



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

45th PARLIAMENT, 1st SESSION

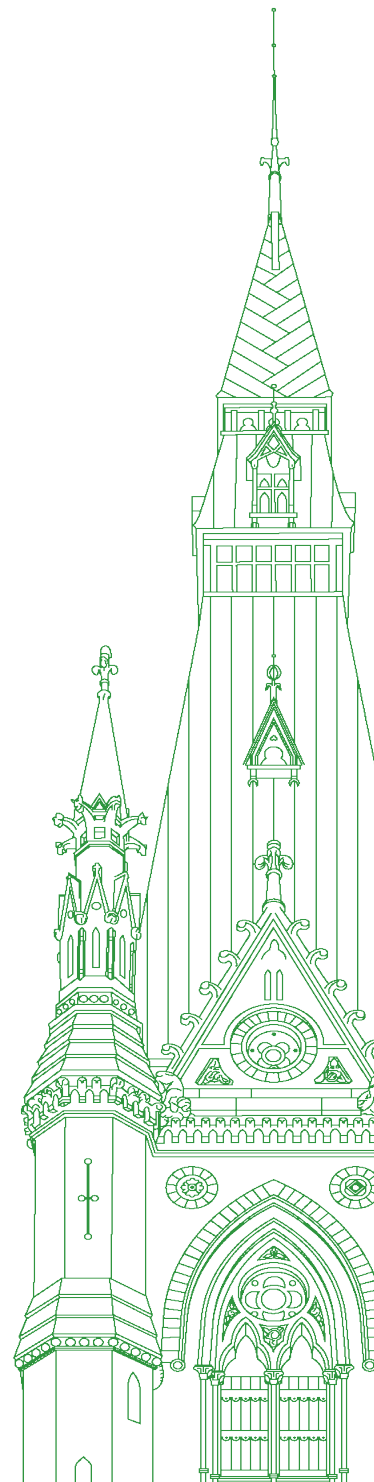
Standing Committee on Indigenous and Northern Affairs

EVIDENCE

NUMBER 034

Thursday, May 28, 2026

Chair: Terry Sheehan



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• (0825)

[English]

The Chair (Terry Sheehan (Sault Ste. Marie—Algoma, Lib.)): Good morning, everyone.

Welcome to meeting number 34 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

We recognize that we meet on the unceded territory of the Algonquin Anishinabe peoples.

Pursuant to the order of the House, the committee is continuing its study of Bill S-2, an act to amend the Indian Act on new registration entitlements.

Today's meeting is taking place in a hybrid format. Members may be attending in person in the room and remotely using the Zoom application.

Before we begin, I ask all in-person participants to consult the guidelines written on the card on the table. These measures are in place to help prevent audio and feedback incidents and to protect the health and safety of all participants, including our wonderful interpreters. You will also notice a QR code on the card, which links to a short awareness video.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone to activate your mic, and please mute yourself when you are not speaking. For those on Zoom, at the bottom of your screen, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

I would like to remind witnesses that committee members may ask questions in either French or English. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you will need in advance in order to take full advantage of the time allotted for questions and answers. If you need interpretation and you're in the room, it's best to leave the earpiece in. If not, though, please place it on the little sticky so that there's no feedback. It's on your desk.

I remind you that all comments should be addressed through the chair.

I would now like to welcome our witnesses.

From the Assembly of Nova Scotia Mi'kmaw Chiefs, we have Chief Sidney Peters, by video conference.

Good morning.

Here in the room, we have, from Mississaugas of Scugog Island First Nation, Jeff Forbes, deputy chief.

You each will have five minutes. I'll let you know when there's about 30 seconds left so you can wrap up and finish your thoughts. There's going to be a big exchange of questions and comments with the members, so you should have plenty of time to say more.

Let's start online, please.

Chief Peters, welcome, and go ahead.

Chief Sidney Peters (Assembly of Nova Scotia Mi'kmaw Chiefs): Kwe and good morning, members of the committee and invited guests.

My name is Sidney Peters. I am the chief of Glooscap First Nation, as well as the co-chair of the Assembly of Nova Scotia Mi'kmaw Chiefs.

Today I am appearing on behalf of the assembly, which is made up of 13 Mi'kmaq chiefs in Nova Scotia, members of the Mi'kmaq Grand Council, the district chiefs and the Assembly of First Nations regional chief. Thank you for this opportunity to be here today.

When Parliament passed Bill C-31 in 1985, it introduced a cut-off for status registration based on the number of consecutive generations in which one parent was a non-status Indian. The resulting loss of status is not only discriminatory but also deeply rooted in the colonial and racist policy of assimilation. Canadians have a one-parent rule, yet the citizens of our nations do not.

For our communities, the second generation cut-off is real and is a constant challenge. Across the country, we have community members who are falling in love with and having children with people who are not members of the first nations community. Many of us have family members who fall into this second generation cut-off. We are the parents, the aunts, the uncles, the grandparents and so forth of these children, who are treated as less than or not Indian enough. They are not nameless faces or just people listed on federal documents. They're our blood relatives.

When discussing the merits of Bill S-2, one of the chiefs in Nova Scotia spoke about his niece, who is classified by Canadian rule as a subsection 6(2) Indian. She has grown up in the community, and she knows no other culture than her own Mi'kmaq culture, but because of the 6(2) status, her children will grow up without the help and support others received. They will have no medical support and no educational support, and they will be deemed a burden on our system because Canada has limits on who we can take care of.

This is not our way. The Mi'kmaq take care of our own. Our process allows us to give recognition to individuals who are culturally connected to our nation but are not band members or status Indians because of arbitrary rules put in place by the federal government.

This act of self-government does not provide us with the opportunity to provide housing, programs and services to these individuals. This is because the government has ensured that these basic rights and services are limited to whomever they legally recognize as Indian. That is what status is.

Before 1985, non-indigenous spouses of indigenous men were given status, and so were their children, yet indigenous women who married out lost their Indian status, and so did their children. Because of this, descendants of the first nations women are disproportionately impacted by the second generation cut-off.

Bill S-2 is the opportunity to rectify that. We understand that the federal government is worried about the dollars and cents. We are too. Some communities are worried about how Canada will support us in welcoming back individuals to our community. They want to know if Canada will meet the fiduciary responsibilities for the influx of status individuals. Despite these concerns, we know that this is about supporting our children and our future generations. This is about real reconciliation, and this is why we are calling for the passage of Bill S-2 as amended by the Senate.

Wela'liq. Thank you.

● (0830)

The Chair: Thank you, Chief Peters.

Now we will go to Deputy Chief Forbes for five minutes, please.

Deputy Chief Jeff Forbes (Mississaugas of Scugog Island First Nation): [*Witness spoke in Anishinaabemowin and provided the following translation:*]

Hello. My name is Jeff Forbes. I am Bear Clan, and I am from the Mississaugas of Scugog Island First Nation.

[*English*]

Good morning, Chair and members of the committee. My name is Jeff Forbes, and I'm deputy chief of the Mississaugas of Scugog Island First Nation.

I speak today on behalf of our chief and council to express their strong support for the removal of the second generation cut-off.

Since 1985, the second generation cut-off in the Indian Act has imposed an artificial and externally defined limit on the ability of first nations peoples to pass on our identity and legal recognition to our children. This provision has resulted in a gradual legislative

elimination of many of our citizens and contributed to the erosion of our communities, families and cultures.

This is not an administrative issue; it's about identity, continuity and the survival of our nations.

It's important to recognize that first nations are not treated the same as other groups in Canada when it comes to citizenship and identity. Recent changes to the Citizenship Act have removed generational limits for many Canadians, allowing them to pass on citizenship to children born outside the country. In contrast, first nations people remain subject to the Indian Act, which continues to control our citizenship and restrict the transmission of identity across generations. This unequal treatment goes against the principles of fairness and reconciliation.

Removing the second generation cut-off is an important and necessary step towards addressing long-standing discrimination in the Indian Act. It will help restore recognition to thousands of people who have been excluded through policies that are not compatible with our own systems of kinship, belonging and nationhood. We urge the Government of Canada to move forward with amendments that eliminate the second generation cut-off.

I want to speak to you not only as the deputy chief of my nation but also as a parent. I have three young children: Millie, eight; Stanley, six; and Bowen, five. I've been with my wife for 17 years. My children have been denied status due to the second generation cut-off. When I asked ISC staff what I could do, I was told to put my children up for adoption to a family member or apply for Métis status.

We are Anishinabe. We are not Métis.

That moment stays with you, because it tells you very clearly how much power the system still has over our identities and our families.

My father was part of the sixties scoop. He was taken away from his family when he was only two months old. He grew up without knowing who he was, without his language, without his community, without his identity. As an adult, he went back to Scugog to try to find answers. When he walked into our original band office, three family members were sitting there. They said, "What took you so long?"

My dad later applied for status. He was turned down twice. On his third try, he was lucky enough to find somebody who actually cared. He was registered since birth. If he had given up the first or second time, we would have never known, and our family would have been denied our heritage.

This is how much power the government has over us: the power to deny, to redirect and even to hide the truth of who we are.

My father's generation was forced to hide who they were. My generation had to work to relearn it, and now my children are growing up proud and strong. They know how to make our medicines. They hunt and fish with me. They dance; they join our ceremonies, and they take leadership roles at their schools, celebrating the Anishinabe ways. They are confident in who they are.

We are Anishinabe. Their generation will bring us full circle, but under the second generation cut-off, the government does not recognize them. They're being told they don't belong.

We are Anishinabe. My kids won't be able to follow the same footsteps in leadership as I do. They will not have the same opportunities to exercise their role in their nation.

The minister has said more consultation is needed. Respectfully, we do not agree. There have been many decades of studies, engagement and consultation on the discriminatory impacts of the Indian Act's registration provisions. We don't need more consultation; we need action. Delaying further means more families will be cut off, more children like my children will be denied recognition and more damage will be done that cannot be undone.

We stand with the Anishinabek Nation and others calling for this reform. This is about fairness and about recognition, and it's about ensuring that future generations are not legislated out of existence.

Meegwetch.

● (0835)

The Chair: *Chi-meegwetch*, Deputy Chief Forbes.

We'll go to the Conservatives for the first round of questions of six minutes each.

We have MP Morin online. You have six minutes, please.

Billy Morin (Edmonton Northwest, CPC): Thank you, Chair, and good morning to our guests today.

I want to go to Chief Peters online for my first question.

I have a clarification question, Chief. Did you mention that your nation has a self-government agreement?

Chief Sidney Peters: No. We are working on that with all 13 communities here in Nova Scotia. That is our future goal.

As the Assembly of Nova Scotia Mi'kmaw Chiefs, we all come together once a month and work on issues or concerns that impact all of Mi'kmaq here in Nova Scotia. Everybody's part of that in the assembly.

Billy Morin: Thank you for that clarification, Chief.

It's my general awareness that other self-governments have a one-parent rule, even going back to the 1970s, for self-government agreements. Would it be your intention to negotiate a one-parent rule in the long run, if you guys get self-government?

Chief Sidney Peters: Yes. That's one of the things that we want to do as well. Trying to identify exactly who we are was one thing, because we know we need to work on that. We shouldn't have somebody else tell us who we are.

Lori Idlout (Nunavut, Lib.): I have a point of order.

I'm sorry. Can we ask the witness to speak louder?

● (0840)

The Chair: Put the boom right beside your mouth and then speak louder, please.

Chief Sidney Peters: How is that? Is that better?

The Chair: Lori is giving you the thumbs-up.

Chief Sidney Peters: I was always told, "Sid, you need to speak a bit louder." I apologize for that.

Each community here in Nova Scotia is working on having their own identification of who they are and who they're going to identify in their communities, but as an assembly, we are working on that here under the citizenship thing we've been working on. It's just a matter of getting everybody in the room to agree.

As we know, we should be the ones who identify who we are. We shouldn't have the federal government identifying who we are. That's what we're working on.

Billy Morin: Thanks, Chief.

The government has talked about reconciliation for the better part of 10 or 11 years now. Under this current government, they've decided to endorse the United Nations Declaration on the Rights of Indigenous Peoples. They have spoken about "nation to nation". Are they living up to their words if they keep the second generation cut-off there?

Chief Sidney Peters: What was the end of it? I'm sorry.

Billy Morin: If they say all these things about UNDRIP, reconciliation and nation to nation but keep the second generation cut-off, are they staying by their words?

Chief Sidney Peters: We're not confident in that. That's for sure. I know that they talk about reconciliation, but is it really, truly reconciliation in regard to consulting with us? I think that's really important.

On some of the issues and concerns that we've seen, even when Bill C-5 went through, not much consulting even took place there. Having said that, I'm not 100% confident that this is what happened. We've been around for many years. As you said, it's been a while since they adopted UNDRIP, and where are we now? In regard to the change, how many changes have actually taken place? With the Truth and Reconciliation Commission that took place, how many things have actually been approved to date? How many have been worked on?

Even on this, with regard to how long consultation has taken, I understand that about 240 sessions took place in the discussion of Bill S-2 and they still want to talk more about it, but today the amendments that the Senate has put forward should be considered for sure.

Billy Morin: Thanks, Chief.

I'll go to Deputy Chief Forbes.

One of the great injustices that we've heard in this discussion is that leaders of their own communities.... We've heard from a number of chiefs of their own communities. At least one or two have said that their children are not recognized as a part of their communities because the second generation cut-off affects them. Can you clarify if that's your current position with your own children, Deputy Chief?

Deputy Chief Jeff Forbes: That's correct. My mother is non-status and my wife is non-status, which means that my kids are affected by the second generation cut-off rule and are not eligible for status.

Billy Morin: You are the deputy chief of your nation.

Deputy Chief Jeff Forbes: That's correct.

Billy Morin: You had some great words when you mentioned that your father was part of a generation of discovery and that you're a generation of relearning, and now your kids are.... How did you put it, Deputy Chief? How did you refer to your children as the new generation?

Deputy Chief Jeff Forbes: My father's generation was forced to hide who they were. My generation had to work to relearn it, and now my children are growing up proud and strong. They will be the generation that brings us full circle—ones that can be proud, ones that can openly hold ceremony and openly and actively use their traditional areas.

Meegwetch.

Billy Morin: I can hear the pride in your voice when you say that, Chief. Still, this second generation cut-off for your children would cast some shadow of a doubt on fully implementing their rights as a part of the community. Is that fair to say?

• (0845)

Deputy Chief Jeff Forbes: That's correct. They're not recognized by the federal government to be Anishinabe, to be members of Mississaugas of Scugog Island First Nation.

The Chair: Thank you very much. That's the time, MP Morin.

Next we go to Jaime, please. You have six minutes.

Jaime Battiste (Cape Breton—Canso—Antigonish, Lib.): Thank you, Mr. Chair.

I'll direct my first question to Chief Sidney Peters.

Kwe. Weliegsitpu'g.

It's really good to see you this morning, Chief Peters, even virtually. Thank you for joining us at INAN.

Chief, you said something important there, and I want to pick up on it a bit. In your answer, you said that we should be the ones who choose who are and who aren't members of our community. As you know, for more than 10 years the Mi'kmaq have been trying to figure out who the beneficiaries of our rights should be.

You know that I was your Mi'kmaq citizenship coordinator for more than four years, going to communities and talking about what

it is to be Mi'kmaq, what it is to belong and what it is around the identity, and a lot of the conversation that I heard wasn't just about ancestry; it was about belonging to a community. It was about connection to a community. It was about knowing who people's families are. In the Mi'kmaq language, we call that *Tan Wetipeksin*, which means, "Where are your roots?" An elder would sometimes ask you, if you're coming to their community, "*Tan Wetipeksin*?" They're asking you not just where you're from and which community you were raised in, but who your family is and all of these things.

When we look at this whole idea of the second generation cut-off, I fully agree, from a life of work, that this is overly restrictive and that it should be the communities that decide, but I'm wondering two things.

First, should we be looking only at ancestry when we have these conversations about being Mi'kmaq and belonging to a community to have status? The second question is, where have we gotten to in terms of what it means to be a beneficiary of the Mi'kmaq nation, which we've been working on for more than 10 years?

I submitted a draft document, and I know that your niece, Zabrina Whitman, also worked on this with great enthusiasm. I'm wondering if you could tell us where the Mi'kmaq have landed in terms of some of the important things that we look at when we're talking about who we are.

Chief Sidney Peters: Thank you very much, Jaime, for the questions.

On your first question, your last comment kind of broke up.

Jaime Battiste: Should ancestry and parentage be the only factors that determine indigenous identity, or should there be other factors as well? In a broader context, should it not be up to the communities themselves, instead of Ottawa, to decide who the members of their communities are?

Chief Sidney Peters: It's really important to know what your identity is. When I was growing up, my father was chief, and my sister has been chief and my grandfather was chief of communities, but even though they were chiefs of communities, it's all about recognition of who your family is, who your kids are, who was who and where you come from. You're correct in saying that wherever you go, they always ask who your family is and where you come from. That's really important. The names are so important. That's why they asked traditionally who you were.

More importantly, it is about the culture. I must say that a lot of times some of us lost our status, so of course we weren't getting involved with community things or even participating in indigenous things, because not everybody really included everybody. I remember that when I was growing up, I lived off reserve. I'd go to communities, and they'd say, "Well, you must be an apple, maybe red on the outside but white on the inside", thinking that I'm not native enough. Honestly, that's what used to happen to us.

I don't understand why, but people had to move off reserve in some cases because they had to find work, whatever it was, or there was no work because there was no employment within the communities.

I honestly think you're indigenous no matter where you live, whether you're on reserve or off reserve. The Indian Act has put us in these situations. That's where the problem occurs.

That said, there are things about money. There's always the money issue. They're always talking about how it's a money issue or whatever, and some of our communities have concerns about that, because we're not receiving enough money now to support our communities and what really, truly is needed. We're running into issues in regard to our land and the additions to the reserve. Our land base is too small.

Having said that, it's understanding who we are and what we are. I'm similar to our colleague who's presenting. My children are not going to be able to pass on their status. I married my wife 40 years ago, and my anniversary for 40-some years is this year. My kids won't be able to pass it on.

As I said, as far as leadership goes, my dad was a chief, my sister was chief, my grandfather was chief and I was chief. My kids might be interested in that, but if this continues, they won't be eligible to even participate, because that's the way it's set up. They won't be able to run for office, which is unfortunate. Their children won't even be able to recognize that.

Honestly, if I really think about being first nation, I often think about going back to reality. Do I go back to my grandparents or to my parents and say, "Oh yeah, mom and dad, our kids are no longer Indian." What does that mean?

Unfortunately, they have both passed on now, but I can't imagine how I would address that to my parents and say my kids are no longer native.

What about everybody else? There are other people out there, as we've said and as we've seen, who have gained status and continue to grow on that, but ours don't. I think it's so discriminatory. It's not fair to our people. We know how important economic development is in own-source revenues.

Again, Jaime, I like these questions, but where are we on citizenship? You and Zabrina did an excellent job when you were here working on this. One of the biggest issues that we run into as first nation communities is identifying what the priority is. It seems as though every time we go to a meeting, something else pops up, whether it's a candidate's medical health, whether it's policing, whether it's reserve creation or whether it's mental health. Whatever it is, there are just so many, and it's a big thing. Even with AFN, there are so many issues and concerns. You guys would see that at the government level. There are so many concerns, and we're trying to address them all.

● (0850)

The Chair: Thank you.

Chief, happy anniversary to you and your wife. Forty years is a very special anniversary, so thank you.

[Translation]

Good morning, Mrs. Gill. You have the floor for six minutes.

Marilène Gill (Côte-Nord—Kawawachikamach—Nitassinan, BQ): Thank you, Mr. Chair.

Thank you, Chief Peters and Deputy Chief Forbes, for your testimony.

I think you both agree that Bill S-2 would have enormous negative repercussions.

Deputy Chief Forbes, I believe you mentioned the fact that, ultimately, a population is being wiped out. Obviously, the law remains very colonial in nature.

I get the impression not that we're repeating ourselves, but that everyone is making the same arguments and that everyone wants to see the bill passed quickly, without further consultation.

I'd like to let both of you respond, since we're fortunate to have you here. Could you tell us again, in a few words, what the repercussions are?

Mr. Forbes spoke of a system that has a great deal of power over identity. Identity is something we should decide, not the system.

So, Mr. Forbes, what are the repercussions and what should we do quickly? *Meegwetch.*

Afterwards, Chief Peters, I'll ask you the same question.

[English]

Deputy Chief Jeff Forbes: *Meegwetch.*

On the impacts, I'll speak only for the Mississaugas of Scugog Island First Nation. We currently have 254 members. Removing the cut-off will allow us to steadily grow by 7% to 10% to 278 members in five years. It allows our members to be members of our community, to be accepted, to learn and to pass it on. In our hearts, we are Anishinabe. The federal government does not see us that way.

You're now again having a group of young children, after all the past that we can talk about.... We're doing it again to our children. We're telling them that they do not belong. We're telling them that they don't have access to their language. We're telling them that they shouldn't have access to their ceremonies.

That's what the federal government is telling them, not our home communities: Our home communities are doing everything we can to continue our traditions and our cultures. Our language is coming back in our young ones.

● (0855)

[Translation]

Marilène Gill: Mr. Forbes, if I may, what will be the impact on you and your community if the bill is not passed?

[English]

Deputy Chief Jeff Forbes: If the bill does not pass, we will drastically lose our membership. We are going through studies now. We're on our third study on when the actual extinction of Scugog members would be, and it's within this century. The Anishinabek Nation data shows that anywhere from 40% to 50% of the entire Anishinabek Nation is affected by the second generation cut-off. Many of those who are still eligible to pass on their status are past child-bearing ages. Not only are we getting older, but we can't have any more young ones.

Once that happens, it's permanent. There's no mechanism to restore their recognition under the current framework. We need to pass this now. Consultation on this has been going on since 1985. There is a 12-month consideration, if you pass this, to defer it, to allow us to get our ducks in a row. There's time to do this, and the time is now. Don't let another generation of children go unanswered and unwanted.

As in the chief's apple scenario, we're all Anishinabe in here, and because of colonialism and the way the system is set up—the way the Indian Act is set up—it doesn't allow everyone to get that out. We're not allowed to live on our first nations because of capacity issues. I personally can build a house on my first nation, but I can't pass it down to anyone, so it will go back.... My kids are not allowed to have a house at our first nation.

Meegwetch.

[Translation]

Marilène Gill: *Meegwetch*, Deputy Chief Forbes.

Chief Peters, I'll address you during my next speaking turn.

I have a few seconds left to go back to the fact that one nation decides for another and one nation commits genocide—I think we can call it that—by wiping out nations.

So thank you very much and talk to you later.

Thank you, Mr. Chair.

The Chair: Thank you.

[English]

MP Schmale is next for five minutes, please.

Jamie Schmale (Haliburton—Kawartha Lakes, CPC): Thank you, Chair.

Thank you again to our witnesses for this very important discussion.

Deputy Chief Forbes, we are somewhat geographical neighbours. It's nice to see you. I am over in Kawartha Lakes, and you are doing a great job over on Scugog Island.

You had said, a few moments ago, that this has been talked about for many decades now and consulted upon. It seems that there is no end to this. What have been the obstacles? What is the reason—that you know of—that this was never addressed since 1984, I believe you said?

• (0900)

Deputy Chief Jeff Forbes: It was 1985—

Jamie Schmale: Yes, 1985....

Deputy Chief Jeff Forbes: —when the change to the Indian Act came into effect.

There have been many obstacles over the years, which have been brought forward by first nations, as well as by the federal government. I do not agree with the federal government when it comes down to dollars and cents.

Allow us to have our ATR process. Allow us to have our land to build economic certainty for our nations. Allow us to have our membership grow, because we are Anishinabe. We are the first peoples of these lands.

We have land sitting at Scugog, right now, that we cannot do anything on, and invasive species are taking over. How is that okay? We buy back land at fair market value. If you buy it, then it changes to your name tomorrow. We have to wait 20 years.

We know how to look after our lands environmentally. We know how to do the assessments. We know how to revitalize our lands. Allow it back so we can do that work and make our communities prosper.

Meegwetch.

Jamie Schmale: In our area, where we both live, there are Rama, Hiawatha and Curve Lake first nations, as well as many more. Do you know if they are feeling the same pinch—that their nations could be extinct within the century? I believe that's what you said.

Deputy Chief Jeff Forbes: I'm not going to speak for our sister nations on that. We are unique, as we are a little smaller. Ironically, we have to go off Scugog. We're pretty much tied.... We're all family out there.

Jamie Schmale: That's why I asked.

Deputy Chief Jeff Forbes: Yes.

Jamie Schmale: I didn't know if you've been talking to them about this as well.

What I'm trying to say is that this needs to be fixed, and it hasn't been fixed for decades. Time is long past to take action.

We've done the consultation. I think we've talked about this for as long as possible. We have direction. We have a piece of legislation in front of us that we need to get done, get supported, get through and enacted into law to fix some of these errors. That's what I was building on.

To my knowledge, there has not been a nation, group or whatever that has been against this piece of legislation.

Deputy Chief Jeff Forbes: That's correct. The Anishinabek Nation has submitted their letters, sharing who and what nations have signed on, approved and supported ending the second generation cut-off rule. I strongly advise that we look at those and consider if all of the 39 nations have signed on with the Anishinabek Nation, which would include all those sister nations you just spoke about.

Meegwetch.

Jamie Schmale: If this were to be enacted...you ramped up and said that there would be a bit of growth, so you would have that piece that gives more power back to the community, which is a good thing. It allows you to reinvigorate your culture. It gives you that ability to pass that on.

I'm still taken by the fact that you're the deputy chief of your nation, yet your children can't experience the same upbringing as you did.

If you were in question period right now and had the opportunity to ask any question you wanted of the government, what would you ask?

The Chair: Unfortunately, that's all the time we have.

Jamie Schmale: That was a good question.

The Chair: Perhaps the next questioner will allow that to continue.

Jaime Battiste: [*Inaudible—Editor*] get paid.

Jamie Schmale: I'm going to take notes. I'm off this afternoon.

The Chair: Yes, he wants to borrow a question. Perhaps it will come out later.

MP Hanley, you have five minutes.

Brendan Hanley (Yukon, Lib.): We sure left that one hanging, but I'd be happy to provide you with some questions, Mr. Schmale, if you'd like.

Jamie Schmale: Yes, I would appreciate that.

● (0905)

Brendan Hanley: I would like to go back....

I too am struck by what you said during your testimony, Chief Peters. We should be the ones who define who we are. At the same time, in your last back-and-forth with Mr. Battiste, you talked about many issues and concerns. It's so hard to address them all. Surely, the context of being the ones who define who we are should be the pathway to having better capacity to address the many concerns that are hitting you all at once.

In this study, the option being presented before us is the one that has come through the Senate amendments. It is a universal single-parent rule, but it's still administered through the Indian Act. I'm somewhat troubled by the process, even though I think we all share the same goal. I know the minister shares the same goal as well. She gave pretty powerful testimony at the Senate committee. She said, "I understand the unfairness of second generation. In my own family, I have members who face this. I want you to know that this is very personal to me. This is something very important to me."

She is the first indigenous Minister of Indigenous Services. We have a minister who is committed to seeing us through this, getting this done and getting to a more just place. I feel pretty confident about that, but I'm more concerned about how we get there and how we get there in the right way. To me, the gold standard is co-developed legislation. That's how I think we should be developing legislation, such as we have with Bill C-10, the modern treaty commissioner bill, and with the previous clean water act in the last Parliament that we didn't get to carry through. I hope we will reintroduce it soon as co-developed legislation.

That's the context I'd like you to reflect on, Chief Peters. It's this importance of being the ones who define who we are, which could apply to both citizenship and status. Could there be another solution that could transfer control over citizenship and status out of the Indian Act and into the jurisdiction of the Mi'kmaq or other first nations around the country? I would like you to reflect on that.

Chief Sidney Peters: One of the things we should recognize is that the Mi'kmaq, as you mentioned, choose the reality of who we

are, but government relations with us define who has status. This is the only way to ensure that our kids get the access they deserve. That's what we have right now.

Government policies are the reason our kids don't have the connections we need to bring them home. I understand that when the Senate went to a vote, 533 first nations out of 634 supported the Senate. That's a pretty substantial number. Only a few of us get to present. I think the federal government needs to take that number into consideration when it's voting on this.

The other thing I want to talk a bit about is.... I'm not 100% sure what the numbers are for immigration into our communities. In one sense, we're getting rid of a nation, but we're bringing in other nations within Canada. If we do such a comparison on those numbers, because I know there was always an issue about dollars and cents.... As I mentioned, we're concerned about the dollars and cents as well. That's a big issue. A much bigger issue within some of the communities is how we're going to support everybody. Like Jaime said, it's not just about support and whatever, but about a nation and identifying who you truly are. Having another nation determine who you are...that's the difficulty.

I think there needs to be more consultation prior to making these decisions. Having said that—

● (0910)

The Chair: Thank you very much, Chief. That's all the time we have.

Thank you.

MP Gill, you have two and a half minutes, and that will be the last of the question and answer time.

[*Translation*]

Marilène Gill: Thank you very much, Mr. Chair.

I'd like to take up the question that was put earlier to Deputy Chief Forbes, which he didn't have time to answer.

If you had one question for the government, what would it be?

Personally, I know exactly what I would ask. I would ask the government why we aren't taking a vote right away if everyone agrees, as my colleague Mr. Hanley said, and if the minister agrees.

I'll let you ask your question, which we can maybe take up later. Of course, I have the same question for Chief Peters.

Meegwetch, Deputy Chief Forbes.

[*English*]

The Chair: Go ahead, Deputy.

Deputy Chief Jeff Forbes: *Meegwetch*.

How long do I have to answer this?

The Chair: You have one minute and 30 seconds here, but in the House, you have a minute.

[Translation]

Marilène Gill: Alternatively, you can send us the answers in writing, Mr. Forbes.

[English]

Deputy Chief Jeff Forbes: I'd like to reconvene with my chief to send that in to our MP in writing.

I am speaking from my heart. What is the federal government going to do with yet another generation of children who have been systematically taken away from their communities, from their culture, from their traditions and from their languages? It is coming. It's here now, and you're going to see the effects in the next few years. It's the same circle that has been there since the residential schools. That's from my heart.

I'll allow my chief to send something in to our MP.

Meegwetch.

The Chair: *Chi-meegwetch.*

Thank you, MP Gill, for that.

Thank you to all of our witnesses for sharing your testimony, but also your families' testimony, with us today.

[Translation]

Marilène Gill: Don't I still have a minute left, Mr. Chair?

[English]

The Chair: No, but if you have a quick comment you'd like to make, go ahead.

[Translation]

Marilène Gill: I would like to tell Chief Peters that he can, of course, respond in writing to the two questions asked. Unfortunately, time is running out too quickly.

Thank you, Mr. Chair.

[English]

The Chair: Thank you very much, everyone. Thank you for joining us today.

We're going to suspend so that we can get our next panel ready for this important discussion.

• (0910)

(Pause)

• (0915)

The Chair: I call the meeting back to order.

I'd like to make a few comments for the benefit of the new witnesses, who are both online.

I would like to note that I'll recognize you by name before you speak.

When you want to speak, make sure that you click the microphone on. When you're done speaking, click it off.

At the bottom of your screen, for those on Zoom, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

I'd like to remind witnesses that committee members may ask questions in either French or English. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance in order to take full advantage of the time allotted for questions.

As a reminder, all comments should be addressed through the chair.

I would like to welcome our witnesses.

As an individual, we have Drew Lafond, who is a lawyer. He is on video conference. From Thunderchild First Nation, we have Chief Delbert Wapass, also joining us by video conference.

Let's begin with Drew. You will have five minutes. I'll let you know when you have about 30 seconds left so you can wrap up your thoughts if you need to.

Thank you very much, Drew. Go ahead.

• (0920)

Drew Lafond (Lawyer, As an Individual): Thank you for the opportunity to speak today.

I'm here before you today to present a clear and urgent message. The federal Indian status and Indian register system must be replaced by a legislative mechanism that enables first nations to exercise exclusive jurisdiction over citizenship and belonging. What I wish to convey in my remarks today is that continuing to allow Canada to define who does and doesn't belong to a first nation is not merely a policy failure. It's constitutional deficiency, a human rights liability and a sustained act of colonial control over indigenous identity.

The current registration regime, under the Indian Act, places decision-making authority over identity and belonging with the federal government rather than with first nations themselves. This regime has entrenched sex-based and intergenerational discrimination, disproportionately harming the descendants of first nations women, who are historically excluded under earlier provisions of the Indian Act.

The consequences of this have been profound. Families have been taught to measure themselves using Canada's rules. Divisions have deepened between status and non-status people. Women and their descendants have experienced a loss of identity and culture, as well as increased vulnerability. Many individuals have been made to question their own legitimacy and belonging. These impacts have not only fractured communities but also contributed to the conditions that place first nations women, girls and two-spirited people at greater risk of violence.

I respectfully submit that while immediate remedial measures, such as eliminating the second-generation cut-off rule through a single-parent rule, are legally compelling and urgently needed, they are not a complete and durable solution if they operate as a permanent federal definition of belonging. Without mechanisms that enable first nations to assume jurisdiction over citizenship and membership, any reform risks entrenching a new unilateral federal identity regime rather than advancing first nations' self-determination. Even well-intentioned federal reforms may amount to what the Indigenous Bar Association has described as a lateral infringement, in which Canada remains the final decision-maker on first nation identity, without any ability of first nations to assume jurisdiction on citizenship.

My concern is grounded in constitutional law. Canada's continued unilateral control over Indian Act status constitutes a *prima facie* infringement of section 35 of the constitution, as it interferes with indigenous authority over belonging and displaces indigenous legal orders. Such an infringement is difficult to justify when indigenous-led citizenship governance is a viable and less rights-impairing alternative.

My legal analysis is unequivocal: A legally viable solution must satisfy the Charter of Rights and Freedoms, section 35 of the Constitution Act and the United Nations Declaration on the Rights of Indigenous Peoples, as given domestic legal effect through the United Nations Declaration on the Rights of Indigenous Peoples Act and the Canadian Human Rights Act. Taken together, these instruments require that any legislated solution avoid arbitrary federal limits on status transmission; eliminate ongoing sex-based and lineage-based discrimination; recognize and operationalize indigenous authority, not merely consult on revised federal rules, and avoid permanent federal control over citizenship; respect self-determination and free, prior and informed consent, as any solution imposed without consent replicates assimilationist practices; protect first nations' jurisdiction over membership, subject to sex-equality guarantees, without recolonizing governance; and reduce systematic discrimination without forcing first nations citizenship disputes into colonial human rights forums.

Transfer of control is strongly aligned with section 35 principles because it removes Canada from the role of defining "Indian" and relocates authority over citizenship and belonging to first nations themselves. It's also the strongest and most direct alignment with UNDRIP, because the decision to assume jurisdiction rests with indigenous nations themselves.

Finally, I wish to emphasize the critical importance of sequencing. I acknowledge the tension between the urgency of immediate relief for individuals currently excluded by the second generation cut-off and the time required to design and implement comprehensive jurisdictional transfer. However, the experience following Bill S-3 demonstrates the risk of delaying relief while consultation and policy development unfold.

My recommendation is to implement a single-parent rule immediately, as a transitional measure, paired with a statutory commitment and a defined timeline to introduce an opt-out first nation citizenship framework.

• (0925)

Legislative frameworks such as Bill C-92 provide a useful operational analog under which indigenous governing bodies give formal notice of their intention to exercise jurisdiction, to engage in coordination processes and to bring their laws into force, with the force of federal law.

In closing, I'd like to say that colonial control over identity must be replaced by first nation governance grounded in fair procedures, adequate resources and clear transition rules that protect both individuals and communities. The legal analysis, the constitutional imperatives and the human cost of inaction all point in one direction. The time has come for Canada to enact legislation that recognizes first nations' inherent jurisdiction over citizenship, provides the institutional and fiscal support necessary to make that jurisdiction real and begins the long overdue process of returning to first nations what was never Canada's to take: the authority to determine who belongs.

Those are my submissions for today. Thank you.

The Chair: Thank you very much, Drew.

We will now go to Chief Wapass. You have five minutes, please.

Delbert Wapass (Chief, Thunderchild First Nation): *Tansi* and good morning, honourable members.

My name is Delbert Wapass, and I am the elected chief of the Thunderchild First Nation. This means I have the responsibility to speak on behalf of my nation on issues affecting us. Bill S-2 is one of those. It would impact my people, my nation and future generations to come.

The Cree peoples have lived in our territory since time immemorial. As sovereign peoples, we have the jurisdiction, authority and responsibility to govern our lands and peoples according to our own laws and traditions. Thunderchild First Nation entered into treaty in 1878 at Sounding Lake in what is now called Alberta. The very act of negotiating a treaty was a recognition by the Crown of our status as a sovereign nation. We have never surrendered that sovereignty or our right to govern.

Our nation today has more than 3,100 registered members. Like many treaty nations, we continue to live with the devastating impacts of colonial laws and policies designed to get rid of the “Indian problem”. The Indian Act, through its “disappearing Indian formula”, was and is Canada's primary tool. It is obvious, from federal statements in the past, that legislating us to extinction is your way of trying to get out of your treaty, fiduciary and constitutional obligations to the first nations. We will not allow that to happen.

Our families and nations have been divided by historical and ongoing Indian Act rules that determine who is an Indian and that discriminate on the basis of sex, race, ethnic origin, family status, marital status and various intersectional combinations of these prohibited grounds. The Indian Act was created by Canada, not first nations, and it was done in violation of our right to be self-determining and as a subversive way to undermine the treaties. However, the federal government no longer has any excuses for this discrimination. Its own constitution, the Canadian Charter of Rights and Freedoms, and Supreme Court of Canada cases have said that the discrimination must end.

The second generation cut-off and the complex registration categories under subsection 6(1) and subsection 6(2) are products of federal legislation designed to control and, ultimately, reduce the number of first nations people recognized by the Crown. Some have called this legislation an extinction or a genocide. Bill S-2 as originally introduced would not have addressed the ongoing exclusion of our women, children and grandchildren. The Senate heard the voices of first nations and amended the bill to end the second generation cut-off and ensure that there would no longer be an extinction date for every first nation.

As I stated in my letter, we support Bill S-2 as amended to end discrimination in Indian status, which has been found to be a root cause of murdered and missing indigenous women and girls. This is a critical step in the short term. However, in the long term, Canada must get out of the business of deciding who our people are. Only we have the sovereign jurisdiction and authority to do that. Some first nations, like Thunderchild, currently determine their own membership. The majority do not. This is Canada's discrimination. Not only must it address Indian status, but it must compensate our peoples and the first nations that have been impacted. Once Canada fixes its mess, we can transition to a system in which first nations have the exclusive authority to determine our own citizenship rules without the worry of inheriting Canada's liability.

The current consultation process misses the mark again. We have consulted on the issue of Indian status for 40 years and have repeated our concerns about the second generation cut-off and ongoing sex- and race-based discrimination, but to no avail. Each time Canada amends the Indian Act, it knowingly leaves in this discrimination, but it asks us what we think, over and over. It's an endless process. This is not what the duty to consult requires. It requires that you act on the voices of first nations.

● (0930)

The current consultation process misses the mark again. We have consulted on the issue of Indian status for 40 years and have repeated our concerns about the second generation cut-off and ongoing sex- and race-based discrimination to no avail. Each time Canada

amends the Indian Act, it knowingly leaves in this discrimination, but it asks us what we think, over and over. It's an endless process. This is not what the duty to consult requires. It requires that you act on the voices of first nations. Canada cannot use consultation as a weapon and ignore our voices. It also cannot maintain the discrimination in Indian status.

The Chair: You have 30 seconds, Chief. Go ahead. Keep going.

Delbert Wapass: For *nehiyaw* people, belonging is not based solely on federal categories of administrative law. We have the word “*wahkohtowin*”, which talks about kinship. The real issues—the real concerns—are related to housing, infrastructure, education, health services, treaty, land entitlement, membership, governance and community.

As my closing comments, pass Bill S-2 as amended by the Senate in the short term, provide immediate funding for first nations, transition to a process that recognizes first nations jurisdiction or citizenship belonging and ensure any reforms respect treaties, treaty rights, indigenous *nehiyaw* laws and the inherent right of self-determination.

Meegwetch.

The Chair: Thank you.

First up, we have MP Morin for six minutes, please.

Billy Morin: Thank you, Chair, and thank you to our visitors today for coming to testify.

I want to go to Mr. Lafond first.

I certainly agree that the bigger long-term picture is recognition through section 35 and more definition through that mechanism, but you also referenced the United Nations Declaration on the Rights of Indigenous Peoples. The current Liberal government has developed legislation to recognize that and to guide them and have said it for a number of years. Article 9 of the declaration says:

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Would you say that the current government is living up to its commitments under UNDRIP or is it being hypocritical in terms of its application of such things?

Drew Lafond: I'll take it a step back.

Without labelling one government or one party over another as being hypocritical, I will say that Canada has clear obligations under the United Nations Declaration on the Rights of Indigenous Peoples. That obligation is to align federal laws with indigenous self-determination through consultation and co-operation under the United Nations Declaration on the Rights of Indigenous Peoples Act. That's a clear obligation that arises under legislation, and continuing a known discriminatory transmission rule is inconsistent with those obligations.

Implementing a single-parent rule immediately—which is what's contemplated in the current draft Bill S-2—and expressly as an interim non-definitive federal measure, while enacting a consent-based opt-out pathway to first nations' exclusive jurisdiction over citizenship, would honour those duties. I don't see that step being taken currently in the legislation.

• (0935)

Billy Morin: Thank you, sir.

I'll go to Chief Wapass next.

Chief, are you aware that a number of weeks ago, or a short time ago, the federal government lost its bid for a court extension in the Nicholas ruling, which is a part of Bill S-2?

Delbert Wapass: Yes, I am.

Billy Morin: Current indications are that this has been in development. Bill S-2—and a second generation cut-off in particular—has been going on through consultations since 2023, according to the government's own website. The Nicholas court case was started even before that, and here we are in INAN, with no end in sight when it comes to getting rid of the second generation cut-off and, quite frankly, dealing with the Nicholas ruling itself. The government has given no indication in the last number of weeks since this on what they're going to do next.

Can you speak to how this makes you feel as a chief on the current direction of the government? Do you think there is a path forward? Are they continuing to confuse on what their next steps are?

Delbert Wapass: Well, this definitely needs to come to an end. It's clear in regard to what we want as first nations. In Thunderchild First Nation, we look at the various legislative regimes that are out there. Also, at the United Nations, the expert forum on the rights of indigenous peoples just told Canada to pass Bill S-2 as amended by the Senate and end the second generation cut-off.

We are of the same opinion. We have the same position. We don't appreciate the fact that, to this day, we are still being “controlled by” and membership is still being “determined by”, as opposed to it being 100% by our nation, despite the fact that we are a section 10 band with our own membership code, our own membership board and the independence that exists.

For us in Thunderchild First Nation, there's no doubt in our minds that we need to move to the next step, which is ending the discrimination.

The Chair: Thank you very much.

Next, we will go to MP Lavack for six minutes, please.

[Translation]

Ginette Lavack (St. Boniface—St. Vital, Lib.): Thank you, Mr. Chair.

Thank you very much to both witnesses today for their testimony. It's important. There is no doubt that this bill is urgent and that it has a significant impact on everyone. We really have to consider all the advantages and disadvantages.

My first question is for you, Chief Wapass.

We heard during the engagement process that was undertaken that, for some, the bill, as amended by the Senate, doesn't go far enough. Precisely, we do not have jurisdiction over our band membership and, more importantly, over the status of our members.

Wouldn't it be beneficial to go a little further and really have a strike force, a very strong piece of legislation, that gives this self-determination to first nations, rather than taking temporary measures now?

The government could go further and actually develop the necessary legislation.

[English]

Delbert Wapass: First and foremost, we do have self-determination. We are sovereign. It's not a matter of government giving us something that we already have.

Second, we need to go as far as we need to go. We need government to recognize and get out of that space by acknowledging and respecting the sovereignty and self-governance of our nations.

Any legislation that is discriminatory to our people, that holds us back and that has people deciding for us needs to be eliminated. I would go as far as I had to in order to eliminate discrimination in any legislation and any act affecting our people.

In future years, yes, we need to work towards that, because we need to ensure that we're treated with respect and within the principles of the treaty.

The court says to end discrimination now. If everybody's saying that, why are we not doing it?

• (0940)

[Translation]

Ginette Lavack: You have jurisdiction over membership in your band, but not over Indian status as recognized in the Indian Act.

If a new act dealing with the second-generation cut-off went further—for example, by also giving first nations the power to manage the status of their members—that would be a stronger act, wouldn't it?

[English]

Delbert Wapass: Yes, I think that definitely has merit. Right now, we think we have that jurisdiction, but I know that we don't. Regarding membership, they apply to ISC and then they come back to us. We have to figure it out. We never know our exact membership numbers because we have the Thunderchild process and the ISC process. At some point, it has to be reconciled again with the lack of resources, lack of support and lack of coordination.

It makes it extremely challenging. I don't think Canada would appreciate it if the U.S. were determining Canadian citizenship on behalf of Canada. We really need to recognize and acknowledge the sovereignty and the self-government of our communities. There are just more delays.

[Translation]

Ginette Lavack: I will now turn to Mr. Lafond.

Mr. Lafond, if I understand correctly, you are a member of a committee that is currently reviewing the submissions presented by first nations during the formal engagement process. That process began in 2023. We've heard that, for many first nations, the one-parent rule may be a solution, but only a partial one.

You mentioned in your testimony that we should commit to giving first nations back the power to decide the status of their members. The engagement process is coming to an end. The advisory committee you are part of is currently considering the other solutions that have been proposed, as you mentioned.

Don't you think we have a real opportunity here to create legislation that, once and for all, would address all the challenges in a concrete and short-term manner, since we're dealing with all of these issues right now, rather than taking, as you say, temporary measures that could be changed?

[English]

Drew Lafond: I agree with your analysis.

To be clear, I serve as a volunteer member of the registration reform and legal solutions committee. I believe the title is legal policy and implementation analysis in the second generation cut-off rule in section 10 voting thresholds.

I'm being mindful of the timeline Parliament is faced with right now to come up with a legislated solution to the problems that were introduced in *R v. Nicholas*. I know there's a time crunch, and balancing the urgency of the time crunch with the need for genuine engagement with first nations is certainly an obstacle in this case that parliamentarians have to be mindful of. There's a need for consultation.

However, this isn't the first time that Parliament has been faced with the need to come up with an urgent solution to a problem impacting first nations across Canada. I think we can take guidance from previous examples. Perhaps we can use Bill S-3. Interim solutions needed to be introduced immediately in that circumstance. I believe status was opened up. The status rules were relaxed for individuals who were born prior to 1985, while a parallel process was introduced under Bill S-3 that allowed for and directed the minister to engage with first nations—

• (0945)

The Chair: Thank you very much.

Drew Lafond: —to come up with a legislated solution. Something of that nature would be useful in this instance as well.

[Translation]

The Chair: Thank you.

Mrs. Gill, you have the floor for six minutes.

Marilène Gill: Thank you very much, Mr. Chair.

Thank you, Chief Wapass and Mr. Lafond, for your testimony.

Of course, we hear a lot of things from one committee meeting to the next and from one testimony to another on the issue of identity and genocide, for example.

You provided a very interesting analogy, Chief Wapass, namely that no one would want one nation to be able to take over the identity of another nation, including its language, culture or territory.

A number of members from all political parties have been saying so from the outset. In light of the testimony it has heard or received, the Bloc Québécois is in favour of Bill S-2. The Liberals say that it's urgent to pass the bill, which is very important. I believe that my Conservative colleagues, too, are saying that this bill must be passed.

Why do you think its passage is taking so long?

Mr. Lafond talked about the Supreme Court's requirement, for example. Why are we waiting so long to pass Bill S-2?

Are there other issues that need to be resolved before we can move forward with this legislation?

We have been trying, decade after decade, to “put off the genocide”, I would dare say. I say that with big quotation marks, but that's the idea I have. We're always taking a small step forward.

Why aren't we immediately accepting this bill and simply getting to work, or taking action, as a number of witnesses have called for?

I'll start with you, Chief Wapass. I know you didn't have a chance to finish your opening remarks, so you're welcome to finish them now.

Then I'll ask Mr. Lafond to chime in. You have two minutes each. Thank you very much. *Tshinashkumitin*.

[English]

Delbert Wapass: It's important. We can't withhold justice now when we could address larger issues in the future.

It seems that the feds want to delay justice for future legislation. They can end discrimination now and bring in proper legislation on first nations jurisdiction later. No first nation wants our people to suffer while we negotiate future changes.

It's important that we acknowledge and we see what's in front of us and deal with it. Nobody can deny the fact that there's existing legislation that discriminates and that the fact it discriminates has been dealt with, has been consulted on, has been talked about. The courts, the United Nations and so on and so forth have all supported that this is what should happen.

We can deal with that immediately and then in the future, as time goes on, with statutory timelines, we could deal with the rest.

Thank you.

The Chair: Go ahead, Drew.

Drew Lafond: Without repeating Chief Wapass's comments, I agree entirely. To build on my previous submissions, this isn't the first time there has been legal precedent for this. In the case of—

The Chair: Hold on for a second, Drew, please.

MP Gill, you had your hand up.

[Translation]

Marilène Gill: Thank you, Mr. Chair.

I just wanted to tell you that I was waiting for the interpretation to finish before asking Mr. Lafond to respond.

You did so right away, but I wasn't able to hear the end of Chief Wapass's answer. So I just want to tell you that I often listen to the interpretation and that it takes a little longer before I can react.

Thank you very much for taking this into account. The same goes for the witnesses who have to listen to my remarks through the interpretation.

• (0950)

[English]

The Chair: Chief, could you finish with the very end of what you were just saying? You probably have about 10 to 20 seconds.

Delbert Wapass: What I said was that all the courts, the United Nations declaration, all the consultation and everybody who has weighed in on the subject have all come to the conclusion that there's discrimination and that Bill S-2 needs to pass immediately. If we all know that, and everything supports it, why are we waiting? The rest can be negotiated through a statutory timeline with regard to the other discriminatory items that exist and affect our people.

The Chair: Thank you.

MP Gill, did you get that? Good. Thank you.

We'll go back to Drew. You can start from the top.

Drew Lafond: Thanks.

I want to draw the committee's attention to two existing instruments. The first is Bill S-3. That's from 2017. There was an instrument that was used in that case to allow for immediate legislative

amendments to respond to the discrimination that was outlined in that circumstance. There was also a parallel mechanism introduced under the bill that contemplated...and directed the minister to engage directly with first nations across Canada to discuss issues. Back then, they were with regard to status, band membership and complications with the registry. In these circumstances, parliamentarians would benefit from that example and potentially utilize and apply it in these circumstances.

The second instrument is Bill C-92, which serves as a helpful framework for the implementation of first nations citizenship. Specifically, the recognition of an off-ramp and an opt-in system for first nations to avail themselves of if they decide they're ready to take on exclusive jurisdiction over citizenship is extraordinarily helpful in these cases. Implementing national minimum standards that mandate compliance with the charter, human rights legislation and the United Nations Declaration on the Rights of Indigenous Peoples would be immensely helpful in these circumstances. That is an option for committee members to consider going forward.

I acknowledge the complications of these circumstances but encourage all of those here to legislate responsibly. That includes a mechanism for engaging with first nations.

[Translation]

The Chair: Thank you very much.

[English]

Next, we have MP Schmale.

Jamie Schmale: Thank you very much to our witnesses for this very important discussion.

I will start with Mr. Lafond.

With the recent denial of the government's request for an extension on Nicholas, the Indian Act registry, from what I can tell, will now potentially be different in B.C. from the rest of Canada.

What effect do you think that will have?

• (0955)

Drew Lafond: It will be extraordinarily complicated administratively to have status Indians in B.C. recognized or reinstated in that jurisdiction but not anywhere else in the country.

I have to applaud the efforts of the Senate in getting the bill as far as it went. We have to remember where Bill S-2 started. The work of the senators was quite courageous in pushing the envelope forward and getting the second generation cut-off rule on the table. It's important that the bill, in its current form, continues to make its way to pass through the House, but with more legislative mechanisms in place, recognizing the need for a process and binding timelines for creating an option for first nations to exercise their jurisdiction exclusively over indigenous citizenship.

Jamie Schmale: In the last panel, there was a deputy chief here from Scugog Island, who said if no changes are made, they could see the extinguishment of their people within this century. There are many more who have said the exact same thing.

There is some urgency. You said just a few seconds ago that we need to get the government to move on this. If we delay this any longer, we're going to see this problem get worse. Would you agree?

Drew Lafond: I think I have 15 seconds or so.

Jamie Schmale: Take as long as you want. I think I have a few minutes.

The Chair: You have a lot of time left, MP Schmale. You have two minutes and 30 seconds.

Drew Lafond: The Supreme Court of B.C.'s refusal to extend a legislated timeline in this case.... I don't read it as a reason to delay addressing other unconstitutional or discriminatory provisions in the Indian Act. If anything, it's just the opposite.

I think what the courts emphasized was that they expect timely, good-faith compliance. They won't indefinitely accommodate legislative inaction in these circumstances. Further delays are not only an inconvenience but something that might throw into jeopardy the momentum that's already been put in motion by the Senate's proposed amendments.

At a minimum, introducing that the second generation cut-off rule be eliminated is required and legally mandated, but it needs to be coupled with a parallel process for recognizing first nation jurisdiction over citizenship immediately.

Jamie Schmale: When I read the news that the courts just denied the extension.... Obviously, everyone's reading of this is up for interpretation, but mine was that the courts see that Bill S-2 is making its way through the process and it is ahead of the curve on a lot of these issues that have been ongoing for decades. When I read it, it was like the court was basically saying, "Bill S-2 is in progress. There will be no more extensions. Just get the job done."

I don't know if that was your view as well. What did you take from that lack of extension?

Drew Lafond: The court was underscoring the need for timely, good-faith compliance with the Charter of Rights and Freedoms. Indefinitely delaying that relief is going to do further harm, and it only heightens legal risks for the government in these circumstances. That's on multiple fronts, as I mentioned in my submissions.

The Chair: You have 15 seconds, if you want to make a comment.

Jamie Schmale: I was going to ask the chief to respond, but that's okay.

The Chair: Thanks.

Next, we have Jaime for five minutes.

Jaime Battiste: Thank you very much for your testimony.

We've heard from a plethora of good, learned witnesses that the status quo is no longer acceptable and that we really need to move past the second generation cut-off. What I've heard from both of

you, though, is that Bill S-2, as it is currently written, is a partial fix, but it's not respectful and true to article 33 of UNDRIP that says nations should decide who their membership is. My belief has always been, as a Mi'kmaq person, that Ottawa has no business in determining who members of communities are.

Do you guys share the view that Bill S-2, as currently written, is a partial fix and that it's good to get rid of the status quo, but it does not really return membership and status in communities to the communities themselves and to the nations that are self-determining? Give short answers, please.

Drew, you can start.

Drew Lafond: Thanks, Mr. Battiste.

I don't see any mechanism in Bill S-2 currently, which would allow or empower first nations to take back exclusive authority, jurisdiction or citizenship. That's one of the bill's weaknesses. It's certainly something that needs to be addressed immediately. Again, we can look to previous examples, such as Bill S-3 in 2017, as a legal precedent for guidance on that point.

Jaime Battiste: Go ahead, Delbert.

Delbert Wapass: I concur. I believe that anything that prohibits or takes away any right that we have as a self-determining nation doesn't do justice to support who we are from a sovereignty or self-determining perspective.

Back in the day, we determined who our membership was. Back in the day, there was no legislation that came in and said, "You are this; you are that." You were born who you were, and that's who you were. Other nationalities don't have anybody or any legislation to tell them who they are. If they're German, Japanese or whatever, that's who they are.

When it comes to first nations people, you're 6(1) or 6(2), and you're going to lose your status and so on and so forth. I don't think that's proper or right. Any legislation that is short of that definitely has to be addressed in very good, respectful and honest ways.

When we come from the perspective of *wahkohtowin*, which talks about relationships and kinship, etc., and how they are defined, that's exclusive authority within the family and clan systems, and within all the systems that are governed, right from our lodges to our existence as peoples.

● (1000)

Jaime Battiste: Thank you for that, Chief.

I really appreciate your bringing it back to the language. When talking about citizenship and belonging, I always bring it back to the Mi'kmaq term, *Tan Wetipeksin*, which says it's not just about who your ancestors are but also about where you were raised, how you were raised, what your values are, which community you belong to and which communities and families have accepted you. That's the conversation that needs to happen.

Drew, I'd love to have a great conversation with you on what exclusive jurisdiction looks like. I think one of the things that we have to put safeguards against is potential abuse by people wanting to purge voters lists. For example, if I didn't like a family's point of view and they didn't vote for me in the last election, I could say that maybe we don't need them as part of this community. We have to make sure that we have first nation-led solutions to that. That's what we need to move forward on.

These are my last questions. Is ancestry the only thing we should be looking at to determine status? Is ancestry the be-all and end-all?

I ask this because even the Powley test for Métis said that it's not enough. Ancestry has to be there, but there also has to be this connection to a community, and there has to be acceptance by that community. That's worked out in terms of cases in New Brunswick, such as the *Acres* and the *Lavigne* cases, which said that someone who doesn't have a status card can still practice their rights if they pass this test. I'm wondering if ancestry is the full scope of what we need to consider when talking about who should be considered a status Indian.

The Chair: Unfortunately, that brings us to our time.

Drew, can you provide that in writing to us, please? It will be considered by the committee as testimony as well.

Thank you.

Jaime Battiste: Obviously, my preamble was too long.

The Chair: It was, a little.

Deputy Gill, you have two and a half minutes.

[Translation]

Marilène Gill: Thank you, Mr. Chair.

This is my last turn to speak. I would like to yield the floor to Chief Wapass and Mr. Lafond, one at a time, and give them the opportunity to tell us what they would like us to emphasize at the end of their testimony.

Chief Wapass, you can go first.

[English]

Delbert Wapass: The intent behind my presentation here is.... This is what the courts are saying. This is what the United Nations is saying. Witnesses are saying this, and so on and so forth. The fact is that we need to pass this legislation. It makes sense. We need to go forward. Anything that needs to be dealt with could be dealt with down the road, but we don't need to hold this up.

It's important to recognize us and to go back to who we are as *nehiyaw*, Cree, from Thunderchild First Nation. Respect our authority coming from there. Otherwise, because of the discriminatory legislation that exists, the people in our own communities will discriminate against our people as well. For example, people say, "That's a Bill C-31 house." Everybody discriminates against that family because the legislation talks about Bill C-31. We start tearing each other up.

That's what this current legislation does. Every time there's an introduction of new legislation that discriminates, it further affects the communal system and the governance within our community.

• (1005)

[Translation]

Marilène Gill: *Meegwetch.*

Mr. Lafond, you have the floor.

[English]

Drew Lafond: That's excellent. I have 10 seconds left.

The Chair: You have a very small amount. Go ahead.

Drew Lafond: I think there needs to be a national conversation on the implementation of national minimum standards that should apply to the exercise of jurisdiction over citizenship by first nations, to address Jaime's previous point.

The Chair: Thank you very much.

I'm going to recognize Lori online.

You have a few minutes before we wrap up.

Lori Idlout: *Qujannamiik, Iksivautaq.*

I have a question for Drew Lafond.

It's good to see you. It's been a couple of years since we last saw each other during the Indigenous Bar Association days.

We know Canada has a legal obligation called "duty to consult". With these Senate amendments, it would be important to consult with the first nations that would be impacted. I'm wondering if there might be a risk of lowering the duty to consult standard if the Senate amendments were allowed to proceed without the government's having consulted on them.

Could you respond, please?

Drew Lafond: Thank you for the question.

This goes to the heart of what I believe and speculate may be the reason for delaying the implementation of Bill S-2: Minister Gull-Masty's making comments to the effect of her having a duty to consult. I would put that back to the members of the Senate. Is it the position of the government that there is a legal duty to consult when legislating, or does it take the position that there is a legal duty to consult that's triggered when legislating with respect to the rights of indigenous peoples?

Lori Idlout: That's right. For example, one thing we're discussing is the Senate's adding the second generation cut-off in the amendments. We know there have been different impacts and different solutions, such as the first generation...that we've been hearing about from different witnesses. There have been different solutions offered to address the second generation cut-off.

In that regard, is it not more important to make sure there is more consultation, in order to ensure that we finally have legislation that ends the discrimination we're talking about?

Drew Lafond: It's heightened in circumstances of citizenship. The standard of free, prior and informed consent does not apply only to consultation in these situations; I think any legislated solution must respect FPIC. I certainly think it's something that's imperative in these circumstances, when something so central to first nations as the idea of belonging and citizenship is at stake. The consideration should be heightened, which is why I think a legislated off-ramp that gives first nations that ability to exercise exclusive jurisdiction over citizenship—that long-term lens to have that off-ramp—is the best legislated solution in these circumstances.

Lori Idlout: Thank you.

Finally, if I have a bit more time, I want to ask you about your appearance at APPA and what was described as the opt-in framework for exclusive jurisdiction. I wonder if you could elaborate just a bit more on the benefits of such a system.

• (1010)

Drew Lafond: It creates a framework for Canada and first nations to confront the inevitable issue, the clash, that we are going to run into, which everybody sees on the horizon but nobody seems to be talking about. There will come a time when the list of status Indians and the list of citizens recognized by first nations are going to be different lists. There will be incongruity between the two lists.

The important question is this: How are we going to respect the human rights of the people who are not recognized as first nations citizens or, conversely, who are not recognized as federal status Indians? From a funding standpoint and from a human rights standpoint, these are important conversations that we need to confront, and I think we need to set the stage and establish a forum for those discussions to happen.

Lori Idlout: *Qujannamiik.*

The Chair: Thank you very much.

Chief, I see your hand up, but we're at the end. You can still submit things in writing—and that goes for both our witnesses. If you have further things on your mind today or tomorrow, you can send them in writing, and they'll be equally considered.

I want to thank both of our witnesses for their testimony today. It was very helpful.

That brings us to the end of our question and answer period. I would like to thank every member of the committee.

We're going to terminate. Thank you very much, and have a great day.

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