



**MINISTER JODY WILSON-RAYBOULD GIVES UP ON ELIMINATING
THE DISCRIMINATION AGAINST FIRST NATIONS WOMEN
THAT CHIEF JODY WILSON-RAYBOULD DENOUNCED**

Odanak, 18 June 2016 – Federal Justice Minister Jody Wilson-Raybould no longer wants to fix all sex discrimination in the *Indian Act* registration rules, even though in 2010, Chief Jody Wilson-Raybould told Parliament “to eradicate discrimination wherever and whenever possible.”¹

The Government of Canada is facing a July 3rd deadline to eliminate certain forms of sex discrimination in the *Indian Act* registration rules identified by the Québec Superior Court’s 2015 *Descheneaux* decision, or else the registration rules would be declared invalid under the *Canadian Charter of Rights and Freedoms*.² It is also facing a battle with the Senate over how much further to go.

When Madam Justice Chantal Masse handed down her judgment, she ruled that her decision could only deal with the cases before her, but she added: “It does not, however, exempt Parliament from taking the appropriate measures to identify and settle all other discriminatory situations that may arise from the issue identified, whether they are based on sex or another prohibited ground.”

¹ <http://www.ourcommons.ca/DocumentViewer/en/40-3/AANO/meeting-9/evidence>

² <https://www.canlii.org/en/qc/qccs/doc/2015/2015qccs3555/2015qccs3555.html>

When Indigenous Affairs Minister Carolyn Bennett introduced the government's response to the *Descheneaux* judgment in October 2016, she titled Bill S-3, "An Act to amend the Indian Act (elimination of sex-based inequities in registration)"³ and told Parliament it would eliminate all "known" sex-based discrimination."

Last week – in a move that could not have taken place without approval from Minister Jody Wilson-Raybould's Department of Justice – the name of Bill S-3 was cut back to "An Act to amend the Indian Act in response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur général)*" by the House of Commons Standing Committee on Indigenous and Northern Affairs.⁴

The *Deschneaux* case was brought by three members of the Abenaki of Odanak and their Chief Rick O'Bomsawin says: "I can't believe that when the country of Canada is celebrating its 150th anniversary, they can say that discrimination against First Nations women is still okay – especially two women ministers."

The case was the second time the government has lost on a *Charter* challenge to registration rules in the *Indian Act*: when the British Columbia Court of Appeal ruled against Canada in the *McIvor* case in 2009, the Harper government tabled Bill C-3 that only dealt with the specific discrimination identified by the court.⁵

Jody Wilson-Raybould was then BC Regional Chief of the Assembly of First Nations and she told the House Standing Committee in 2010: "What this bill does not do is address other Indian Act gender inequities that go beyond the specific circumstances of Sharon McIvor and Sharon McIvor's grandchildren."⁶

After the Trudeau government promised to do better in Bill S-3, the Senate Committee on Aboriginal Peoples suspended debate on the bill in December 2016 and asked the Minister of

³ <https://www.aadnc-aandc.gc.ca/eng/1467227680166/1467227697623>

⁴ <http://www.ourcommons.ca/DocumentViewer/en/42-1/INAN/report-8>

⁵ <http://www.ourcommons.ca/DocumentViewer/en/40-3/house/sitting-18/hansard#3063699>

⁶ <http://www.ourcommons.ca/DocumentViewer/en/40-3/AANO/meeting-9/evidence>

Indigenous and Northern Affairs to consult with First Nations and address gender-based discrimination that it believed would persist even if it was passed. As a result, the government had to ask the Court for an extension on its deadline to adopt amendments.⁷

When Bill S-3 came back before the Senate in May, the upper house noted continuing sex discrimination and unanimously approved a new clause that would give the same status to all registered Indians born before April 17, 1985, the day the new rules on registration came into effect that also created the discrimination found in the *McIvor* and *Descheneaux* cases.

The clause added to Bill S-3 by the Senate was identical to a clause that the Liberal opposition had added to the Harper government's Bill C-3 in 2010,⁸ but that then-House Speaker Andrew Scheer ruled was out of order for going beyond the scope of the bill.⁹

Now that the House Committee has changed the name of Bill S-3 on June 16th, the Trudeau government and Justice Minister Jody Wilson-Raybould have followed the Harper government's example and effectively announced they will not address sex discrimination in the *Indian Act* that goes beyond the specific circumstances of Stéphane Descheneaux and co-plaintiffs Susan and Tammy Yantha or their children.

The Liberal government has also positioned itself to raise the same procedural objections to the Senate's amendment to Bill S-3 that the Harper government used when the Liberal opposition proposed the identical text in 2010.

On Monday, June 19th, the Abenaki Nation to which Stéphane Descheneaux belongs will be in Québec Superior Court seeking a further extension of Parliament's July 3rd deadline to amend the *Indian Act* registration rules because the House of Commons adjourns for the summer on June 23rd and the Senate rises on June 30th.

⁷ <http://canlii.ca/t/gx2j3>

⁸ <https://ipc-cpa.liberal.ca/release/liberal-party-amendments-would-ensure-full-equality-for-first-nations-women/>

⁹ <http://www.ourcommons.ca/DocumentViewer/en/40-3/house/sitting-44/hansard#3158109>

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