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Chair

Mr. Andy Fillmore

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● (1530)

[*English*]

The Chair (Mr. Andy Fillmore (Halifax, Lib.)): Good afternoon, everyone. We'll come to order now.

This is the House of Commons Standing Committee on Indigenous and Northern Affairs. Today we're convening pursuant to Standing Order 108(2) to study the subject matter of Bill S-3, an act to amend the Indian Act, specifically the elimination of sex-based inequities in registration. We're meeting today, as we always do, on unceded Algonquin territory, and we're very grateful for that.

We have a very packed panel for the first hour, so we've asked our five speakers to limit their remarks to seven minutes each. That will leave 25 minutes for questions from the committee itself. I'll wave a yellow card so that speakers will know they have a minute to conclude, and then a red card to finish up.

I would ask you to do your very best to stay within the time limit in order to make sure we get some questions in and that everyone can be heard fairly. Without further ado, I'd like to introduce this panel of speakers.

First, from the Canadian Bar Association, we welcome Gaylene Schellenberg, Lawyer, Legislation and Law Reform, and David Taylor, Executive Member, Aboriginal Law Section. From the Women's Legal Education and Action Fund, we have Kim Stanton, Legal Director, and Krista Nerland, Associate at Olthuis Kleer Townshend - LLP. Appearing today as individuals are Pamela Palmater, Chair in Indigenous Governance, Ryerson University, Department of Politics and Public Administration, as well as Mary Eberts, and Ellen Gabriel.

Welcome to all of you. We're very pleased that you could join us today.

We will launch right into it with the Canadian Bar Association and its two representatives.

I invite you to share the time between you as you see fit within those seven minutes. You have the floor. Thank you very much.

Ms. Gaylene Schellenberg (Lawyer, Legislation and Law Reform, Canadian Bar Association): Thank you for the invitation to appear before you today on Bill S-3.

The Canadian Bar Association is a national association of over 36,000 lawyers, law students, notaries, and academics, with a mandate that includes seeking improvement in the law and the administration of justice.

Our aboriginal law section consists of members from all parts of Canada specializing in aboriginal law. With me today is David Taylor, an executive member of that section. David will summarize some of the highlights from our brief and respond to your questions.

Thank you.

Mr. David Taylor (Executive Member, Aboriginal Law Section, Canadian Bar Association): Thank you. Good afternoon, Mr. Chair and honourable members.

[*Translation*]

I'm pleased to appear before the Standing Committee on Indigenous and Northern Affairs.

I'll give my presentation in English, but I would be happy to answer questions in French.

[*English*]

The CBA aboriginal law section is pleased to contribute to the Standing Committee on Indigenous and Northern Affairs' pre-study of Bill S-3's subject matter.

I would begin by recalling the words of Madam Justice Ross of the Supreme Court of British Columbia in her reasons at trial in McIvor v. the Registrar, Indian and Northern Affairs Canada:

> ...it is one of our most basic expectations that we will acquire the cultural identity of our parents; and that as parents we will transmit our cultural identity to our children.

It is therefore not surprising that one of the most frequent criticisms of the registration scheme is that it denies Indian women the ability to pass Indian status to their children.

One of our main points concerns the manner in which this bill was brought forward and is being considered by Parliament.

When Bill S-3 was introduced at first reading in the Senate, consultations with regard to the first phase of the government's response to the Descheneaux decision were far from over. While we understand that the Indigenous Affairs consultations regarding Bill S-3 were to conclude last Friday, December 2, it remains the case that moving forward in the legislative process while there were still consultations under way undermines the fulfilment of the federal government's duty to consult indigenous peoples regarding legislative changes that affect them, as required by the honour of the crown and the United Nations Declaration on the Rights of Indigenous Peoples. While the committee stages in the Senate and in the House are designed for the amendment of bills based on public feedback, the honour of the crown and the United Nations declaration require more than indigenous peoples being left to watch the legislative train leave the station.

We are also concerned by clause 8 of Bill S-3, which precludes those impacted by Bill S-3 from seeking compensation for their past exclusion from Indian status. Parliament and the federal crown have been on notice since at least the 2009 decision in McIvor by the British Columbia Court of Appeal that the amendments to the Indian Act in 1985 did not entirely resolve the discriminatory aspects of the Indian status system and, in fact, created new discriminatory elements.

On this point, Madam Justice Masse held in Descheneaux:

> The year is now 2015. The 1985 Act from which the discrimination arises has been in force for a little more than 30 years.

The general finding of discrimination in the 2009 judgment of the Court of Appeal for British Columbia in McIvor could have enabled Parliament to make more sweeping corrections than what was accomplished in the measures in the 2010 act. The discrimination suffered by the plaintiffs arises from the same source as the one identified in the case.

Canada was aware that work remained to be done following McIvor and Bill C-3. Leaving clause 8 in Bill S-3 immunizes Canada from the consequences of its conduct and provides little incentive to ensure that the eradication of discrimination in the context of Indian status proceeds without delay.

By continuing to withhold eligibility for Indian status from certain women and their descendants, government realizes a cost saving: controlling costs by having fewer members. The result of discrimination should not be an economic benefit to the government.

Removing clause 8 from Bill S-3 would change the financial incentive going forward and would send a clear message from Parliament that the government will not be given a licence to discriminate through absolution for the past consequences of its actions where government was clearly on notice through prior court decisions that its broader legislative scheme was not on sound constitutional footing.

As a practical matter, sufficient resources should be provided to bands that will see an influx of new members as a result of Bill S-3, and sufficient resources should be provided to the relevant operational sectors at Indigenous Affairs in order to ensure that the registration of individuals who have been unconstitutionally excluded for more than three decades proceeds with all due dispatch.

The subject matter of Bill S-3 should also be referred to a parliamentary committee within 18 months of its coming into force. We understand that the government is committed to proposing further revisions to the Indian status system as part of its two-stage response to the Descheneaux decision. This is to be commended and is in keeping with Justice Masse's calls for a broader review of this question.

Indeed, in the second-last paragraph of her reasons for judgment, Madam Justice Masse held:

> Parliament should not interpret this judgment as strictly as it did the [Court of Appeal for British Columbia's] judgment in McIvor. If it wishes to fully play its role instead of giving free reign to legal disputes, it must act differently this time, while also quickly making sufficiently significant corrections to remedy the discrimination identified in this case. One approach does not exclude the other.

Given the long history of discrimination involved in the Indian status system, the phase two process will benefit from timely parliamentary scrutiny long enough before the next election to ensure that parliamentarians' expertise and the views of community members do not get lost in the legislative crunch that accompanies the end of a parliamentary session.

● (1535)

In closing, it is important to note that the McIvor and Descheneaux decisions deal with aspects of the Indian status system that are discriminatory and contrary to section 15 of the charter. As such, they set the constitutional floor, the level of fairness below which the Indian status system may not fall. Certainly, the legislative process, both here and in the phase to come, should set its sights higher in an attempt to rectify the inequities that have long been identified in the Indian status system.

Those are our submissions.

[*Translation*]

Thank you.

[*English*]

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

We'll move right along to the Women's Legal Education and Action Fund.

You have seven minutes, Ms. Nerland and Ms. Stanton, to share as you would like.

Dr. Kim Stanton (Legal Director, Women's Legal Education and Action Fund): Thank you.

Good afternoon. Thank you so much for inviting LEAF to speak with you today. We're very grateful to the Algonquin nation for allowing us to meet on their territory.

My name is Kim Stanton. I'm the legal director at LEAF, the Women's Legal Education and Action Fund. With me is Krista Nerland, who is with Olthuis Kleer Townshend. Krista is LEAF's co-counsel in its intervention in the Gehl and Attorney General case. This is a case that's making its way to the Ontario Court of Appeal for a hearing in a couple of weeks. It's about the way the Indian Act treats unstated and unknown paternity. We say that the policy is a form of sex discrimination against women. We note with concern that the Department of Justice continues to fight Dr. Gehl, an indigenous woman who lives with a disability, in her efforts to gain status. This is something that we really do need to rectify, and this bill doesn't do it.

LEAF is a national organization. We're a non-profit. We were founded in 1985 to promote substantive equality for women and girls through litigation, law reform, and public education. We've long been concerned about the persistence of sex discrimination in the Indian Act, and we're very disheartened that this is yet another legislative attempt to address the discrimination that falls short of providing indigenous women with justice.

Krista will provide you with a summary of our concerns about this bill.

● (1540)

Ms. Krista Nerland (Associate, Olthuis Kleer Townshend - LLP, Women's Legal Education and Action Fund): Thanks, Kim.

LEAF is focusing our submissions today on what the government calls phase one, essentially Bill S-3 before you. LEAF supports the broader nation-to-nation conversation about moving beyond Indian Act status towards first nation citizenship that will follow. In the meantime, it's our position that it's not acceptable to leave in place a status regime that discriminates against indigenous women. With that in mind, we'd like to make five basic points about the bill today.

First, the Native Women's Association of Canada I think has already explained to this committee that indigenous women were left out of the development of this bill and that it was presented to them as a *fait accompli* . This is a mistake. It should go without saying that indigenous women's groups should be partners in remedying sex discrimination against indigenous women under the Indian Act.

Second, contrary to its title, this act does not remove or eliminate all the sex discrimination in the Indian Act status provisions. It's at best a partial response. For example, the bill seems to allow for the granting of lesser status to certain people born prior to 1951 who trace their Indian status through the female line. In addition, the status provisions, or more particularly the way that INAC implements them, impose a disproportionate burden on women who cannot identify the father of their children, for instance, because of rape, incest, or domestic violence. It leaves those women and their children without equal access to the status provisions under the act. This is sex discrimination and is prohibited by both section 15 of the charter and by international law.

In our view, Bill S-3 is an unfortunate replica of the narrow, piecemeal approach that Parliament took six years ago after the British Columbia Court of Appeal's decision in McIvor. If this bill passes as it is, we'll all be back here in a year, or two years, or five years, as another indigenous woman or one of her descendants has spent years before the courts trying to get equal access to status under the act. It is unacceptable, and it's inconsistent with the charter's substantive equality guarantee to force indigenous women and their descendants to endure the financial and emotional hardship of years of protracted litigation to address discrimination that we already know is in the Indian Act.

LEAF urges this committee to ensure that Parliament's legislative response to Descheneaux removes all sex discrimination from the status provisions now. This will be a strong foundation for the broader nation-to-nation conversation about moving beyond the Indian Act that follows.

Third, the best way to do this is to stop creating layers and layers of status that leave intact the old discrimination under the act. There are better options. Six years ago, after the decision in McIvor, the government proposed a similarly narrow and piecemeal reform bill, not unlike the one before you today. At the time, an amendment was put forth that effectively gave everyone status under an amended form of paragraph 6(1)(a) rather than creating more layers of inferior status. A provision like that would go a lot further to addressing the sex discrimination in the act, although it's worth noting that this would not address the discrimination against women who cannot or will not state the paternity of their children. That's something that needs to be addressed in addition.

Fourth, the Superior Court of Quebec's deadline of February 3, 2017 should not be relied on as justification for a bill that doesn't do that job. If you can't remove all the sex discrimination now, then you need to ask for an extension in order to ensure that, as it goes through, the bill addresses all of the discrimination that we know to be in the Indian Act.

Finally, LEAF urges the government to ensure that first nations communities and organizations have both the land and the resources they need to support new registrants. What this means can't be determined unilaterally in Ottawa, but it needs to happen in partnership with those first nations governments and organizations.

By way of conclusion, I want to emphasize what's at stake for the people who are excluded from status as a result of these discriminatory provisions. It's not just about the material benefits, post-secondary funding, health. Although those can be significant, being denied status can also mean exclusion from community life, the denial of human dignity and self-worth, loss of band membership, and the ability to live on reserve. The United Nations Committee on the Elimination of Discrimination against Women has stated that these provisions in the Indian Act are among the root causes of violence against indigenous women in Canada. These harms are serious, and indigenous women and their descendants have already endured them for over 145 years. It's essential that the government get this bill right.

Thank you for allowing us to make submissions.

The Chair: Thank you very much for that.

Before we move to Ms. Palmater, who is speaking as an individual, I want to note that Ms. Palmater provided us with a handout. We didn't have time to get it translated into both official languages. We have it in English and a draft in French. If it's okay with the committee, we'll pass it out, but I didn't want to do that without permission.

Does that sound okay to everybody?

Some hon. members: Agreed.

The Chair: Ms. Palmater, the floor is yours for seven minutes. Thank you.

● (1545)

Dr. Pamela Palmater (Chair in Indigenous Governance, Department of Politics & Public Administration, Ryerson University, As an Individual): [*Witness speaks in Mi'kmaq*] Pam Palmater. I'm from the sovereign Mi'kmaq Nation on unceded territories in Mi'kma'ki.

I want to thank you for allowing me to come today to speak to some of my concerns with Bill S-3. First, I think it's important to acknowledge that we're on Algonquin territory. Second, we're here today for the efforts of indigenous women who have continued this battle for many decades, like Mary Two-Axe Early, Jeannette Corbiere Lavell, Yvonne Bédard, Sharon McIvor, Sandra Lovelace, and now the second generation of litigants fighting for gender equality for indigenous women, including Jeremy Matson, Lynn Gehl, Nathan McGillivary, and of course, Stéphane Descheneaux.

My primary concerns will be laid out in the submission that is being handed out.

The most important one is that Bill S-3 does not address all known gender discrimination. It doesn't. You've heard from other witnesses who have given very specific examples. My examples are not exhaustive, but they include grandchildren who trace their descent through Indian women who married out pre-1951, the illegitimate female children and their descendants who trace descent from Indian men born pre-1951, and also the differentiation and hierarchy that was created between paragraph 6(1)(a), the male category, and paragraph 6(1)(c), primarily the female category. They have come to be known as the "real Indians" and the "wannabe Indians". In fact, 6(1)(c)s are the same in descent; they just happen to be indigenous women and their descendants.

A problem that also causes gender discrimination is with Bill S-3. They've now included even more complex differentiation in terms of categories. You have proposed paragraphs 6(1)(c.01), (c.2), (c.3), and (c.4). This also disproportionately impacts the descendants of Indian women who married out. Here's the problem with that. There is no legal or policy justification on behalf of Indian Affairs to have everyone identified in this way.

Programs and services are addressed through contribution agreements based on a membership or the status Indian registry. They never have to record whether you get health, if you're a 6(1)(a), (b), (c), (d) (e), (f), or 6(2). There's no justification for it, so then what's the alternative reason for it?

What it does is it places a scarlet letter on women and their descendants for having committed the sins of marrying out, having had illegitimate children, or worse, being born female. That's a scarlet letter that doesn't attach to Indian men and their descendants who have married out and have intermarried for many successive generations.

The other issue is the hierarchy of Indian status between subsections 6(1) and 6(2), those who can pass on status and those who can't. Those in the "who can't" section are somehow seen as defective and cannot pass on their status to others. It disproportionately impacts indigenous women, the children of unwed Indian mothers who cannot name the father, or who will not name the father because of the reasons that LEAF annotated, and also when fathers deny paternity or when they refuse to sign application forms. INAC has given the power to Indian men to have an impact on the children of indigenous women in this way. Last is the denial of compensation to women who have suffered discrimination for so long.

Bill S-3 also does not provide adequate protection for membership. You'll recall that pre-1985, Indian status and membership is synonymous. Even after Bill S-3, it will only be synonymous for Indian men, not for Indian women. Bill C-3 didn't provide those protections, and now Bill S-3 doesn't provide those protections.

The constitutional protection for gender equality is just that. Section 15 of the charter is equality for men and women. Subsection 35(4) of the Constitution, for anyone who wants to exercise aboriginal treaty rights, must be guaranteed equally between men and women. Article 44 of UNDRIP, which this government has said it's going to implement, also says there's equality between men and women. There is no legal option to negotiate, consider, consult, or agree our way out of gender equality.

● (1550)

If you look at the traditional laws of indigenous nations in this country, I have yet to find one in all of my research that promotes gender inequality.

Canada cannot proceed to phase two without addressing all gender inequality. It acts as a legal prerequisite. You cannot talk to our first nations without our indigenous women and their descendants there. It is unconstitutional. It violates all of our traditional laws, and it would act as a legal barrier to even starting the conversation in phase two.

Bill S-3 also needs to be accompanied by funding for first nations. You'll know that INAC has set aside millions of dollars for itself to deal with Bill S-3 applications, but it didn't set aside a single cent for first nations to deal with this at the community level.

Canada obviously failed to engage in any sort of legal consultations by its own admission.

The impact of Indian registration, as we discussed, is very serious. It's not just about programs and benefits; it's a root cause of murdered and missing indigenous women. It's lack of access to elders, language, ceremonies, and even access to powwows. There are powwows children cannot attend unless they have a status card, no matter how they were raised or whether they were raised in a first nation community.

It also won't address any of the pending litigation. Sharon McIvor's litigation is still outstanding. The Descheneaux cases are still in the hopper. There are Lynn Gehl's, Jeremy Matson's, and Nathan McGillivary's cases, and the Canadian Human Rights Commission has many. And of course, there's the Bill C-3 class action that was brought about because of gender discrimination.

My recommendations, very quickly, are for paragraph 6(1)(a) all the way. Every indigenous man and woman who had children prior to 1985, married or not, should all get the same kind of status so that indigenous women and their descendants don't have to wear the scarlet letter of paragraph 6(1)(c). You need rightful compensation for those who have been knowingly denied gender equality since 1982. For pre-1982, Justice said that's a barrier; there have been legal consultations.

My last word to you is that if we do not address gender discrimination now, in all likelihood, it won't happen. In phase two, they want us to deal with aboriginal treaty rights, nation to nation, getting rid of the Indian Act, and the minister has said that her standard for that is absolute consensus. There will never be, in the history of humanity, consensus on gender equality, but that's the law of the land.

Thank you.

The Chair: Thank you, Ms. Palmater.

We'll move right to the next speaker, Mary Eberts, please.

Ms. Mary Eberts (As an Individual): Thank you very much for inviting me. I also offer thanks to the Algonquin Nation, which hosts all of us on its territory.

I have been counsel in many cases where women or women and their children have sought to challenge the denial of status under the Indian Act. I have also made representations to this House and to the Senate on behalf of the Native Women's Association of Canada and on behalf of Indian Rights for Indian Women on the issues relating to registration and women.

On this occasion, I appear as an individual. I do not speak for any client.

I would like to add some recognitions to those offered by Dr. Palmeter. In the Descheneaux case, two other plaintiffs were also women: Susan Yantha and her daughter Tammy. They challenged the inability of a woman to pass on her status to a child born out of wedlock in certain circumstances. I would also like to recognize or complete the recognition of Mary Two-Axe Earley by recognizing Jenny Margetts and Nellie Carlson, who helped found the western branch of Indian Rights for Indian Women.

I have two points to make today. Bill S-3 is under-inclusive, and the process being used for amending the registration provisions by way of Bill S-3 is not in accordance with the recommendations of Madam Justice Masse.

I begin with some comments on the origins of discrimination against women, which I ask you to bear in mind as you consider whether to endorse a narrow approach to remediation of this law, as has been installed in Bill S-3, or a broader approach to remediation of the law, as has been recommended by Dr. Palmeter, Sharon McIvor, and others.

It's crucial to remember that one of the main purposes of the Indian Act was to hasten the “civilization”—meaning assimilation—of aboriginal people. One of the primary mechanisms for achieving assimilation was the definition of “Indian” included in the act. Anyone not within that definition was, because of that exclusion, assimilated, that is, no longer the responsibility of the Government of Canada.

Why was this done? We should never forget. Even when there was a treaty about land, the first nation was assigned its land and the land was administered under the Indian Act. The connection between Indian land and the Indian Act has a key consequence. If the number of status Indians could be reduced to zero, then the connection between aboriginal people and their lands would be severed. There has always been a link between the disentitlement of women from conferring status in their own right and the coveting of Indian land.

Historically, women were the primary targets for exclusion from the act. One reason for this was the male privilege that reigned supreme in the Victorian era, when the act was first conceived. Another was the willingness to override indigenous laws about membership. These two reasons acted together. The Indian Act enforced the Victorian family with its paterfamilias, overriding the rules of many indigenous cultures that had the woman as the source of membership in the nation. For example, the Tsimshian “stick law” provided that a woman and her children were always members of the nation, welcome back even after they had separated from it through marriage or for other reasons.

The one exception to this male hegemony over status was the right of the Indian woman to confer status on a child whom she bore out of wedlock. This was not an unqualified right. It was possible under many versions of this legislation for the child's entitlement to status to be challenged. When the case of Martin v. Chapman held that a male Indian could also confer status on his child—namely, his son born out of wedlock—that right did not carry with it any possibility that someone could protest that the father was not an Indian.

● (1555)

This, too, is a sign of disproportionate power for the male under the Indian Act system. Simple acknowledgement of the child as his own, whether or not it's true, would confer status on the child. In the “unstated” or “unacknowledged” paternity rules under the present act, we see a powerful restatement of this male privilege, where withholding that acknowledgement, or the impossibility of getting it, prejudices the child's acquisition of full status.

Each time reform of the Indian Act holds back on giving full rights to women, either in the present day or vis-à-vis past rules, we are perpetuating the system that used disinheritance of women and their children as a tool of assimilation. If we continue this assimilationist approach in the construction and administration of the Indian Act, we are continuing the approach of the colonizer, so well summed up in this statement by Duncan Campbell Scott, then deputy superintendent of Indian Affairs. He said this in 1920:

> Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill.

Let me mention some areas of under-inclusiveness. Let me begin by saying I agree with Dr. Palmater and Sharon McIvor about the practicability and the wisdom of amending 6(1)(a) for all purposes. I also agree with the CBA in its recommendation about clause 8. I would refer you to the brief of the Grand Conseil de la Nation Waban-Aki for some further instances where Bill S-3 does not fulfill its mandate.

If I may, I have one last point about consultation. I agree with the witnesses who have said that consultation is not appropriate in a case where you are remediating violations of equality rights. Bill C-31 was the product of consultation and we see now, 30 years later, people are still litigating the unconstitutionality of what that consultation produced.

Thank you.

● (1600)

The Chair: Thank you very much.

Ms. Gabriel, you may proceed for seven minutes.

Thank you.

Ms. Ellen Gabriel (As an Individual): [*Witness speaks in Mohawk*]

I greet you in my language and acknowledge all the natural life forces that allow us to be here today, including mother earth.

I've been listening to people talk about the legalities of it, and I'm here to tell you a bit about what it's like to live in a community where there's fighting over who's more Indian than the other person. We as indigenous people are regulating Canada's dysfunction, Canada's refusal to repudiate the doctrines of superiority that have allowed Canada to tell us and define for us who is going to be an Indian under the Indian Act. You come to us and you expect us to give you the answer. Well, the answer is self-determination; not self-government, but self-determination.

I agree with everything that has been said today. Indigenous women have experienced double discrimination, first for being indigenous, and then for being women.

I find that a lot of the semantics that are being used in the propaganda to sway people to think that they are getting any kind of entitlement by having status belie the dispossession that we experience as indigenous people. We are entitled to this; it's something that our ancestors gave us. We're entitled to this from the colonizer.

We're going to be rebuilding our nations, and just as the Indian residential schools apology acknowledged those who survived the genocide, Canada needs to acknowledge further and more deeply the damages and threats to our languages and culture and the criminalizing of our traditional forms of governance. Our traditional forms of governance need to re-emerge, and we need to be part of a true partnership as a nation, and not “consultants”, because we are always considered minorities. We are not minorities. We are peoples with self-determining rights, and as such we will determine who will be our citizen.

As far as forced assimilation goes, as Mary said, under article 8 of the Declaration on the Rights of Indigenous Peoples, individuals have the right not to be subjected to forced assimilation or destruction of their culture. Yet that is exactly what is going on with Canada and its laws. As Mary said, 1985 was exactly when we started getting some movement on this, but Canada has been hesitant because of the cost. In our communities, we are being further dispossessed, because it is always the public interest and not the interest of indigenous peoples' human rights that goes first.

We are the first to experience climate change. We are the first to have less than what the ordinary Canadian considers.... As former auditor general Sheila Fraser said many years ago, it would take 28 years for in-community schools to catch up with the rest of the schools and the rest of Canada. Imagine that: children and schools are going to be set aside. That is the kind of portrait that I want you to see so you can see what you are going to be making decisions about.

We need to have the emergence and the ability to recover from the genocide that our ancestors recovered from. Canada must repair the harm that it has done to indigenous nations. Why do we always have to take up residency on reserves, these small postage-stamp sized communities that the Government of Canada has allowed us to live on out of the good graces of its heart, and yet it can appropriate the land anytime it feels like it?

I find it really difficult to be here and to talk about gender equality, because I do believe in it. I wholeheartedly believe in gender equality, but there must be some reconciliation and restitution. There must be a human rights-based approach. The United Nations Declaration on the Rights of Indigenous Peoples is a good way to go about it. Universal, interdependent, indivisible—that's what human rights are about. It's not about the economics of it. Canada needs to stop making us its industry to make employees and to create jobs, because a lot of our budget goes to the bureaucracy that's in the Department of Indian and Northern Affairs Canada.

The consultations are totally inadequate. You have to have real consultations if we are going to profoundly address this issue of gender equality, and we have to put aside the question of what it's going to cost Canada, because it's now costing us. It's costing us threats to our language, threats to our culture, threats to our land, the environment....

● (1605)

I find it really difficult to hear about the Prime Minister of Canada saying that indigenous people are the most important relationship he has when I see what is going on with the environment, with the pipelines, and when I see the fact that my community, which suffered military occupation and paramilitary forces 26 years ago, is still struggling with the same land issues as back then. Ours is the oldest issue. For 300 years it's being going on.

We need to stop looking at the cost and start looking at the traditional customs. We need access to our trust fund that was developed for us. That's where our money for services comes from.

You know, when Canada decides to accept someone as a citizen, that citizen has to study about the country, speak the language, and understand the culture. That doesn't happen when it comes to Indian status. Indian status is given out like bingo cards. What we want, if those people come back, is that they also learn their language and learn their culture. It's not about going to the SAQ and buying bottles of wine without paying taxes. It's about something more profound than that. It is about being *onkwehonwe*, the real human beings that my ancestors talked about. It's about loving the land, loving the environment, and thinking seven generations ahead. That's what this should be about.

I thank you for your time.

I mean no disrespect to anybody. I hope my words did not offend anyone.

Niawen ko:wa.

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

We'll go right into the round of questions from the members. Each question is similarly seven minutes, and I'll use the cards the same way.

The first question will come from Gary Anandasangaree, please.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Thank you to the panel for your very candid assessments of Bill S-3.

We certainly take no offence, Ms. Gabriel. You remind us of the reasons we're all here, especially as MPs, in order to work on such an important issue.

I'm a little conflicted here, I must admit. As we have very limited time, I'll be really specific with my question. I also want to be able to yield some time to my colleague from Thunder Bay. In the time I have, though, I want to ask this specific question of each one of you, the three organizations as well as the two individuals who are appearing.

As we see Bill S-3, do we pass it, with the commitment from the minister and the department to go into phase two consultation?

Do we amend it? If we do amend it, what are the specifics that...? I know you've all mentioned it, but perhaps you can give us very specific points.

Do we not amend it and just go into phase two, knowing full well that it will be in violation of the ruling?

I know it's probably a difficult position to put you in, but I think this will be helpful for us as we deliberate.

Mr. David Taylor: To start, to the extent that other discrete categories have been identified and are known—the bill's title is to end known gender discrimination—the approach would be to amend the bill now with what else is on the table. There have been a variety of proposals as to how best to do that, and the CBA won't take a position on which that is.

There's further adding in the different criteria or, as Dr. Palmater has proposed, an amendment to provide paragraph 6(1)(a) status going back before 1985. Certainly to the extent that Parliament knows now that there's an issue, the thing to do is to act now, as Justice Masse encouraged at the end of her reasons, not to limit it only to the facts of additional plaintiffs.

● (1610)

Dr. Kim Stanton: We agree that it should be amended now. It should not be passed. It should not be left to phase two. It needs to be fixed now. To the extent that an amendment can encompass what Dr. Palmater has suggested in terms of paragraph 6(1)(a) for everybody, we certainly agree with that.

We want to see hierarchies removed from the Indian Act. This bill perpetuates hierarchies. Those need to be removed.

We certainly don't think the bill should be passed as is, at all. It needs to be amended.

Dr. Pamela Palmater: I agree that it needs to be amended. My caution is that it should be amended to make sure that men and women, married or not, and their descendants are equal pre-1985 under paragraph 6(1)(a) so that there's no hierarchy. However, this was attempted before, with McIvor in Bill C-3, and that amendment was ruled out of order for procedural reasons.

If it comes up that there's some technicality or procedure that doesn't allow you to do that, and you can't amend it properly, then an extension should be sought from the court, with the consent of the Descheneaux litigants, which they've already given, to allow further time to go back and get it right and not leave it for phase two, because phase two has that standard of consensus, and as you know, no human society ever agrees on gender equality, and we don't have the option to do that.

Ms. Mary Eberts: I agree with Dr. Palmater virtually entirely, and would add this:

If the amendment amounting to making everyone a 6(1)(a) is challenged, my own view is that it's highly arguable that such an amendment is valid because the title of the act, and therefore the purpose of the act, is the elimination of sex-based inequities in registration. That is a broad purpose. I would encourage you to be bold given that broad purpose.

Thank you.

Ms. Ellen Gabriel: I agree with the previous speakers.

I think if you're going to do any amendments, it has to be with the pre, prior, and informed consent of indigenous people. The Canadian Human Rights Commission, and I believe the Supreme Court, have said that Canadian courts are free to use international human rights instruments when interpreting domestic legislation, and you should be bringing in those international human rights instruments into this discussion.

Mr. Gary Anandasangaree: Thank you very much.

Mr. Chair, I'd like to yield the rest of my time to my colleague from Thunder Bay.

The Chair: Very good.

Don, there are two minutes remaining.

Mr. Don Rusnak (Thunder Bay—Rainy River, Lib.): Ms. Gabriel, what you said in your seven-minute presentation really spoke to me because I think it's what we need to be doing at this committee, what we need to be doing as a government. The Indian Act is something that was designed to destroy our people. Tinkering with it or doing certain things to it does nothing to move our people forward. We're just perpetuating all the problems that have existed in our communities for far too long.

Having said that, I worked in many isolated first nations communities with people who have absolutely been destroyed by the Indian Act, who are absolutely dependent. I've asked this question of department officials—and I'm sure the committee will get the answer on it: Who are these 40,000 people who the minister said today are going to be affected by Bill S-3, and who are the people who may potentially be affected by certain amendments?

Then I ask myself, there's a finite set of resources within the Department of Indian and Northern Affairs, so are these people who are currently under the Indian Act who absolutely depend on the Indian Act going to be affected by a resourcing problem if more people are admitted for status under the Indian Act?

The Chair: I'm afraid there are just about 20 seconds remaining. I'm not sure, Don, who you wanted to respond to that.

Dr. Pamela Palmater: I'd like to respond.

Sorry, you wanted to.

Ms. Ellen Gabriel: Most definitely funding is going to be an issue. I think the Department of Indian and Northern Affairs should not take so much for the administration cost, because we need the funding. We need to rebuild our nations. If there is going to be real reconciliation, there needs to be restitution. Restitution costs money, unfortunately. Rebuilding from genocide costs money.

● (1615)

The Chair: I'm afraid we're out of time. I'm sure there will be an opportunity to get some of the other elements of the answers in latter questions.

Cathy McLeod, please.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you to the witnesses.

Back on November 21, we had officials from the department here. I asked them if they were confident that we have taken care of this as an issue in terms of the title and dealing with all gender-based inequities. They indicated that they were absolutely confident that with these amendments, “we are dealing with all known sex-based inequities in Indian registration.” It's become very clear very quickly that this is not the case. I think there are a few things.

I agree that when there are human rights issues, you have to have consultation. We talk about consultation, but I think in regard to consultation in terms of the experts, what we've learned from every witness who's identified different problems.... I see in some ways a different sort of process that the government must do to make sure that what gets presented, what amendments are made, have really had a look from people who are experts, such as yourself.

Having said that, what I have recommended and proposed—although my Liberal colleagues don't want to support it—is phase two should be left for big picture issues, that we need to get this piece of legislation right. I'm not confident. We could scramble a few amendments forward and maybe rush it through, but I think we're going to be back dealing with the same issues. I'm not saying we should take a long time, but I think they should ask for an extension, have the dialogue with people that can really make sure that they're identifying any other issues, and then move forward. Otherwise, we'll sit for another five or six years.

I would invite everyone to comment. Do you believe that is probably the best approach to make sure this legislation is right?

Ms. Mary Eberts: I agree with your suggestion.

I've been a litigator for 40 years now and counting, and often appearing in court against the Government of Canada in cases where the construction of the equality guarantees in the charter is at issue. I can tell you that the Government of Canada historically, since the guarantees were put into the charter in 1982, has taken a very, very conservative approach about what they mean and what they guarantee.

It is very useful to have a process which lets the light in and opens that up, and it doesn't wait for court to happen. They must take a broader approach to the guarantees of the charter. I agree that there should be time to do that. It's not something that should be dealt with in a big picture consultation. It's nitty-gritty. It's technical, and it needs to be dealt with as a set of technical amendments informed by the substantive guarantees of the charter.

Dr. Pamela Palmater: I agree. This is the third time around now dealing with gender equality.

Justice Canada and the minister testified in the Senate, in the other place, that in fact they know it doesn't deal with all gender discrimination. They testified otherwise, but they have since testified that they know that what they're dealing with is simple gender discrimination instead of complex, the complex meaning we have multiple layers of discrimination on us as indigenous women and that shouldn't be dealt with.

They should definitely get an extension from the court, which they got in McIvor twice, no problem. The court seemed very willing for Canada to go broader and deal with gender discrimination, and had they consulted back on August 15, when this decision was handed down with first nations and indigenous women, we could have all told them these problems. However, they didn't tell us and they didn't consult. That's why we're here using the election as an excuse.

Their processes do not detract from our equality rights. None of the bureaucracy...and the very officials who were testifying here are the same ones who have been working on this for decades. They weren't in an election. It was just the minister.

They have no excuse not to do this right. We now know there is a problem. They have admitted there's a problem, so let's just deal with it. With regard to phase two, yes, we should be having the conversation about whether they should be doing status at all, and getting out of our business and us being self-determining, like they promise under UNDRIP.

For every day that there's an Indian Act, there legally and constitutionally cannot be gender discrimination. They should seek an extension and do this right.

● (1620)

Dr. Kim Stanton: Yes, we agree. It makes sense to have an extension.

As has been said, two extensions were granted in McIvor. The judge in Descheneaux specifically directed that there needed to be a broader fix by the government, that they shouldn't do another piecemeal fix as they did in 2010 after McIvor, and that they need to get it right.

We understand that the litigants in Descheneaux agreed to that. There are a small number of people within Quebec who would be affected by the delay—not across Canada, just in Quebec—and the government itself has testified at the UN Committee on the Elimination of Discrimination against Women to that effect. It's a small group of people who would have to wait a bit longer, but it would be for the broader benefit of women across the country who are being continually discriminated against. It's just ridiculous that we're 50 years on in this stuff.

We certainly agree that a small delay in order to actually fix the problem is warranted.

Mr. David Taylor: The CBA aboriginal law section hasn't taken an official position with regard to the question of an extension. What I can say is that there are pros and cons to an extension.

The Supreme Court recently, in the Carter case, commented on the very exceptional nature of extending a suspended declaration of invalidity. We do know that it was done twice in McIvor. There were criticisms made by the Court of Appeal in that case for doing so.

To the extent that court deadlines sharpen the government's attention, the concern then becomes that if it's a further six months and the substantial discussion only starts in month five, how much further ahead has the discussion really been, as opposed to having a bill pass and then a commitment to having a further one by a certain deadline? That's the motivation behind the recommendation that the subject matter come back to Parliament, either a committee of the House or the Senate, within 18 months.

The Chair: That's seven minutes. Thank you very much. That was very well timed.

The next question is from Romeo Saganash, please.

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thanks to our panellists.

I've felt a certain malaise when dealing with and discussing this issue. I certainly feel it as an indigenous person, and I've expressed that preoccupation and concern in this committee, because this process is so unprincipled and not based on human rights or the UN Declaration on the Rights of Indigenous Peoples. Essentially, we're being asked to try to improve on fundamentally racist and discriminatory legislation. This legislation would just carry on as racist and fundamentally discriminatory, if I hear you right.

The other difficulty I have as a member of Parliament is that in this mandate as a member of Parliament, I also have a duty to uphold the rule of law, and upholding the rule of law means respecting the Constitution, which includes the charter, by the way. In that sense, I would have a very difficult time to stand up and support this bill because of that. It is still discriminatory and still—I'll use one of the words that was used here—"under-inclusive". It's discriminatory. There's a huge problem here, and I understand the constitutional and legal issues that were raised during these presentations.

One of the other aspects I would like to hear from you on is the fact that this bill stems from the Senate, an unelected body that has no historic relationship with indigenous peoples in this country. That relationship belongs under the royal proclamation and treaties to the crown, represented by the Prime Minister, who promised, by the way, a new relationship, and who promised, by the way, the implementation of the UN Declaration on the Rights of Indigenous Peoples. In my view, any new legislative initiative should be based on those principles, and this is not happening. At the very least, it should have been the Minister of Indigenous and Northern Affairs who introduced this bill, and that's not where we're at.

I'd like to hear.... I basically agree with most of what was said here, and I'm in favour of an extension so that we can do this right, because that is the basis of respect, in my view. Additionally, on the promise or commitment made by the minister that is coming up in phase two, it so happens that after a year of this government, I don't really trust those kinds of commitments anymore. I don't really trust the promises that are being made by this government. I'd like to hear you on this strange process that we're following here with this bill coming from the Senate.

That's for anyone.

● (1625)

Ms. Ellen Gabriel: Thank you very much, Mr. Saganash.

One of the things that I find really difficult is bringing in the human aspect of this, because I know women who have never been able to go back to their communities. This disrupted the family unit. The Indian Act is not just an act in Canada, it's a racist act. It's a colonial act. It's about Canada's imperial history with Great Britain. There's no reconciliation in this act. I agree that this needs to be done right. There needs to be a portability of our rights. It's not just about those living in the community, it's about the portability of our rights.

People have talked about being inclusive. Having a right to vote in a band council election doesn't mean you're part of a decision-making process. It goes much, much deeper. The issue of status is really about how you're supposed to uphold the honour of the crown. You're supposed to be respecting the rule of law. Canada has signed many international covenants respecting human rights as universal.

Do the right thing and make the kinds of amendments that will finish this issue so we can go on to the other issues of land dispossession and of threats to our language and culture and all the things that make up our indigenous identity, and so we can protect the land for future generations.

Thank you.

Ms. Mary Eberts: I agree with you about the character of the Indian Act. As a settler, an identity that I acknowledge, I feel a sense of shame that we are still working on this, that it is occupying the time of Parliament, and that it is occupying the time of Parliament to drop a thimbleful here and a thimbleful there, instead of doing a principled reconstruction of our relationship with first peoples. It is more than high time that this should happen.

In the midst of that shame and in the midst of that great dismay at what use we are making of our institutions, I remember what the Indian Rights for Indian Women organization said, which is that they want this to be fixed so that the women and children are back in the Indian band communities, the Indian Act, because it is only then that they can sit at the tables for the consultations that will determine their future. If they are not at the table because they are not status, they can't discuss land claims or anything else.

As far as the Senate is concerned, I think you've put your finger on something very dangerous, and that is that someone will challenge this bill on that very ground after you've all laboured to pass it, and then it will be blown out of the water because it was started in the Senate.

Dr. Pamela Palmater: I agree with with Ellen and Mary. I just throw it back to you and say that Canada's Minister of Justice has certified that this legislation is charter compliant, and you have heard consistently, as has the Senate, that it is very obviously not. It should concern all of us that we are here doing this.

The other thing I'll mention very quickly is that Canada allows into Canada, either by birth or by immigration, 650,000 new Canadians every year, and not a question is asked whether Canadians should be having any more babies or whether we should cut off the babies of just Canadian women.

The Chair: Thank you.

That's the end of the time for that question. The final question will come from Joël Lightbound, please.

Mrs. Cathy McLeod: I'm sorry, Chair, I see that we're at 4:30 with the minister here. Does that allow us time procedurally to continue?

The Chair: With the committee's agreement, I was going to allow for the final question in this round and borrow a little time from the minister in the second hour. We don't have agreement for that?

Mrs. Cathy McLeod: No.

The Chair: I would need unanimous consent for that.

We've heard our last question. I want to thank each of the people who have testified today. Thank you very much for your very thoughtful and powerful testimony. It's very helpful to us indeed. We'll suspend while we switch panels.

Thank you.

● _____ (Pause) _____

●

● (1630)

The Chair: We'll come back to order and commence our second panel, which comprises the Honourable Carolyn Bennett, Minister of Indigenous and Northern Affairs, and INAC senior staff. Welcome.

We all know the rules by now, so I'm just going to turn the floor right over to you, Minister Bennett, for 10 minutes.

Hon. Carolyn Bennett (Minister of Indigenous and Northern Affairs): Thank you so much. I'm pleased to be back to discuss Bill S-3, acknowledging that we're meeting on the traditional territory of the Algonquin people. I appreciate this opportunity to meet with you to explain the government's proposed approach to dealing with the Descheneaux decision.

I'm joined by Indigenous and Northern Affairs Canada officials Joëlle Montminy, who you know as the assistant deputy minister, resolution and individual affairs, and Nathalie Nepton, the executive director of Indian registration and integrated program management. She is the Indian registrar. We are trying to put her out of work. We are trying to get this business returned to first nations themselves. Also with me is Candice St-Aubin, executive director, resolution and individual affairs, and from the Department of Justice, Martin Reiher, general counsel.

First I want to pay tribute to the many courageous first nations women whose tireless work brought these matters to light. They are women like Mary Two-Axe Earley, Jeannette Corbiere Lavell, Yvonne Bédard, Senator Lovelace Nicholas, and Sharon Donna McIvor. We would also like to recognize Stéphane Descheneaux, Susan Yantha, and Tammy Yantha, whose courageous fight will eliminate the discriminatory treatment of tens of thousands of people.

● (1635)

[*Translation*]

I want to thank the committee for your tremendous work on this bill under challenging circumstances.

[*English*]

The Senate committee has also done tremendous work during its studies for which we thank it. Hearings of the Senate committee on aboriginal peoples have identified one further group that should be included in this bill, and I believe it will be included through an amendment introduced in the Senate.

Meeting the court deadline of February 3 required us to make difficult choices about the scope of the bill and to balance the necessary time for engagement with indigenous people and that for parliamentarians to discharge their responsibilities.

The Prime Minister and this government have committed to renewing the relationship between the crown and indigenous people. This means, whenever possible, working in partnership to resolve issues outside of the courts. This is why the government decided to withdraw the appeal of the Descheneaux decision, which we inherited when we came into office, and to then move immediately to remedy the inequities highlighted in that decision as well as other known sex-based discrimination within registration under the Indian Act.

There's no question that the complexity of the issues that had to be remedied combined with the court's deadline for legislation significantly limited the government's ability to engage with first nations. Mistakes were made, including my department's failure to directly engage with the plaintiffs. I have taken action to ensure that does not happen again. I've now personally spoken with each of the plaintiffs and have committed to them that they will be meaningfully engaged as we move forward in designing the process for phase two.

Despite this, I still believe that passing the reforms contained in Bill S-3 and proceeding with a more broad-based collaborative approach to address other more complex issues is the fairest and most responsible way to proceed.

[*Translation*]

We need to remedy these sex-based inequities before the court-imposed deadline.

[*English*]

This is not just about the plaintiffs but also about up to 35,000 other individuals who are currently being denied their rights. Witnesses have argued that this bill should simply be amended to deal with other potential forms of discrimination. Addressing other issues related to potential inequities in registration would have profound impacts on indigenous communities. We all know that repeated unilateral decisions made by the federal government regarding indigenous peoples have often had disastrous unintended consequences.

Dealing with the issues raised here will require extensive consultation with communities about impacts far more complex than just ensuring adequate resources, including those involving fundamental issues such as the cultural integrity of communities.

[*Translation*]

The Prime Minister and the government have been very clear that, to achieve their shared goal, Canada and indigenous peoples must work in partnership to build consensus and jointly develop solutions.

[*English*]

This is at the heart of why we have implemented a two-stage approach in our response to Descheneaux. A number of witnesses have also suggested that the solution to the limited time for consultation is simple: request a court extension. While I understand the preference to deal with all of these important issues at once, this is simply not an option within the time provided by the court even with an extension.

The length of any such extension would be extremely limited, effectively three to six months. Taking into account the cabinet legislative processes that would be part of that extension, that would provide minimal additional time to consult. In fact, it's very likely that at the end of the process, we would have the same bill before Parliament with little or no change.

I understand the cynicism of indigenous people and parliamentarians about whether the government will follow through on phase two, and even if we do, whether it will lead to meaningful reform.

● (1640)

[*Translation*]

Governments of all stripes have failed to follow through on such promises for decades.

[*English*]

I am giving you my word that phase two will be launched in February 2017. This process not only will be jointly designed with first nations, but will include the input of experts and those who have had rights denied by this archaic and colonial system. I can assure you that we will include truly inspiring individuals, such as Sharon McIvor, Jeannette Corbiere Lavell, and Senator Lovelace Nicholas.

Phase two must engage with a broad group of people to ensure future attention is informed by perspectives from everyone who may be impacted. There will not always be consensus, and the government may need to make tough policy decisions in the interests of protecting rights, but those decisions will not be made unilaterally without the input of all those affected.

However, I urge you to support the current bill and provide immediate justice for up to 35,000 impacted people. I would also draw your attention to witnesses such as the Congress of Aboriginal Peoples, the Native Women's Association, and Jeanette Corbiere Lavell, who have said that Bill S-3 should be passed.

I commit that immediately after this important step we will move forward in partnership and in a good way to achieving broader reform together, and that would be the policy reforms that are required. In your own words, in final goals, we will, as I have said, put the registrar out of work.

Thank you. *Meegwetch*. *Merci beaucoup*.

The Chair: Thank you, Minister Bennett.

We'll move right into questions. The first round is a seven-minute round.

The first question is from Mike Bossio, please.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Minister, as always, we thank you for making yourself available many times in front of this committee. We really do appreciate it.

We've just heard from a number of witnesses. One of their chief recommendations was to make all indigenous peoples “6(1)(a) all the way”. That's how they phrased it. Eliminate all remaining gender discrimination by eliminating any differentiation and status between Indian women and their descendants and Indian men and their descendants born prior to April 17, 1985.

Can you provide your thoughts about why we can't immediately move in that direction?

Hon. Carolyn Bennett: What we've tried to do in the bill right now.... We have a legal obligation. The court has told us that this is discriminatory and against the charter. We decided that we would fix that. We also decided that we would include in this bill the very simple cases that are clearly sex-based, and that's how we get to the 35,000. The other cases are complicated by date of birth, or there wasn't a registry before 1951, and there are other ones that are not sex based. They may well win in court one day, but at the moment there is no court decision to.... We want to go out to consult and see how you would do it. How do you even do the ones where there wasn't a registry before?

Asserting a right doesn't necessarily mean that you have a right, because rights have to be determined among people. We will do what we know is right, but we have to talk to the people who will be affected by this, and we don't believe that can be done in a parliamentary committee. We believe that, as Canada, we have a responsibility to go out and hear from people as to how they would see their rights being exercised. That's why, right from the beginning, we've taken this two-stage approach. We would do the things that were simple and that the court told us we had to do, and then we would go out and deal with the more complex ones, but in a timely fashion.

I would be more than happy to come back to the committee, if you wish, to give you an update on the work we're doing as we move into phase two and as we come to really getting rid of all the discriminations in the Indian Act.

● (1645)

Mr. Mike Bossio: Phase one takes care of 35,000 indigenous people immediately, or as quickly as the registrar can register them. How do you ensure, under phase two, that this will be executed on a timely basis?

Hon. Carolyn Bennett: That's our commitment. I think that in going out in preliminary conversations we will need to hear from the people affected what seems like a reasonable time to them. We know that consultation is not consensus. We're not going to get consensus where everybody will agree, but we will need to go out in order to make a good decision. We will have heard what all of the opinions are and will be able to come up with the best possible legislation we can to get rid of these discriminations that still plague first nations from coast to coast to coast.

There are simple ones, such as enfranchisement—whether somebody has a post-secondary degree and ends up losing their status—but there are other ones that we will have to sort out as to how that's implemented.

Mr. Mike Bossio: I know you've come here many times, but would you be amenable to coming back to the committee in six months, 12 months, 18 months, so that we can hold you and INAC accountable to ensuring that this continues to progress in a timely way so we can get these issues resolved?

Hon. Carolyn Bennett: Absolutely.

I think what I committed to at the Senate last week is that we would even come back early in the new year. We'll begin with a work plan in terms of what we've heard and what seems like a reasonable time frame, so that you would be involved in the design and the time frame of phase two.

Mr. Mike Bossio: Going to phase two, then, how do you see phase two evolving? You've given us a taste as to what it is, but as for being able to deal with these complexities, once again in a timely way, how do you see that rolling out?

Hon. Carolyn Bennett: Certainly, the complainants have articulated a real interest in being involved in that. They know that their fight has seen 35,000 people through the gate now. They want to be part of making sure nobody is left behind, and they want to make sure it's a reasonable time frame. They don't want it to go on for years and years. I think we will figure out a work plan that's reasonable, but where the people most affected will have their say in the design of phase two.

Mr. Mike Bossio: I've seen, for example, a list on the preliminary consultation process that you went through, with the Assembly of First Nations of Quebec and Labrador, the Native Council of Nova Scotia, the Native Women's Association of Canada, the Anishinabek Nation, the Congress of Aboriginal Peoples, the Confederacy of Treaty 6, and Treaty 7 and Treat 8 first nations. There are a number of them here.

What we're looking for is assurance that you're not going to just focus on some of the larger organizations where you can get a lot of ducks at one time with one shot, but you are going to actually get out to some of the smaller ones. We've met with so many individuals and smaller organizations that need that representation, and need to be part of that consultative process.

Hon. Carolyn Bennett: We've heard that in so many things, that the national organizations have important people there with policy. What we've heard very clearly is that people want us to be able to talk directly to the people affected, the communities, the community organizations that are the most affected. Even in Mr. Descheneaux's own community, there are many people who will be left behind as Bill S-3 goes through.

Talking to those people, I think will be very important in actually hearing what they have to say, such that they don't have to go to court to get their rights. We want to make a good policy decision that will get rid of all of these discriminations and inequities that are still in the Indian Act.

● (1650)

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

Mr. Mike Bossio: Thank you so much.

The Chair: The next question is from Cathy McLeod, please.

Mrs. Cathy McLeod: Minister, I want to start by noting that last week you told the Senate Standing Committee on Aboriginal Peoples, “My department's failure to directly engage with the plaintiffs was not only unacceptable but embarrassing for me as minister.” Of course, as we all know, and with all due respect, as a minister you're responsible for the department and what happens.

To be frank, I believe you would have been outraged as a critic had we moved forward with the piece of legislation that clearly had so many flaws. I look at the consultation. This bill was introduced on October 25. Most of these consultations happened after the bill was introduced in Parliament. Some of them happened just prior, so certainly anything that was in the consultations clearly didn't see its way into the legislation.

You have a big job with the second phase. The big job with the second phase should really be about moving beyond this bizarre registration process that we have. We have a chance right now. We have identified...and I think we've had really articulate witnesses, and these are issues around the charter—basic issues. I think we can get these problems fixed once and for all. Your phase two, rather than focusing on continuing to deal with the gender inequity, can deal with what is most important to first nations, which is moving on and past and out of the system.

First of all, how can you justify presenting a piece of legislation to this Parliament when the consultations happened after the legislation was introduced, which is certainly not consistent with nation to nation?

Hon. Carolyn Bennett: I think that's the reason this has phase one and phase two.

Phase one is to deal with what the court told us we had to do, and we were able to include some simple parallel cases in that piece of legislation. We knew we would have to then go out and do all the rest.

With due respect, my department has had very little experience over the last decade in going out and talking to people. With due respect, we're here today because Bill C-3 wasn't consulted on properly; therefore, that is what we are having to turn around. We have to turn around to a culture where the solutions are found by the people who know the most, those with expertise and those with lived experience.

Mrs. Cathy McLeod: Thank you.

Hon. Carolyn Bennett: That's why we are here today, because Bill C-3 was flawed.

Mrs. Cathy McLeod: We've had witnesses who have given us really easy diagrams to figure out the flaws that are still here.

You talked about people who, if you read their entire testimony, supported in a quasi way the moving forward right now with this flawed piece of legislation. Of course, we didn't talk about the Canadian Bar Association, the indigenous associations, Stéphane Descheneaux.

We just had an excellent panel of witnesses, and almost without exception they said that we can get this piece right and we can do it in a reasonable time frame so that we get rid of the things that are charter non-compliant, fix the flaws, and spend phase two on the important work of moving forward.

What are you saying to these expert witnesses we've had at committee who have said, almost without exception, to take a little more time and get it right? McIvor had two extensions.

Hon. Carolyn Bennett: Unfortunately, the court didn't give us more time. The court gave us a bit more time because of the election, but we had only 18 months instead of the usual year they give.

Also, they said that by February 3 the registrar would not be able to register more people, because these provisions had been struck. Since this legislation came through, we have at the registrar's office at least 100 to 150 more applications...to actually be able to exercise their rights. These were 35,000-plus people learning about it and coming to terms with it.

That's why we need to begin phase two in February, to deal with all the other ones.

● (1655)

Mrs. Cathy McLeod: First of all, McIvor did have two extensions, and to be quite frank, I think if you have a limited phase two that's dealing with things we've seen at committee already, we are never going to get them to become—

Hon. Carolyn Bennett: I'm sorry, Cathy. We can't do phase two until we've done phase one. I'm not sure what you're saying. Just tell me what you think we should be doing.

Mrs. Cathy McLeod: What I'm saying is we have some clearly identified charts and flaws. I think with technical expertise you could identify any remaining that are charter non-compliant, and phase two can be the bigger important discussion that needs to happen, not taking the Stéphane Descheneaux lawyers' diagrams and spending two years or five years looking at and talking about diagrams with clear flaws.

Hon. Carolyn Bennett: I wish it were that easy and that there would be clear advice on the other issues of inequity. Unfortunately, there wasn't even a registry pre-1951. The unknown paternity is difficult to sort out.

These are not easy things to implement, and you actually have to figure out how you would do it if you're going to draft a bill.

Mrs. Cathy McLeod: There are still a number of issues that have been pointed out and are known currently that we have not dealt with in terms of this particular piece of legislation. I would suggest that when you see a good motion towards getting something done, the courts have tended to be relatively accommodating. In the case of McIvor, there were two extensions granted..

Hon. Carolyn Bennett: My advice has been that the extension would be only for three to six months, and that the court is granting extensions, generally, to deal with the issues of the plaintiffs in the courts.

In the *obiter* part of the judgment, we feel we've dealt with the easy parts in this bill. We believe that the judge's advice to us was to take proper time in phase two. We see that all as a piece. There will be the easy things we're doing right now that the court found as an inequity, and then we will get on with phase two in a timely manner.

Mrs. Cathy McLeod: Other litigants suggested that that would be a process forward.

Thank you.

The Chair: We're out of time there.

The next question is from Romeo Saganash, please.

Mr. Romeo Saganash: Thank you to the minister for appearing before us again.

I have several questions after listening to you, but let me start with the easy one. You said in your presentation, "I am giving you my word that phase two will be launched in February 2017."

That's pretty close. I imagine that you've already started meeting with people on that on how this is going to be structured.

Hon. Carolyn Bennett: Yes. That is, meaning that we are working on a work plan and deciding who we would talk to first.

Mr. Romeo Saganash: Who are you consulting right now?

Hon. Carolyn Bennett: Pardon?

Mr. Romeo Saganash: Who are you consulting right now?

Hon. Carolyn Bennett: Who are we....

Mr. Romeo Saganash: Consulting.

Ms. Candice St-Aubin (Executive Director, Resolution and Individual Affairs Sector, Department of Indian Affairs and Northern Development): Thank you for the question.

What we've done is we've tried to always prepare and inform people that phase two is on its way when we were doing information sessions. We've reached out to the Assembly of First Nations following their presentation here and we're trying to establish a time to start some of the pre-engagement conversations.

It has always been part of our plan for phase two that we would do pre-engagement more broadly. However, in hearing from witnesses in the past few sessions we're looking as well for guidance on who should be a part of those conversations for pre-engagement.

Mr. Romeo Saganash: Thank you.

I asked that question, Madam Minister, because already 2017 is pretty close for me and I notice at what a snail's pace the Human Rights Tribunal decision is being implemented by your government. After one ruling by the Canadian Human Rights Tribunal and two subsequent orders, we're still not where we're supposed to be in that decision. That's why I'm asking if you're going to move fast on this one.

My problem with the present bill, and I want to get to Mr. Reiher on this one afterwards, but the first one is you're asking us.... There has been consensus by all the panellists and witnesses on this question, that this bill from the Senate is still discriminatory. It is still not charter compliant totally, and you're asking the members of this committee to stand up and support this bill. You're asking me to go against my duty as a member of Parliament to stand up in the House and uphold the rule of law.

Your colleague, Mr. Carr, has certainly a different understanding of what the rule of law is. He's thinking police. I'm thinking something else here.

The rule of law according to the Supreme Court of Canada is upholding the Constitution in this country and in that Constitution there's the Charter of Rights and Freedoms and in that Constitution there are section 35 aboriginal treaty rights.

You're asking me to do the contrary of what my duty as a member of Parliament is by suggesting that I stand up in support of Bill S-3.

● (1700)

Hon. Carolyn Bennett: I take a different view. I think that when the Indigenous Bar Association pointed out this extra group that needed to be in the bill, we believe there will be an amendment and with that amendment our advice is that the bill is charter compliant.

We are obviously working on all the policy pieces to get rid of these other inequities in the Indian Act. That's why we've had to do it in two phases, so that we did what the court told us to do and added a few more simple ones, and now we'll get on with the more complex ones that deal with date of birth, deal with lots of other inequities that have been pointed out here at the committee.

Mr. Romeo Saganash: I also do not understand what you mean when you said, I think in response to one of the earlier questions, that we cannot make consensus and everybody will not agree.

I'm sorry, because human rights are not negotiable.

Hon. Carolyn Bennett: No. I agree. But as we know with overlap, with many different...there's an interpretation of rights and an assertion of rights that isn't necessarily the rights. By that I mean that whether it's paternity that's questioned or whether it's other ways, we have to figure out how we make sure the people who have the rights get to exercise those rights. That means an integrity to the system.

Mr. Romeo Saganash: I want to get to a question that I asked the earlier panel and ask that question of Mr. Reiher. I raised the issue of this bill stemming from the Senate. Given the fact that the Senate does not have a historical relationship with indigenous peoples, I see a slight problem there already. The profound relationship that we have with indigenous peoples belongs to the crown. This bill should have been presented, if not by the Prime Minister of Canada, at least by the minister of aboriginal affairs. Do you see a problem with that?

Mr. Martin Reiher (Senior Counsel, Operations and Programs Section, Department of Justice): Thank you for the question. If I understand—

Mr. Romeo Saganash: I don't know if you heard the earlier response to that question, that somebody might raise that very important constitutional issue and it's going to be "blown out of the water". Those were the words that were used in that response. I think the minister heard it when she came in but I want to ask you the same question.

Mr. Martin Reiher: Thank you. If I understand properly, the question is about who introduced the legislation in the Senate. To me that's a matter of parliamentary procedure and I'm not aware of the constitutional problem that has been raised.

Mr. Romeo Saganash: I would just ask the minister if she is aware of the concluding observations and recommendations of the Committee on the Elimination of Discrimination against Women, because the committee also has recommendations for the Government of Canada in that report, which came out on November 18, ironically, the same day as the report for Val d'Or came out. Has she taken note of the report?

● (1705)

The Chair: You have one second remaining. I think we'll have to come back to that answer, Romeo.

The next question is from Gary Anandasangaree, please.

Mr. Gary Anandasangaree: Thank you, Madam Minister and your colleagues from the department.

On November 21 at our first meeting, Madam Montminy was asked a specific question with respect to whether this piece of legislation addresses the issue of sex-based discrimination. You were quoted as saying, “We are confident. With these amendments, we are dealing with all known sex-based inequities in Indian registration.” Then you went on to conclude, “In terms of your specific question for sex-based discrimination, yes, this bill is addressing everything that is wrong.”

Since that time in the Senate there were submissions made with respect to what the minister was just saying. Today, about two weeks later, can you categorically say that this particular piece of legislation addresses all known sex-based discrimination in the Indian Act?

Ms. Joëlle Montminy (Assistant Deputy Minister, Resolution and Individual Affairs Sector, Department of Indian Affairs and Northern Development): When I stated that the bill was resolving all known sex-based discrimination, it was in relation to what the court has ruled to be discriminatory, so the issue of cousins and siblings. As you know, we have also added the issue of omitted minors or removed minors. What we have found through the testimony of the Indigenous Bar Association was that there was another situation, which was actually the result of the remedy that we're bringing, vis-à-vis the sibling issue. This then creates a new comparative group and depending on certain circumstances, and it's quite complex, this could also appear to create another inequity, which we've looked at and we are prepared to address if amendments are tabled.

Mr. Gary Anandasangaree: I guess my concern is whether we actually canvassed all the issues with respect to sex-based discrimination. I recognize that phase two will be going into a much deeper study and understanding, but I think what concerns me is that with respect to the Descheneaux ruling there was a specific... while it's an *obiter*, I think the intent was to make sure that we're not going back to court on the specific sex-based issues.

We heard from a very esteemed panel just before you that identified a number of compelling arguments. I just want to make sure that the minister is seized of this and that the department understands that we are addressing all of the known sex-based discrimination that is out there.

Ms. Joëlle Montminy: Yes.

I'm sure what you heard from the witnesses prior to this was different situations of differential treatment, but not all differential treatment equates to discrimination. Again, as the minister stated, there are a lot of different considerations that go into determining if something constitutes discrimination.

In the context of sex-based discrimination, we're confident that provided we address the amendment raised by the Indigenous Bar Association, we will have addressed this. There are other more complex situations where the discrimination based on sex might be combined with other things, such as date of birth and family status. For instance, I don't know if the previous witnesses have raised the issue of the pre-1951 cut-off. This is mostly a date of birth issue and, depending on the actual situation that is concerned, could also have some other related sex-based issues. It's not strictly a sex-based discrimination.

In this case, for instance, in the McIvor decision by the British Columbia Court of Appeal, it has been found that there was no need...that the government did not have to remedy situations pre-1951. It has gone to court, and the courts have rejected the argument of the plaintiffs in that particular case.

Hon. Carolyn Bennett: Gary, I think what we're saying is that even though the court ruled that way, we want to fix this. There are things that the court has told us we have to do. The reasons that the engagement needs to take place are regarding what other things people want us to fix, such that we could finally end all inequities in the Indian Act.

● (1710)

Mr. Gary Anandasangaree: Thank you, Minister, for the clarification.

In my assessment, discrimination is discrimination. I think it's pretty clear-cut. When we're dealing with an issue of sex-based discrimination, whether it's intentional or it's an outcome of a specific set of guidelines that may have a discriminatory effect, I think it's nevertheless the same.

My concern comes down to whether we should be expanding it even further. Is this what the department has identified and it's supported by other stakeholders to move forward with this particular amendment, with phase two being a much broader conversation on discrimination as a whole?

Hon. Carolyn Bennett: That's what we believe we need to do in the time constraint that the court gave us. We need to do this piece now, and then do the other one in a timely fashion to deal with all the others.

Mr. Gary Anandasangaree: Madam Minister, if I could, I will ask counsel as well with respect to timing. I know that's come up a number of times from witnesses. There is precedent for going back to seek additional time. I know that was sought in McIvor twice, if I'm not mistaken. What is the limitation in going back to the court to ask for more time?

The Chair: There's one minute remaining, please.

Mr. Martin Reiher: Sure.

It is possible for Canada to go back to the court to seek an extension of time. In order to be successful, from past experience, we know that we cannot go too soon. The government has to show that it did what it had to do and did best efforts to meet the deadline. Granting a suspension of a declaration when legislation is declared invalid is a remedy. It's something that the court will not do lightly. Granting the extension it will not do lightly either.

Actually, the Supreme Court of Canada, in Carter in January this year, set a very high threshold, and indicated that it's only in extraordinary circumstances that such an extension will be granted.

The Chair: We're out of time. Thanks.

We're moving into the five-minute questions now.

The first such question is from David Yurdiga.

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): I'd like to thank the minister for coming today to answer our questions.

I found it quite disheartening when the department initially told us that they did extensive consultations, and then we learned that this wasn't necessarily true. Just after the department testified to this committee, we found out that all of the witnesses afterwards weren't consulted.

When did you become aware of this?

Hon. Carolyn Bennett: I had understood that the drafting of this piece of legislation was to carry out a court decision and that there would be some consultation, but because of the time frame—and I think I was persuaded—the bulk of the consultation would take place in phase two. Phase one was just doing what the court told us we had to do. But when I realized the plaintiffs hadn't been consulted—and it really was a mistake; there was a letter drafted that was never sent—I was actually really embarrassed and immediately called the plaintiffs and had a very good conversation about this long fight they've had.

I must say that this happened to me once before, a decade ago, on the Quarantine Act, where again, I realized that my idea of consultation and other people's ideas of consultation may not be exactly the same.

Putting citizens and particularly first nations, Inuit, and Métis people into the DNA of what is a meaningful consultation is something we really have learned and we have to get better at.

● (1715)

Mr. David Yurdiga: I'd like to reframe that. Don't you receive briefings from the department on a constant basis, and why didn't you pick up on the consultation process?

Hon. Carolyn Bennett: Yes. Usually the briefings are general, in terms of the general level of consultations and what we've been hearing.

I think in this situation, because it was time limited and was viewed to be really just executing a court decision, I probably didn't ask as many questions as I should have about the consultation, but I do now understand, and I had, I think, believed honestly in my heart that the real bulk of the consultations was taking place in phase two.

Mr. David Yurdiga: Minister, we heard from most of the witnesses that Bill S-3 is flawed. Will you listen to first nations and ask for an extension, or will you ignore first nations' request to have an extension requested?

Hon. Carolyn Bennett: Ignore is not exactly what I do. I'm hearing intently the concerns that have been raised.

I think there has been a misunderstanding about what an extension can do. The fact is this extension would be only for three to six months, and there's no way we could address all of the issues that have been raised at these two committees in that three- to six-month period. We would have to actually...in order to be drafting the new legislation now, in terms of getting through the cabinet process to ask to do it, then go back with the bill, and to get it through both Houses. I think there's a bit of a misunderstanding as to what actually is possible in seeking an extension and why a court would give us an extension.

I understand the cynicism that people think this revision to the Indian Act is about the train leaving the station and how much can we get on it as it's leaving. It's as though we won't come back to it. I'm here to say that the meaningful consultation will start in February, and we will come back with a proper plan for that.

The Chair: Thank you, both.

The next five-minute round is for Don Rusnak, please.

Mr. Don Rusnak: Actually, Michael McLeod is going to take that.

The Chair: You're yielding the time to Michael McLeod.

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

Thank you, Minister, for presenting today.

I think most of us who have been following the issue for years were quite pleased to see that the government was moving forward and moving away from the previous government's position that they were looking at appealing this. However, this issue is very complex. It's very complicated.

I come from the Northwest Territories, where half of our population is aboriginal. We have eight aboriginal governments there. We still have a lot of issues around who belongs to what organization. We still have a lot of people who are being left out. I think that at some point all of our organizations will be self-governing and under self-rule and the Indian Act will no longer apply. We've already seen movement in the Tlicho government and in the community of Deline.

My concern is that if we don't do this now, it may not happen. We heard presentations today from a number of people who presented some very good research and very good arguments on why we should defer it. They talked about getting the bill right. We also heard from some of our colleagues who've said that they don't trust the government.

I'm not sure what will happen in the future. I know there are 35,000 people who are looking for this to move forward, and that number may grow. Realistically, if we don't do it now, how long would you anticipate that it's going to take to get it right, to deal with all the issues that are out there? I can't say that I know what all of them are. I'm not an expert in this field. What do we expect that assessment of 35,000 people to grow to? We're hearing that it has already grown by 150 people or more.

● (1720)

Hon. Carolyn Bennett: You know that my preference is that we get this done now with the 35,000. This is serious, in terms of whether it's about health benefits or post-secondary. This is what we're hearing from people. They don't want to wait any longer. What we are hoping for.... Whether it takes a year or two years to get the rest of these inequities dealt with in a bill, we are committed to getting those done and getting it right in that way. We do not believe that we have time to deal with the inequities that are not sex based in the time available or that the court would give us sufficient time to get it right.

I think you know, as most people know.... I don't think that parliamentary committees are the way the crown consults. We actually do have to get out and do our work first and then bring it back to committee, with hopefully all of these other inequities dealt with.

Mr. Michael McLeod: This issue has been causing a lot of discussion right across Canada. I've heard from people in my riding. I've heard from people who would like to look at this in terms of reconciliation. This is an issue that could bring us all the way back to when treaties were signed and when the script was imposed on people. I'm not sure if that phase two will actually allow for that to happen.

Is that something people can anticipate? Can they anticipate having the discussion go all the way back to, in our case, Treaty No. 11 in 1921, to talk about it? Even in my family, some people were allowed to take status, while other people were not. I have cousins who have status and cousins who do not. It depended on a lot of different things. I'll leave it with you as a question.

Hon. Carolyn Bennett: That's a great question, because I think the whole issue of membership and registration we want eventually to be determined by nations themselves. This isn't something Canada should decide in the way that the Indian Act was written: that we decide who has status and who doesn't have status. We want to get out of this line of business. That's why it's exciting to actually get it right, as in, what would that look like?

The Chair: Minister, we're out of time on that one, I'm afraid.

The next question is from Cathy McLeod, please.

Mrs. Cathy McLeod: To go back to your comment that you need to do the consultation and then the committees do their work, we're not the environment, and I absolutely agree. Unfortunately, we've seen with Bill S-3 that this is exactly what's happening: the consultation happened after the legislation was drafted. In this case, luckily, it came to committee simultaneously while it was in the Senate, and certainly the flaws are coming very much to light. Again, I look at Mr. Descheneaux's lawyer with his four pictures of very inadequate responses of the legislation.

We've had a committee. We've had expert witnesses. The vast, vast majority of them have all indicated that they believe there are still flaws. We're not privy to whether it will come from the Senate with a minor fix or not, but the advice to this committee by the vast majority of witnesses from across the country is to take a little bit more time, get this right, ask for the extension.

The position you've taken at the table today is that you're not going to do that. So what all these witnesses have said to us is something that is not, you believe, the way to go forward. Whether it was National Chief Bellegarde or whether...and I can go through the list. You've seen the testimony.

What you're telling us today is that, really, it's very nice that they came, but we're going to go forward, just as you sort of went forward with the drafting without their input. Is that what we're hearing today?

● (1725)

Hon. Carolyn Bennett: No, I think what we're saying is that if we were to ask for an extension, it would be in order to get the work of this bill through the two houses in a timely fashion. I think we do not believe we'd be granted an extension in order to deal with all the other inequities. I think that is the advice that we've been given, that it needs to be basically the ballpark of what the plaintiffs argued. In order to seek justice for those plaintiffs, that would be the purpose of an extension.

We're very grateful that because of the sibling issue in Bill S-3, the Indigenous Bar pointed out this other group that will lend itself to an amendment. With that, we do believe we will have a bill that will deal with what the court asked us to do.

Mrs. Cathy McLeod: On November 21, my question to the department was on the proposed amendments to the Indian registration to comply with the Descheneaux decision and to eliminate all known sex-based inequities. I asked if they were confident that we have taken care of this as an issue, and the response was yes. But we're hearing that the response should have been no, because the Indigenous Bar Association and others have said that it doesn't deal with all the known sex-based inequities. We've heard that from many, many witnesses, that this does not deal with it.

Hon. Carolyn Bennett: I think what the Indigenous Bar pointed out to us was that the bill itself created a new group. In fixing the other ones, we created a new group, and now that can be dealt with through the amendment.

Mrs. Cathy McLeod: Again, with all respect, I think this is showing that when you rush something and you don't talk to the people who are so knowledgeable.... When McIvor joined us, she had such knowledge that she brought to the table. I think there are misses and I think there are some more misses. I think we've heard concerns from other witnesses.

If the amendments pass in the Senate, I still don't think.... We're not going to be back doing this again, through a court challenge, wasting everyone's time and energy because we haven't got it right.

The Chair: We're out of time there, Cathy. We're over five minutes.

Hon. Carolyn Bennett: Mr. Chair, if I may, that is the good work of a parliamentary committee, to actually point out something that's been missed. That's what I really believe is important, and somebody that comes with the remedy to fix it. I want you to believe that this is the important work of parliamentary committees, but that we need to go out and consult in order to do the rest of the inequities.

The Chair: I want to say thank you to all of the witnesses, and Minister Bennett and your staff team.

Committee members, I've intentionally left about a minute and a half for a short bit of committee business, so I'll ask you to stay in your chairs.

With Charlie Angus removing himself from our committee, we're left without a second vice-chair. It's our duty to elect Romeo Saganash.

Grant has a bit of process for us, so can we listen to Grant for a moment, please?

The Clerk of the Committee (Mr. Grant McLaughlin): Pursuant to Standing Order 106(2), the second vice-chair must be a member of an opposition party other than the official opposition.

I am more than prepared to receive motions for the second vice-chair.

● (1730)

The Chair: It looks like Don Rusnak is moving a motion that it be Romeo Saganash.

Mr. Don Rusnak: I'll move the motion for Romeo.

The Chair: The seconder is Cathy McLeod.

Is there more process?

The Clerk: Thank you for your patience. It has been moved by Don Rusnak that Romeo Saganash be elected as second vice-chair of the committee.

Is it the pleasure of the committee to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

The Clerk: I declare the motion carried and Romeo Saganash duly elected as second vice-chair of the committee.

The Chair: Thank you.

Congratulations, Romeo.

The meeting is adjourned.