the aboriginal people. The only thing that I'm saying today is yes to the consultation. You cannot consult about ending discrimination. You cannot consult about asking somebody else's permission if it's okay to continue to discriminate against me.

It's totally unacceptable and the position that you're taking as parliamentarians is really untenable. I absolutely can't understand why you're doing it. Discrimination is contrary to the charter and you know and I know, and you've heard probably from a lot of people, that there's still discrimination in the Indian Act. You have the ability to scrap the bill and do something that's going to take all of the discrimination out.

In 1985 the Government of Canada did something that helped take care of some of the bands' problems. The bands are not nations. The bands are an artificial construct by the Government of Canada, but what they did is they separated the membership and status. Section 10 allows absolutely every band in Canada to decide who can be a member. They cannot take membership away and the women who married out were to be put back into their birth bands, but second generation can be left out. You don't have to give membership to them. They separated that out.

The Government of Canada is determining who is an Indian and who do I have responsibility for and who do I have a relationship with. Absolutely every band in Canada has the right to make a law that determines who their membership is.

I just don't want the waters to be muddy there. What we're looking at is the Government of Canada deciding whether they're going to recognize me as an Indian. The other piece that's really important is that when I was born, I had birthrights. Outside of the human rights that every human is born with, I have aboriginal rights that come from my heritage. Those cannot be defined away. I cannot be discriminated against so I cannot exercise those rights, and recognition of me as an aboriginal person is one of those rights.

When we're looking at what you're doing with Bill S-3, what you did with Bill C-3, what you did with Bill C-31, you violated my rights as an aboriginal person. My plea to you is you can clean it up. If you look at in May 2010 the House of Commons committee reviewing Bill C-3 brought to the House an amendment to Bill C-3 which for the most part alleviated all of the concerns about the ongoing discrimination based on gender. That was rejected.

Actually, it wasn't rejected. The Speaker ruled most of it out of order and it was left in one piece, but you know how to do it. It's there. I put that in the package as well. It's a two-pager and it will alleviate most of the discrimination, all of the known discrimination. There are some things still there that need to be fixed, but for the most part it's doable and that's your fiduciary responsibility. You cannot continue to make legislation that has known discrimination in it. It's your fiduciary responsibility to take it all out. That's what the charter is all about.

Thank you.

● (1620)

The Chair: Thank you very much, Ms. McIvor.

We'll move right into the testimony from Jeremy Matson, who is appearing as an individual.

Jeremy, you have the floor for 10 minutes.

Mr. Jeremy Matson (As an Individual): Hello. My name is Jeremy Matson. I would like to thank the Algonquin people for allowing me to speak on their traditional territory. I would also like to thank Mr. Descheneaux, Ms. Yantha, Ms. Sharon McIvor, her son Jacob, Ms. Sandra Lovelace Nicholas, Ms. Bédard, Ms. Lavell, Mary Two-Axe Earley, and many others who continue to advance or who have advanced indigenous peoples' rights here in Canada.

Currently, I'm registered under subsection 6(2) of the Indian Act under Bill C-3, the McIvor bill, which is the Gender Equity in Indian Registration Act. I'm a Squamish Nation member and I have direct ancestral connections to the Tsleil-Waututh, Musqueam, and other Coast Salish nations.

I am married to my wife Taryn Matson, née Moore. We have two children: Iris Matson, who is eight years old, and August Matson, who is five years old.

I am one of many grandsons of Nora Johnston and Vino Matson. My grandparents were married in 1927, and because of her marriage to my non-aboriginal grandfather, my grandmother was commuted under the 1927 Indian Act and remained disentitled to her identity.

My father, Eugene Matson, was one of seven children born to my grandparents Nora and Vino between the years 1928 and 1942. My grandparents had approximately 30 grandchildren. We'll go into the effects of the upcoming Bill S-3 on those 30 grandchildren.

My grandmother remained disentitled as a band member or as a status Indian—a recognized Indian under the Indian Act—until April 17, 1985. Under Bill C-31, the amendments back then, my grandmother was registered under paragraph 6(1)(c) of the Indian Act and registered as a band member under section 11 of the Indian Act under the Squamish Nation.

My grandmother's seven children were registered for the first time under subsection 6(2) of the Indian Act, Bill C-31.

Canada has imposed discriminatory legislation against my family for 90 years. The intergenerational impact is significant. Canada has denied our cultural identities and/or placed my family members in an inferior position compared with those in other indigenous families in Canada, and the sole reason is gender discrimination and its adverse impacts.

I'll go a little bit into the nuts and bolts of Bill S-3 as drafted and its shortcomings and the way it affects my family.

I will be potentially entitled to paragraph 6(1)(c.2) registration under the proposed amendments. I'm going to go through my children's case. That means they'll be entitled to subsection 6(2) Indian status under this bill.

But there are a few inequalities in your tinkering with the Indian Act. You've created more problems—not you the INAN committee, but the drafters. I'll go through proposed paragraph 6(1)(c.4)—this is part of the Bill S-3 draft amendments—and show how my children meet some of these categories but will be left out from proposed paragraph 6(1)(c.4) Indian status.

The first category is for those for whom:

> one of their parents is entitled to be registered under paragraph (c.2)

That would be me, as my children meet that criterion—and then they qualify under item (ii) of that proposed paragraph 6(1)(c.4) if:

> their other parent is not entitled to be registered

That would be my wife.

Then item 6(1)(c.4)(iii) states, as its qualifying criterion:

> they were born before April 17, 1985, whether or not their parents were married to each other at the time of the birth, or they were born after April 16, 1985

My children meet that, and then it says:

> and their parents were married to each other at any time before April 17, 1985

My children do not meet that category, so they're not entitled under that item of proposed paragraph 6(1)(c.4).

The newly entitled under Bill S-3—that means the generation below mine and descending generations from there, the newly entitled great-grandchildren or the second-generation cousins of my grandmother—the descendants of my grandmother, will be treated in a differential manner.

● (1625)

Some will be entitled to proposed subsection 6(2) Indian status, some to proposed subsection 6(1) Indian status under the Indian Act amendments in Bill S-3.

In my submission, I broke down all 30 grandchildren and how their standings would fall under Bill S-3. The first three grandchildren of my grandmother will not be entitled under this bill. They were not entitled under Bill C-3, because they were born prior to September 4, 1951, and they will remain disentitled under proposed subsection 6(1) Indian status, and their descendants will, too.

I also broke down.... I don't know what version of my submission you have. The first-generation cousins, the grandchildren, are highlighted in red. Those would be the individuals who were married prior to April 17, 1985. They will be entitled to pass proposed subsection 6(1) Indian status to their children, and the remaining non-highlighted grandchildren, which I fall under, will only be able to pass proposed subsection 6(2) Indian status to their children.

There is going to be differential treatment of siblings and families. In my family, first-generation cousins are going to be left out or left with an inferior status.

On page 6, in a detailed chart for the INAN committee, I broke down how I, my family, and my children will be treated differently, in comparison to my first-generation cousins' families and their breakdown.

I would encourage this committee to look at that, as it could be a possible recommendation. If you are staying in all the four corners of Bill S-3, and what Justice Masse has done with her decision in the Descheneaux case, my submissions and recommendations would stay within those four corners, but it would be nice to have everybody who was born prior to April 17, 1985 under proposed paragraph 6(1)(a) Indian status, as Ms. McIvor mentioned.

Not too long ago, on October 25, Canada went under review by the Committee on the Elimination of Discrimination against Women. Canada is a treaty member of that particular United Nations committee, and Canada's review was in the 65th session. On November 18, only a couple of weeks ago, CEDAW, from the United Nations, with the report CEDAW/C/CAN/CO/8-9, called Canada out about this very bill, Bill S-3. I provided that in there, but I didn't provide the reference and the web link. I forgot to put that in my submission.

Paragraph 12 of the report states that the committee:

> further notes that a new Bill [S-3] amending the Indian Act is currently being developed. However, the Committee remains concerned about continued discrimination against indigenous women, in particular regarding the transmission of Indian status, preventing them and their descendants from enjoying all the benefits related to such status.

In paragraph 13 the committee recommends that parliamentarians fix that.

This is the third CEDAW report that has announced to Canada to abolish or fix this discrimination. I currently have a petition before CEDAW about section 6 of the Indian Act and the relationship between the state and me as an individual, my children, my grandchildren, and my future descendants.

I also listed numerous other United Nations reports calling on Canada to abolish this, and I have provided links.

I'll now get to the the recommendations for Bill S-3.

It would be nice for this committee to provide a recommendation for proposed paragraph 6(1)(a) Indian status for everybody born prior to April 17, 1985, and also to provide future amendments, because there are implications, too, about April 17, 1985 to the present day. It's not just between April 17, 1985 and back to 1876, and before, that that there was discrimination. We also have to go forward after that date.

● (1630)

Staying within the four corners of this bill, under proposed paragraph 6(1)(c.4) I recommend providing Indian status to all the newly entitled, meaning my children's generational level, and not create differences between first-generation cousins or siblings.

Recommendation two is to provide Indian status or entitlement for all those individuals born prior to September 4, 1951. As my family history clearly displays, I have three first-generation cousins who remain disentitled under Bill S-3, even though CEDAW has recommended to Canada to fix all discrimination.

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

In fact, thank you to all of the witnesses here this afternoon.

We're going to move right into questions from committee members. We're going to go through a seven-minute round of questions and answers.

The first question comes from Gary Anandasangaree, please.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Thank you very much to all of you for being here today on the traditional lands of the Algonquin people.

On behalf of the committee—I know we've already mentioned it—we do apologize for the interruption and the delay in starting the proceedings.

From what Ms. McIvor is saying and from what the chiefs are saying, there appear to be two major issues here. One is admission into the particular communities and the other is entitlement to be registered under the Indian Act.

Recognizing that "nation to nation" does have a specific meaning, could all three of you you give us some guidance as to how we can reconcile that? All of you had very compelling arguments in your favour, but we would like to get a sense of whether it is possible to reconcile these two trajectories.

Grand Chief Joseph Tokwiro Norton: I'm not sure I understand your question.

Mr. Gary Anandasangaree: From my understanding, what you're suggesting is that you're unable to register, or you don't believe that you're able to register, those people who will be extended registration under Bill S-3 because, as a nation, you and your people have decided that the issue of citizenship is one that you alone are privy to. What Ms. McIvor is suggesting, and quite rightly, is that discrimination is discrimination, and cannot continue. I'm not suggesting this is contradictory, but how do we reconcile what appears to be a contradiction in some respects?

Grand Chief Joseph Tokwiro Norton: I'll start, and then I'll ask Kahsennenhawe to finish off.

There is, I guess, no reconciliation, if you will. We approached this matter, meaning Kahnawake, in 1981. It was the first time we passed a resolution at our table. We sent that to Ottawa, not for their approval but for their information.

We said to them, "This is what Kahnawake has decided to do. The provisions of the Indian Act will no longer apply to our community. These regulations that we have developed will now be the standard. Whatever you do in Ottawa has to meet that standard, not the other way around." That fired a signal that began the process. Ottawa responded by saying, "If you do that, you're disenfranchising all of your people. Your getting out of the Indian Act, more or less." That was their response. We said, "No, we're just taking over what we feel we need to take over."

● (1635)

Chief Kahsennenhawe Sky-Deer: I don't think Canada can make Mohawks. How this gets to be reconciled is beyond me. We've tried to come up with ideas of putting them on a general list, and if they can pass through our criteria, then we'll welcome them into the community, but if not, well, you made them Indians.

As Sharon mentioned about the relationship between Canada and the band, you have created Indians, but in our opinion you cannot make Mohawks of Kahnawake. When, as the grand chief said, we took that first move in 1981 to rectify discrimination in the Indian Act against indigenous women, our women who married non-indigenous men lost their rights. We said that in order to rectify that, any Mohawk man who marries a non-native woman will also lose his rights and will have to leave the community. That was the only thing we had at that point.

Then the 1985 Indian Act amendments came in and tried to mitigate and rectify those issues, but the problems had already been created, and every single amendment that you guys make that tries to rectify....

I understand what she's saying. You can't consult on discrimination, but you can consult on how your decisions unilaterally impact on our communities.

As I said, we have criteria for how you can be recognized. We didn't do a section 10 because we have very strong principles. We talked early on about provisions in the Indian Act.

We're not voters. We don't like to vote. We talk about 2% of the Canadian population being able to change the whole government, but we have to have a double majority to hold a vote to make any kind of decision in our community. Where's the logic in that? How do you expect us to do some kind of takeover under section 10 when our community is adamantly and in principle against voting? It doesn't work for us.

Canada is taking the "one size fits all" approach again to rectify registration. That is our argument in saying that you're not considering the communities who have just self-asserted our own rules.

To us, identity and belonging are paramount to our existence as a people, and Canada's continuing to meddle in that. It is not your business. You have gone so far now, I think, in your authorities.... Maybe some of the other first nations across Canada think of Canada as the almighty father who has all the answers, but we say we were here long before you, and the answers lie in our communities. That's where these decisions should rest.

Mr. Gary Anandasangaree: Thank you.

Ms. McIvor.

Ms. Sharon McIvor: I don't have a lot more to add. It was really clear that section 10, part of the Indian Act, was put into place to help alleviate these kinds of difficulties. I know across the country of at least 37 bands that have their own membership codes, and those membership codes continue to discriminate against the women and their descendants. Canada allowed that to happen—and we're not talking about section 10 here; we're talking only about status, not about membership. You're not addressing membership in Bill S-3.

What we're looking at is that there is the ability to determine that you could not refuse to take back the woman who married out, but you do have the right to not include anyone beyond her. There are several bands that did not take the women back at all, and those membership codes are still in place. They're challenged, but they're still in place.

We're talking apples and oranges here.

The Chair: Ms. McIvor, I'm sorry to interrupt.

Ms. Sharon McIvor: We're only talking about the relationships between the government and mainly Indian women and their descendants.

The Chair: We'll have to leave it there. I'm sure there'll be an opportunity to get more of that response out in the next questions.

The next question is from Arnold Viersen, please.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Last week, on Monday, on November 21, we heard from the litigants in the Descheneaux v. Canada case. They were some of our first witnesses on Bill S-3. Mr. Descheneaux and his chief were here, and they told us that they hadn't been consulted at all on the drafting of this bill, even though they were more than willing to work with the department. They in fact told us that the first they had learned about the bill was when we called them to come to testify before this committee.

I note that the minister has since apologized to them, saying that we probably should have worked together to draft a new bill.

I was just wondering whether you have any comments about engagement on this bill. Were you engaged at all prior to this? As well, do you think that not engaging with the litigants in the case was adequate?

I'll just open it up, starting at one end and working across.

● (1640)

Chief Kahsennenhawe Sky-Deer: I find it very surprising that Chief Rick O'Bomsawin—you're familiar with him—didn't know about it, because I even questioned him when they came to present in Montreal with regard to the S-3 amendments that were going to be coming. I asked him point-blank. I said, "Chief, did you consider how pushing forward this legislation all the way to the Supreme Court was going to impact first nations across Canada?" He looked at me and said, "I knew you were going to put me on the spot." I said, "Well, what are your thoughts?" He said, "Sometimes what your own principles and thinking are might not be the same as what the community's are."

I looked at him, puzzled, and it got me thinking. It's funny that Kahnawake are called the "counting Indians" because we tend to count blood quantum, and how native you are. The reason for that is, I think, historically, our people depended on going to work in the United States, and the United States has criteria about who could live and work in the United States, the Jay Treaty. There was a requirement to be 50% blood quantum. For us, it was very important to maintain that. I think that persevered over time into our laws. When you look at a community like Odanak, there's no criteria of who could be identified in that community as being Ojibwa or Abenaki.

Mr. Arnold Viersen: Were you aware that S-3 was being drafted?

Chief Kahsennenhawe Sky-Deer: Of course we were aware. We were aware once the decision happened, and we looked at it, and we said, "Oh my god."

When you look at blood quantum, we were very worried about how far the amendments were going to go to identify people as being status Indian under the Indian Act. We know what 1985 did, and I agree the women should have been welcomed back. We welcomed them back in our community, and then the children of the children after McIvor. Now Descheneaux goes further. At what point is it going to stop? If you remove the 6(2) cut-off, you might as well make non-indigenous persons Indians. That's how we look at it.

Mr. Arnold Viersen: Thank you.

Ms. McIvor.

Ms. Sharon McIvor: You did make non-indigenous people Indians. In 1985, when we lobbied to have every non-indigenous woman who had married in and received Indian status to have that status removed, the parliamentarians said, "No, we couldn't do that." They basically said that they lowered themselves enough to marry an Indian, so they deserved to keep their status. We did not get notified. We found out after the fact on a website that this bill had been drafted. It had been on the department's website.

With McIvor, we did not get notified. We did not get consulted. They started setting up the committee, and we were invited to come and talk the same as for Descheneaux. No, we didn't get consulted. When we did get consulted, it was at this table. We successfully convinced your counterparts in 2010 to change the law, and they attempted to do that.

Mr. Arnold Viersen: Mr. Matson, go ahead.

● (1645)

Mr. Jeremy Matson: I personally wasn't consulted. I approached the INAN committee and the Senate's APPA committee, and that's how I was able to submit something to the APPA committee and also the INAN committee.

To answer another question, in Winnipeg, from July 20 to 22, 2010, at the annual general assembly of first nations, the following was passed by consensus: "Therefore be it resolved that the Chiefs-in-Assembly support efforts to remove all discrimination against our people, including gender-based discrimination, from Indian Act registration provisions."

The Assembly of First Nations has written me letters about various legal complaints, human rights complaints. The Congress of Aboriginal Peoples and the Native Women's Association of Canada, all the three main national organizations, and a lot of the regional organizations, too, across Canada have supported me and my United Nations petition. The support's there to remove the gender discrimination. I have documents that go to answer your question. I don't want to be left out of that because it's important that the AFN had—

Mr. Arnold Viersen: Thank you.

I have one last question.

This is perhaps the first piece of legislation that this government is bringing in on the indigenous file. Do you think the way this has been handled is consistent with the Prime Minister's pledge in all the mandate letters to build a new nation-to-nation relationship?

Could I just get each of you on the record on that?

Chief Kahsennenhawe Sky-Deer: When the Conservative government was still in office and the Supreme Court ruling came down, they made an appeal. Then when the Liberals got in, they withdrew the appeal. That, to us, at the forefront.... They should have consulted on whether we thought that was a good move.

Just to go back to your last question—

The Chair: Just speak briefly, if you could. We are actually out of time on this one.

Chief Kahsennenhawe Sky-Deer: —we were never fully consulted, but we found out about it after the fact.

I just wanted to make that clear. Thanks.

The Chair: Thank you for that.

The next question is from Romeo Saganash, please.

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): In fact, that was a good question, so I will give some time for the others to answer the question.

The Chair: Go in any order you would like. Chief Norton, would you like to respond?

Mr. Arnold Viersen: Would you like me to repeat my question?

Ms. Sharon McIvor: No, Joe and I are looking at each other; both of our microphones are on.

Mr. Romeo Saganash: Whoever wants to start....

Ms. Sharon McIvor: Okay. I don't think the government knows what nation to nation is. I don't think they know how to consult, and I definitely am convinced that, whatever they're doing, it's not nation to nation.

If they were going to consult nation to nation, they wouldn't be consulting individual bands and they would not be taking great leadership from the Assembly of First Nations, who are there because they are the chiefs of made-up bands.

Our nation, which is very small, has eight bands, and each chief is talked to individually. If you go to the Assembly of First Nations meetings, B.C. holds sway because we have about a third of the bands in our province. Of course, our population is very small, but we have a third of the bands. It's a made-up group.

So we're not talking nation to nation. You can't talk nation to nation unless you have a nation, and we as individual bands are not nations.

Grand Chief Joseph Tokwiro Norton: On the other hand, in the east there are unceded territories. There are very few numbered treaty territories. What we go by is ancient relationships, such as a two row wampum. Without going into a long explanation of that, two nations side by side, travelling the river of life and joined by a chain that they polish, talk to each other. They don't impose on each other. You stay in your tall ship, as we described it, and we stay in our canoe. Your religion, your culture, and all your people are in that tall ship. What we have is in ours. If we decide to cross over in each other's...we do it by agreement. We don't force it upon each other.

That's what we believe in. That's what was given to us 450 years ago, when there was no such thing as a Canada and the United States, when there were the Dutch, the British, the Spanish, the French—whoever came here. That's what we believe in, and that's what we have in our minds and in our hearts to this day. That's nation to nation.

● (1650)

Mr. Romeo Saganash: Mr. Matson.

Mr. Jeremy Matson: I'm sorry, I wasn't listening. Can you quickly repeat your question?

Mr. Romeo Saganash: Do you want to repeat the question?

Mr. Arnold Viersen: My question was whether you think the way the government has handled Bill S-3 is consistent with the mandate letters that said to build a nation-to-nation relationship.

Mr. Jeremy Matson: As an individual, I wasn't privy to any information about nation to nation. I belong to a nation and I have a relationship with my nation. Just as I have a relationship with the crown and with section 6 of the Indian Act, I have my own relationship with my own nation.

Also, every family within the Squamish Nation is affected by Bill C-31 and Bill C-3 and now Bill S-3, so it's important to communities such as mine.

Mr. Romeo Saganash: Thank you.

First of all, welcome to this committee.

I've listened very carefully to your presentations. I wholeheartedly agree with everything you have said, each and every one of you. I too had similar feelings when I was asked to sit on this committee, finally, and become the critic for aboriginal affairs, with this bill coming in as the first task. How do you improve basically archaic, colonial, paternalistic, discriminatory, and fundamentally racist legislation? I have a very difficult time with that.

I listened very carefully to you, Joe, when you talked about the imposition of legislation and jurisdiction, and nation to nation.

It reminded me of the 2004 case of Haida Nation v. British Columbia, in which the Supreme Court talked about reconciliation. The Supreme Court in that case said that the objective was to reconcile the pre-existing sovereignty of indigenous peoples with the assumed sovereignty of the crown. I think you hit on that point when you made your presentation.

I would like to ask you how you deal with the situation surrounding your way of doing things with respect to membership. The Canadian Human Rights Commission has supposedly stepped in. I don't know if that's the case. How do you deal with that?

Grand Chief Joseph Tokwiro Norton: To begin with, I would like to jump back in time a little bit to the year 1990, which is infamous. People here who were born before that year will remember what happened with the Mohawk Nation in Kanesatake, Kahnawake, and to some degree Akwesasne.

Without going into a great deal of detail, what happened back then was that a situation arose that created a whole rethinking of the relationship between Canada and the native people. It wasn't just Mohawk people. It was right across the country, because everybody jumped in and became involved in that. Fast-forward to today and what we are living with. The aftermath has given rise to this pride and to the demand that we must do things with the methods provided to us by our ancestors, but in the modern context, if you will. That's what this is about. There's much more to it than that.

I know that you asked a very complicated question in a way, but in a very simplistic way we are allies to Canada. We are not subjects of Canada. Therefore this applies, and not the Indian Act, although that's what has been placed upon us for 150-some-odd years.

● (1655)

The Chair: Thank you for that.

The next question is from Don Rusnak, please.

Mr. Don Rusnak (Thunder Bay—Rainy River, Lib.): Thank you for appearing before this committee today.

I tend to agree with a lot of what was said here today, but what I struggle with is that this is a very large country and we're dealing with this one issue as a pan-aboriginal issue because of the Indian Act.

The Indian Act was designed to control indigenous people across this country; we all know that. It's done a very good job of destroying communities. It destroyed my community. I'm the only first nation member of Parliament from Ontario.

From sitting here listening to witnesses testify either way about this piece of legislation, and other things we've heard here, the one thing that's clear to me is that certain communities are at different levels in terms of governing and in terms of capacity to control their own destiny.

This is my worry, and this is why I see the need for this change to the Indian Act. There are still communities that are so dependent upon the Indian Act that these changes will hopefully help these people—and hopefully we'll get the numbers from the department about where these people are coming from—so that they don't slip through the cracks.

They're at the very bottom of this country, and they need the support that comes from the Indian Act, because they don't have anything else. That's the reason I see the need for these changes, so that we bring them in and they have those benefits and protections.

But that's not what I see, going forward. I see our communities—and MP Gary Anandasangaree and I were with the Mississaugas where they signed an accord to co-operate and negotiate with the government as a nation. That's where we need to be going. Having an agreement over land, resources, and how that relationship is going to look is what first nations and other indigenous communities across this country, in my view, need to move towards.

But right now we're discussing Bill S-3, and of course your community is in a different position. It's great to hear that perspective at this committee, but what would you suggest we do as the government in respect of this legislation, understanding that it's not going to affect just your community but is going to affect all those other communities?

I'm not saying that this is right. We have to get away from the pan-aboriginal approach to dealing with communities, because the Mohawks are very different from the Cree in northwestern Ontario or different from the Tsleil-Waututh in Vancouver. The way I explain it is that in Europe people in northern Poland do not enjoy and like the same things and don't have the same culture and language as people in southern Spain, although they're all Europeans. We need to do things differently, and dealing with it under one department and dealing with our indigenous people across this country as a homogeneous society or cultural group is wrong.

What, given the situation we're in, would you suggest we do with this piece of legislation?

Grand Chief Joseph Tokwiro Norton: If I may, the European Union is starting to show some cracks, as you know, although we're not in Europe.

We've been approached, and we've talked to the minister and the deputy minister, and they've talked to us about how to extract us from the Indian Act, more or less. How do you get out of the Indian Act? We can find solutions to just about everything that the Indian Act engulfs us with, but there are two areas, land and membership, that we're going to battle like hell over, and we're doing that right now.

As my colleague mentioned earlier on, this is not a “one size fits all” approach. In various parts of the country we understand that people need to have the Indian Act; they need to work with that. Changes that can be made to suit them are not going to suit us, and we don't want to fight with anybody. I don't want to fight with her, and I don't want to fight with him over that, the other witnesses here. If it fits what they need, then fine, let it fit.

You're going to have to go, I think, very carefully case by case and look right across the country in terms of what can happen and what can be done.

We're ready. We're bursting at the seams in terms of the Indian Act and it's application, especially in this one situation. I understand there's a Charter of Rights. I understand there's the appearance of discrimination and something has to be done. There has to be a way for Canada to look at it and say, “Well, that's Kahnawake. That's the way they do things, and it's not going to change”.

● (1700)

Mr. Don Rusnak: Go ahead, Ms. McIvor.

Ms. Sharon McIvor: I'm very, very clear on this piece of legislation. It needs to be fixed. You need to take out all the discrimination. It's as simple as that. It's not rocket science here at all.

To follow up on what Joe said, I was part of a constitutional consultation committee in 1989-90. We went to his community to consult, and they invited us into the big house. Their system is led by women, by matriarchs. They were talking about the Charter of Rights and Freedoms and discrimination, and one of the matriarchs said, “Well, what would happen if one of the men wanted to be a matriarch?”, and they said, “Well, we'd put a dress on him and he could do what he wanted to do within our system. But there are women out there who are discriminated against, and we, as the Mohawk people, have been around for centuries and we can take care of ourselves.”

I was on the panel I think in 1989, and it's exactly what you've said.

The Chair: Ms. McIvor, we'll have to leave it there. Thank you very much for that.

We're moving into five-minute rounds of questions now.

The first question is from David Yurdiga, please.

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): I'd like to welcome our witnesses here today. Your testimony will be instrumental in our moving forward on Bill S-3.

It seems to me that the Bill S-3 consultations were very limited. Some were consulted and some were not, which poses a problem. If we want to get a real perspective of what first nations need and how they want to proceed, it seems to me that it should be coming from first nations, not from us.

If we had to change Bill S-3 to make it work, what changes are necessary so it will be all-inclusive and get rid of some of the issues we're hearing today? What changes would you like to see in Bill S-3?

We'll start with whoever wants to answer that, or I can hear from each individual witness.

Ms. Sharon McIvor: I'll start.

Take the discrimination out. From the time the legislation was put in place, whatever version it was, up until 1985, there was discrimination against women and their descendants. That's all I am asking: take away the discrimination and put the people where they should have been had the discrimination not taken place.

As I said, they attempted to do it in 2010. There was the report to Parliament then. It's fairly simple to do: make sure that anybody born before April 17, 1985, whether descended from a male or a female, is treated exactly the same.

That means in their registration. We don't want paragraphs 6(1)(c.1.1) and 6(1)(c.1.4). There are categories there that are just making everybody different. The fact that a woman married out and her descendants didn't have the advantage of being in their community and learning in their community doesn't mean they are not entitled to belong to that group.

Just take the discrimination out. I can say it's not hard.

● (1705)

Mr. David Yurdiga: Are there any other comments?

Chief Kahsennenhawe Sky-Deer: I just think Canada is in a conundrum one way or another, because you're not going to please everybody. I know she's saying that this is all you have to do and that's it, but at the same time, there's the impact it's going to have on first nations across Canada.

As Mr. Rusnak mentioned, some of them depend on these amendments and think it's going to be the greatest thing, because it's going to further their numbers and ensure that their existence as a band is going to continue. Others of us look at it and think, “Oh, my God, there are going to be all these people added to our community who don't even know where Kahnawake is or what it means to be Kanienkehaka.”

You're going to have an issue one way or another, moving forward. I had proposed at one point that there perhaps be registration: who could be a status Indian. You need to have general lists instead of giving band cards and tying it to specific nations or tying it to specific bands.

Or even make Ottawa a designated reserve, if you have to, and tie them to being Indians of Canada.

An hon. member: Ottawa Indians.

Chief Kahsennenhawe Sky-Deer: Yes, Ottawa Indians.

Voices: Oh, oh!

Chief Kahsennenhawe Sky-Deer: I know it's funny, but in terms of the connection to being tied to a community, if they don't meet a specific community's criteria—were it to do a section 10.... If they don't, well, then they have to go somewhere. They have to be tied to somewhere.

Grand Chief Joseph Tokwiro Norton: The Algonquin Nation may have something to say about that.

Chief Kahsennenhawe Sky-Deer: Yes, it's true.

Voices: Oh, oh!

Ms. Sharon McIvor: We have a band in B.C. that would admit anybody. They saw themselves as a sunset band and they took anybody. They have advertised, saying that if you want a band, you can transfer to them; they will take you.

There are bands, according to Stewart Clatworthy, that by 2030 will no longer exist because of the sunset clause that's now in the Indian Act.

Mr. David Yurdiga: Thank you.

The Chair: Thank you.

We'll have to leave that question there. We're out of time on that one.

The next question is from Joël Lightbound, please.

[*Translation*]

Mr. Joël Lightbound (Louis-Hébert, Lib.): Thank you, Mr. Chair.

I would like to welcome all the witnesses appearing today.

Since I will be speaking French, I suggest that you use the earpiece for simultaneous interpretation.

Let's talk about Bill S-3, which is a government bill.

Based on the various testimony we have heard, it seems that each of you has reservations and considers it to be imperfect. This bill does all the same respond to a Superior Court decision. I understand that this is not our ultimate objective, but it is at least a first step.

I would like to hear your views on what the second phase of the government consultation process should include and what the result should be. The minister has pledged to hold this consultation to guide her, and the committee is meeting today to hear your views.

Mr. Matson, you may begin and give us your opinion.

[*English*]

Mr. Jeremy Matson: Your question was on consultation for phase two, what should happen?

I looked at the government's website about phase two and the proposed dialogue that you've already set up. I would look at all the case law that's before the courts, the United Nations, the Inter-American Commission on Human Rights. Look at all the issues that are out there. Ask individuals, not just nations, and ask non-aboriginal organizations that specialize in human rights. Talk to the Canadian Human Rights Commission about their perspective on things and, of course, consult with the nations. Every band or nation should be consulted, because they will be affected by that proposed dialogue in phase two.

I have some suggestions because I have other family background, not about this discrimination, about other discrimination that affect my family members, too, that stems from section 6. That's another subject for another time.

● (1710)

[*Translation*]

Mr. Joël Lightbound: Ms. McIvor, what is your opinion?

[*English*]

Ms. Sharon McIvor: I'm unclear about what they want to consult about. Perhaps it's membership. I don't know.

I know that they don't have the right to consult about discrimination. No one has the right to say it's okay to discriminate. They did it for Bill C-31. They did it for Bill C-3, and it looks like it's their intention to do it for Bill S-3. Whoever they consulted is saying that it's okay to discriminate. We don't want any more. There are some that want more members, as well, but the consultation has never, ever been sufficient. I cannot think of any consultation in the last 50 years that has resulted in anything. You go and talk, and you do what you want to do anyway.

My immediate concern with Bill S-3 is that it seems that instead of taking out all the known discrimination in the Indian Act, the minister has now decided, “Well, we won't take it all out, even though we know it's there, and we'll consult with people about how we're going to do it.” It doesn't make any sense to me.

I'm not a big fan of consultation in this kind of legislation.

Yes, when you're looking at land, resources, all those kinds of things, absolutely. But on whether or not you should take discrimination against an identified group out of the Indian Act, consultation won't get you anywhere. You can't do it. You cannot consult and get somebody's agreement and then continue to discriminate, and then continue to discriminate while you're consulting.

The Chair: Thank you, Ms. McIvor.

The next question is from Cathy McLeod, please.

Mrs. Cathy McLeod: Thank you, witnesses. It's certainly very compelling testimony.

It's interesting that we're doing what they call a pre-study. I've been here since 2008, and typically we get bills that are well through their process. A pre-study is a really interesting way to have a discussion. I'm also looking at what's happening in the Senate right now.

To be quite frank, I think everyone here had some very compelling points. Mr. Matson, you indicated very clearly that discrimination is still there, as did Ms. McIvor, and then there's the bigger picture in terms of where we go.

We've come back in 1985; we've come back in case after case. I think we need to spend phase two looking at that big picture that you're talking about.

In phase one, which we're doing right now, Bill S-3, let's get the discrimination out so that this is fixed, so that we're not back here, not spending a lot more money in courts, not repeating this process that we've always done.

Having said that, with what has happened in the Senate and with what has happened here, I want to table my motion right now, which really is saying that the minister should ask for a bit of an extension and get this one right. I will just read it again:

> That, in light of recent testimony the Committee has heard during its study of the subject matter of Bill S-3, An Act to Amend the Indian Act (elimination of known sex-based inequities in registration), the Committee: 1) suspend its study in recognition of the Bill's technical flaws and inadequate First Nations consultations; 2) resume its study once the Government of Canada has consulted with involved parties and ensured there are no technical flaws; 3) recommend that the Government of Canada request an extension on passing legislation from the Superior Court of Quebec, as recommended by Assembly of First Nations National Chief Perry Bellegarde; and that the Committee report this recommendation to the House.

Obviously we can debate this, but for me, the testimony is clear. We have to spend a bit of time fixing this. Phase two needs to be really focused on solving the big picture issues. Let's get discrimination out, and let's take our time to do it right.

● (1715)

The Chair: Just for the benefit of the witnesses, what happens when a member puts a motion forward is that we push a pause button on the questions and answers with the witnesses until we deal with the motion that's now live on the floor.

Gary, did you want the floor?

Mr. Gary Anandasangaree: Yes. I think, given that we've had a number of interruptions and given the need for our guests to conclude their testimony, I'm going to respectfully ask that the motion be deferred.

I'm moving that the motion be deferred.

The Chair: Okay. We have a motion of deferral.

I'm going to ask for a show of hands on the motion for deferral.

The motion fails.

Mrs. Cathy McLeod: Thank you. Perhaps you heard what I believe is the right path forward, that being, let's pause. Let's get rid of all the discrimination so that we're not back in court the minute this one passes. That really relieves the government, so that instead of having to deal with section 6—it's a crazy system—they then look at the big picture and really focus on nation-to-nation consultation.

What do you think of that particular path forward?

Chief Kahsennenhawe Sky-Deer: I didn't get a chance to answer the last question, which was basically along the lines of what could be the suggestion for phase two moving forward.

I think you're right. I think you do need to address the discrimination because, as you said, it affects all the first nations across the country. Then in phase two, do the nation to nation and maybe find a way for Kahnawake and the Mohawks to opt out of registration in the Indian Act and let it be a bottom-up approach, and say, "These are the people we recognize as Mohawks of Kahnawake; now register them." If people don't fall under our criteria, then they're not eligible to be recognized as Mohawks.

By all means, if they want to go to other communities and they want to be registered under their community, we could find a way to accommodate all of the communities. But in Kahnawake, because we have such a different take on who could belong and who could come and live in our community and who could be a part of us, and we have since time immemorial, with regard to it being imposed, we felt we had to put in provisions that protect that. These things that are in our culture, in the two row wampum and the *teionitiohkwahnhák-sta*, the circle wampum, and everything that makes us Kanienkehaka might be different from what makes someone Squamish, might be different from what makes someone Abenaki, and so on and so forth. That's where the nation to nation needs to happen in phase two.

The Chair: We'll have to leave it there.

I just want to clarify that I misspoke after our vote. The motion did not fail. In fact, the motion of deferral passed. We still have a motion to deal with at another time, so I just wanted to be clear about that.

The next question is from Michael McLeod, please.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you for the presentations. It's a very interesting discussion, and I see a number of arguments and a number of positions being put forward that I hear in my own riding in the Northwest Territories. There are many of our aboriginal governments—and we have six—that are very clear that nobody speaks for them, and they don't fall under any national organization. They speak for themselves. They represent themselves. Of course, that causes challenges sometimes, because governments want to talk to the AFN or Métis National Council, and none of my organizations, except the Inuvialuit, falls under one of the national bodies.

I'm trying to follow what everybody is saying. I recognize, and we've heard it before, that being recognized as a status Indian does not automatically make you part of the community or a citizen of a nation. I'm trying to follow on some of the other pieces of legislation that came before.

I want to ask Kahsennenhawe Sky-Deer and Chief Norton about how you handled Bill C-31, recognizing there was a number of people who got status then. Were they accepted? Or were they not accepted because they didn't meet your membership code?

● (1720)

Chief Kahsennenhawe Sky-Deer: After Bill C-31 gave the women back their rights, there was a ceremony that took place where we welcomed the women back. Then the children who are, if you want to say, products of mixed marriage have to meet a criterion of four out of eight great-grandparents. We tried to move away from blood quantum. We feel that blood quantum is a foreign—being the U.S.—government's way of identifying who are Indians under their laws for border crossing and whatnot. That's the criterion, and there are people who fall outside of that.

There are people who are living in our community right now who don't fit that criterion; hence, now we're trying to develop residency law: who could live in the community and who has rights and entitlement. I know that Canada's obligation is to protect the acquired rights. As she had mentioned before about all of those non-native women who married in, some of them are still living in our community. That poses a problem for us, but we said prior to the 1981 date when we set and tried to rectify and say that anybody from this point who marries non-indigenous will have to leave the community, but the children can come back, granted they meet the criteria and granted they marry back in. It's very strict. I know that. That's why he said if people want to call us racist or discriminatory, say what you will, but we have responsibilities to ensure certain things continue for the next seven generations, so that our identities will be strong in the future.

There are going to be court challenges. It's going to keep happening. There are going to be human rights complaints. But at the end of the day, we'll cross those bridges when we come to them, and ultimately, it's up to the community.

Mr. Michael McLeod: Mr. Chairman, we're in a little different situation because we don't have reserves in the Northwest Territories, but we have aboriginal communities, and we use what they call a community acceptance vote. If a person wants to qualify to become part of the band council or the land claim group, then they have a vote.

I just want to be clear, as I couldn't quite follow what you said. Did you say go ahead with phase one and consult with phase two, or that you don't care either way what happens?

Chief Kahsennenhawe Sky-Deer: I think we made compelling arguments on being mindful about how opening up registration has an impact on each individual community. At the same time, we're aware, like you said, that this law is going to affect every—

Mr. Michael McLeod: But our decision is to go ahead, stop, or slow down. What are you telling us?

The Chair: I'm afraid you're out of time there, Michael. We're over time, in fact, on that one.

Mr. Michael McLeod: Thanks.

The Chair: No problem.

We are now at our final question. It's a three-minute question, and it comes from Romeo Saganash.

Mr. Romeo Saganash: I mentioned at the outset that I feel this was unfortunately a missed opportunity for the government. They could have started earlier on this issue. Unfortunately, they haven't, and so we're caught with this deadline from the Superior Court of Quebec.

I want to read a quote that I found this morning:

> ...the first nations across this country are distinct, just as they are similar in certain circumstances. It needs to be at the initiation of first nations communities, and the first nations communities need to see the benefit in initiating, expanding on, and harnessing that discussion. If it's not driven by the first nations communities, it simply will not work.

That is a quote from the testimony of our current Minister of Justice from 2010. I think that's the point we want to make here with the motion that's being proposed, that we do it right.

I was going to ask Ms. McIvor the question, because she said similar things in 2010, but I will ask the three witnesses remaining. Where should we go from here?

I hear your positions pretty clearly. It's pretty simple and straightforward. I would like to know your position on where we go from here.

● (1725)

Mr. Jeremy Matson: Well, first things first. Fix all the gender discrimination stemming from the Indian Act and inequalities going forward after April 17, 1985—that's what I recommend—and going back to the beginning. I think that's testimony that you've heard.

I think it's a thorough analysis of section 6 of the Indian Act, (1)(a), (b), (c), (d), (e), (f), and then subsections (2) and (3), for the Government of Canada to undo colonization and fix all the discrimination in that.

Provide a list of all the individuals, and then let the communities take their membership or citizenship, however they decide to structure their communities. Some are in place already, as I've heard from colleagues here. Allow for them to then approach the Government of Canada to say that a person was born in their community, that they meet their criteria, and give them status. I don't know whether status might be a separate thing, or it might go away. But I think it should come back to the communities to say that they have a nation-born infant and they are part of their community, after a thorough analysis of section 6 of the Indian Act.

The Chair: I'm afraid that's the three minutes there, Romeo. We've come to the end of the panel.

I want to say to Chief Kahsennenhawe, Chief Joseph, Ms. McIvor who is now absent, and Mr. Matson, thank you very much for being with us today, for making the trip, and for sharing your very well-considered testimony. It is indeed very useful to us and will be taken very seriously.

I thank you for your time, and I look for a motion to adjourn.

Do you want the floor, Gary?

Mr. Gary Anandasangaree: I just want to take a moment to thank Michelle for being an incredible resource for us. I know she'll be taking some time, and I think I can say on behalf of the members here that we thank her for her incredible support and service.

Here's a small envelope with a little gift as well.

Some hon. members: Hear, hear!

The Chair: The meeting is adjourned.

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