



House of Commons  
CANADA

# **Standing Committee on Aboriginal Affairs and Northern Development**

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AANO • NUMBER 046 • 1st SESSION • 38th PARLIAMENT

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**EVIDENCE**

**Thursday, October 20, 2005**

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**Chair**

**Mr. Lloyd St. Amand**

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## Standing Committee on Aboriginal Affairs and Northern Development

Thursday, October 20, 2005

• (1535)

[English]

**The Chair (Mr. Lloyd St. Amand (Brant, Lib.)):** Ladies and gentlemen, I'll call the meeting to order.

Here with us today is Mr. Neil Reddekopp, who is the assistant deputy minister for land and resources issues with Alberta Aboriginal Affairs and Northern Development. Mr. Reddekopp has circulated a report or discussion paper.

Mr. Reddekopp, I wish to welcome you here on behalf of the committee. The floor is yours.

**Mr. Neil Reddekopp (Assistant Deputy Minister, Land and Resources Issues, Department of Aboriginal Affairs and Northern Development, Government of Alberta):** Thank you very much, Mr. Chair.

I'd like to begin by expressing my appreciation for the invitation to appear before you today and also my appreciation for getting me to Ottawa on a day like today, when it's sufficiently close to the weekend that there's no point in going home.

At second reading in the House, several speakers made reference to the fact that Bill C-54 marked the culmination of ten years of work by the three partnering first nations as well as federal officials. I can also confirm that for more than half of that time, first nations and federal officials have invited their Alberta counterparts to participate in discussions relating to the implementation of the agreement, so we certainly have no complaints about being surprised by anything. A similar process has involved Saskatchewan, and more recently meetings have been held among all parties. Also at the political level, there has been a continuing contact between federal and Alberta ministers.

In December 2001 the Honourable Pearl Calahasen, Alberta's Minister of Aboriginal Affairs and Northern Development, wrote the Minister of Indian Affairs and Northern Development to express support for the goals of Bill C-54. To paraphrase my minister, the legislation is consistent with the two goals of the aboriginal policy framework, which is the foundational document of Alberta's aboriginal policy. These are increased aboriginal participation in the economy and clarification of the responsibilities of federal, provincial, and aboriginal governments regarding aboriginal peoples. It's also a matter of some pride for me and for my colleagues that two of the three first nations that have participated in this adventure are Alberta first nations.

At second reading, most speakers concentrated on the self-government elements of Bill C-54. This is not surprising. The most

advanced and valuable work done regarding first nations economic development, that of the Harvard project and later of the Udall Center, established that jurisdiction matters and governance matters in achieving these goals.

However, I will be addressing another provision of the bill, which may figure less prominently in the public eye or in the bill itself, but which for the foreseeable future will be of more practical importance.

Clause 43 provides that once first nations have assumed responsibility for on-reserve oil and gas matters, they may enter into agreements with provinces to provide for regulation of these matters by provincial bodies and officials in a similar manner to what is applied to the same issues off reserve. Based on discussions over the past several years, it appears that all three partnering first nations plan to avail themselves of this opportunity, should provinces agree. This decision is worthy of considerable praise for its wisdom.

I made an earlier reference to the work of the Udall Center. Another of its findings regarding first nations economic development is that investors desire regulatory certainty. If each first nation were to develop its own regulatory system, either entirely on its own or by selectively incorporating parts of provincial laws, the current system in which there are two regimes managing oil and gas would grow rather than diminish. The number of regulatory models would not go from two to one. It could go to as many different regimes as there are first nations, and the goal of regulatory seamlessness across reserve boundaries, which is essential to the incorporation of first nations into the economic mainstream, would be lost. The White Bear First Nation, Siksika Nation, and Blood Tribe recognize this, and at least in Alberta, discussions about the form that agreements might take are well under way.

For the most part, the legislation is not prescriptive about the substance of these agreements, although it does require that first nation provincial agreements provide provincial officials with access to reserve land in order to carry out their duties.

The legislation is silent as to the responsibility for incremental costs to provinces in regulating on-reserve development. One alternative to deal with this would be simply to make project proponents entirely responsible. But I can tell you that I've been advised by our officials in other ministries that service fees paid by industry only make up about half of the costs of operating Alberta's primary regulator, the Alberta Energy and Utilities Board. The remainder comes from general revenues. To take a different approach with regard to on-reserve projects would be inconsistent with the goal of seamlessness.

In the discussions that will take place about this, Alberta will not be dogmatic. We will take into account that the AEUB already plays a regulatory role on reserve, reducing the magnitude of incremental costs. We will also take into account the societal benefits of greater first nations economic development, both on reserve and down-stream. In short, we will find an answer.

Of greater concern is the future role of the federal government. The legislation is silent on this issue, neither mandating nor precluding Canada's involvement in first nation provincial agreements. However, federal officials have been very candid that the federal government does not see a role for itself in these agreements. This could cause concern in matters both of optics and in practice. Proposals for a reduced federal role are frequently open in the regions to being viewed as offloading, even in cases like this, where it's not. More importantly, we can't be certain that there will not be an ongoing federal role. Indeed, the legislation appears to presume it or preserve it. Powers of expropriation and the making of regulations are retained and the legislation includes conflicts-of-law provisions.

Finally, it is likely that first nation provincial agreements will interact with the subject-matter of the federal-provincial harmonization agreements arising out of the Canadian Environmental Assessment Act. In this regard, we are encouraged and grateful for the actions and the willingness of federal officials to refrain from closing the door on federal involvement if a functional analysis of the content of first nation provincial agreements appears to suggest it.

I would close, first, by expressing both confidence that implementation of the legislation will resolve outstanding issues and confirming the support of Alberta for the legislation.

Second, if you will indulge me for a moment, I wanted to put in a plug on another matter. For all its value, the benefits of Bill C-54 are limited to conventional oil and gas activities. Other possibilities for economic development on reserve—from oil sands development to electricity generation to a wide range of commercial activity—exist but require similar regulatory certainty. In the same atmosphere of cooperation, a number of partnering first nations and federal and provincial officials have been working together for the past several years, and we are hopeful and assured that legislation adopting the same approach as is found in clause 43 will be introduced to bring regulatory certainty to all of these activities.

I believe that Alberta Chief Sandford Big Plume of the T'suu T'ina Nation and Jim Boucher of the Fort McKay First Nations have met with some members of this committee to urge speedy passage of the bill, which we expect to be referred to as the First Nations Commercial and Industrial Act. On behalf of Alberta, I'm here to endorse this position.

I thank you all for the time you took to hear me out.

● (1540)

**The Chair:** Thank you, Mr. Reddekopp.

We'll now begin our first round of questions of Mr. Reddekopp.

Mr. Prentice.

**Mr. Jim Prentice (Calgary Centre-North, CPC):** Welcome, Mr. Reddekopp.

I think Mr. Reddekopp is more accustomed to a circumstance in which he's asking the questions and I'm answering them, but we'll try to make do with our different responsibilities today.

I would like to start with a comment to congratulate you on the work your department does with the Alberta government. There are often misconceptions about what happens in this country from one end to the other, being such a marvellously big country, but some of the work, in my view, that's being done in Alberta by your department is some of the finest work taking place in the country. I know it takes a lot of leadership to make that happen.

You've spoken about the industrial legislation that I think everyone here appreciates will follow upon this bill. I just want to be clear that the Alberta government is equally supportive of that initiative and sees that legislation in the same vein as this legislation in terms of it being a sectoral self-government initiative that will help first nations that wish to proceed with development.

**Mr. Neil Reddekopp:** Absolutely, and thank you for the kind words.

Yes, Alberta is equally supportive of the commercial and industrial legislation. I'd be more than happy to come back and tell you that, if hearings are required on that. But if you'll just take my word for it now, I'd prefer that.

● (1545)

**Mr. Jim Prentice:** One of the questions we have been asked from time to time is the extent to which the legislation that is before us, Bill C-54, will ensure a seamless regulatory environment between what is happening, for example, in Alberta subject to provincial jurisdiction and what will happen on the lands of a first nation. Clearly, there is a lot of work that is left to future bargaining and good faith negotiations.

I gather from your comments and from your presentation that you're comfortable with that situation and you believe it will be possible to work out an environmental framework, a regulatory framework that is seamless and serves the interests both of aboriginal Canadians and industry.

**Mr. Neil Reddekopp:** I'm certainly comfortable from the experience we've had in the last five or six years in which we have been involved that it will be possible to achieve that. As a matter of fact, what we've seen over the last few years has been in many ways first nations that are desirous of this type of seamless regulation attempting to convince somewhat skeptical provinces to assist in the process. So I don't see any differences of ideology or theory causing us difficulty.

As I said earlier, that process is not awaiting the passage of the legislation. That process is well under way. There are models that have been circulated and are under active review.

**Mr. Jim Prentice:** There are a small number of proponents and pilot projects that led to this specific initiative, Bill C-54. There obviously are a larger number of first nations in Alberta that are developing their oil and gas resources, including Fort McKay First Nation, which is exploring its own bitumen reserves. Is it fair to say that the Alberta government is working with more than just the pilot first nations that are proponents of Bill C-54?

**Mr. Neil Reddekopp:** Well, we are working with them, not about this particular issue, but you're correct, there are a number of other Alberta first nations that have expressed an interest in pursuing this type of approach.

As a matter of fact, I believe there was a larger number of partnering first nations initially. I believe the number may have been five, with one Alberta and one Saskatchewan first nation actually dropping out. This was a fairly rigorous process that led up to this legislation, and it was, quite frankly, beyond the capacity of some first nations to carry through to this point. But we are confident that more first nations in Alberta will wish to avail themselves of this legislation, and we are certainly hopeful that we will be able to set some templates in the early days that will make this possible.

**Mr. Jim Prentice:** I thank you. Those are my questions, Mr. Reddekopp.

**The Chair:** You do have additional time if Mr. Komarnicki or Mr. Harrison wish to utilize three minutes.

We'll move then to Mr. Ménard, from the Bloc.

[Translation]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Welcome, Mr. Reddekopp. They're going to get me the French version of the text you sent us. May I ask when you sent your text to the committee?

[English]

**Mr. Neil Reddekopp:** Yes, actually I didn't even know that it was formally coming to the committee as such. I shared it with federal colleagues, but that wasn't until last night.

•(1550)

[Translation]

**Mr. Serge Ménard:** In any case, I'm going to ask you some basic questions.

First of all, if I understand correctly, the Government of Alberta is in favour of this bill.

[English]

**Mr. Neil Reddekopp:** Yes.

[Translation]

**Mr. Serge Ménard:** The Government of Alberta took part in the pilot project for a period of ten years. Is that right?

[English]

**Mr. Neil Reddekopp:** The pilot project has been going for about ten years. Alberta's participation has been for about the last five to six years.

[Translation]

**Mr. Serge Ménard:** In your opinion, does the aboriginal government have the skills and expertise required to take charge

now of the entire management of oil and gas exploitation on its land in Alberta?

[English]

**Mr. Neil Reddekopp:** Certainly with regard to these three first nations I have no doubts. However, as I said in my presentation, all of these first nations have indicated their intention to, once they assume the jurisdiction, assume the responsibility of entering into agreements with Alberta or Saskatchewan, take advantage of the fairly well-refined and advanced regulatory regimes that the provinces have in place and bring these into place by way of agreements.

[Translation]

**Mr. Serge Ménard:** These three first nations are the Siksika, Horse Lake — lac du Cheval, I imagine — and Dene Tha'. Is that right?

[English]

**Mr. Neil Reddekopp:** No, it's not. The three first nations are the Siksika Nation, the Blood Tribe in Alberta, and the White Bear First Nation in Saskatchewan. I believe that the other nations mentioned may have been part of the process at an earlier stage and dropped out.

[Translation]

**Mr. Serge Ménard:** My attention being divided between trying to get the translation and listening, I thought I heard that the profits from this operation do not even cover the costs of administering the program. Is that right?

[English]

**Mr. Neil Reddekopp:** I'm not sure that I understand the question.

[Translation]

**Mr. Serge Ménard:** I can repeat it, if you wish.

[English]

**Mr. Neil Reddekopp:** If you repeat it precisely the same way, I still won't understand it.

[Translation]

**Mr. Serge Ménard:** You talked about program administration costs.

[English]

**Mr. Neil Reddekopp:** Now I understand.

First of all, this is not a huge issue. However, the point that I was trying to make is there will be an incremental cost, an added cost for Alberta regulators if they start regulating matters on reserve as well as off reserve. It will require additional resources for the Alberta regulators to do this. The question is, who bears that cost? Some of it can likely be borne by project proponents. That's the model that's used off reserve in Alberta. But there may be some additional resourcing needed. We have simply flagged that as a matter that has to be addressed in the negotiation of agreements. I'm confident, taking into account such things as the benefit to all Canadians and all Albertans of greater economic development with the Siksika Nation and Blood Tribes, that we will easily come to an accommodation on that matter.

• (1555)

[Translation]

**Mr. Serge Ménard:** We're approaching this matter with the hope of giving the Indians a source of funding that will enable them to acquire financial self-sufficiency.

[English]

**Mr. Neil Reddekopp:** Those are entirely separate issues. When we mention costs, we're talking about simply the costs of administering the regulations. We are not talking about the money that flows to first nations through royalties and the fact that first nations will now have direct access to this if they choose, to use as they wish for the benefit of their members.

So the costs issue is on the very margins of what the agreements will be about.

**The Chair:** Thank you, Mr. Ménard.

Mr. Martin.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Thank you, Mr. Chair.

Thank you, Mr. Reddekopp, for being here. I'm sorry I missed some of your brief, so if I do ask a question that you've already responded to....

I'm from the province of Manitoba, and I'm interested in the economic development for first nations all across the prairie region. I'm heartened by what I read to be enthusiasm by the Province of Alberta for this initiative and for models like it. In the province of Manitoba you may be aware of a hydroelectric project in which there's first nations' actual equity involvement in an energy project. That's a nice model too. That has made them move forward with a new relationship, one would hope.

I don't have a great deal to say, other than I think there's fair consensus among the provinces and among the first nations that are driving this issue that Bill C-54 is a positive development. On behalf of our party, the NDP, I regret that it's been slow in getting through, because I think it's actually holding up some interesting developments.

I'd be curious to know, because you're here representing the province, in the ten-year development period, what the involvement of the Alberta government was in the early stages of this. Maybe you answered that in your brief. Was it more first nations and the federal

government, or at the very advent of this initiative did the Province of Alberta play an active role?

**Mr. Neil Reddekopp:** No, no. We've been around for probably the last half of that ten-year period, between five and six years. My understanding, and certainly there would be others who could give you more detail on this, is the reason for the length of time was that there had to be a period of capacity-building within the first nations—of actually sitting in the chair of Indian Oil and Gas Canada and learning the ropes of that administration.

It was really after that process had been completed that the ideas, the drafting instructions, and what eventually led into the legislation.... It was mostly at that point that Alberta became involved. But by saying it has been a long time, I certainly don't want to suggest that there was any untoward delay in it. There were many steps in the process, and one of them was creating the capacity within first nations to assume the responsibilities that they have in this legislation. And I think that's probably one of the reasons why there are fewer first nations now than there were at the beginning. Some may have found it harder to actually develop the capacity that gave them the confidence to take advantage of the legislation.

Just as there are countries and provinces that are in different places in terms of their economies—and certainly in terms of countries in terms of their economic capacity—with first nations there's the same range. I would be disappointed if ten years from now there were still only two Alberta first nations taking advantage of this legislation.

• (1600)

**Mr. Pat Martin:** Actually, when I raised the issue of delays, I was referring more to since it has been in the legislative arena, in fact. I wasn't trying to say that there were unreasonable delays at the early stages. I know that there was a pilot project in three phases—co-management, enhanced management, and then the transfer of management and control. I think that's a logical step as you build the administrative capacity. It really serves as a model, I would hope.

One technical detail that we learned when the proponents of the bill were here—the Siksika and other first nations—was that they were going to contract out, essentially, the regulatory work that needs to be done. Rather than try to develop a separate, parallel first nations oil and gas regulatory agency, they were, with some trepidation, I think, at the early stages, agreed that maybe that didn't make any sense and they would let the province's existing regulatory agency handle it.

I didn't quite understand the exchange with my colleague. Was that the fees you were talking about? There would be some administrative fees, but it wouldn't be huge, would it?

**Mr. Neil Reddekopp:** No. Really all that I was discussing was there will be some incremental cost to our regulators, but much of on-reserve activity right now—for example, well-site approvals—goes through the provincial system already.

The only thing that has been flagged as a bit of a concern for us—and quite frankly, it's because of what is not really a problem at all, and that is, the healthy state of the oil and gas industry and the fact that the regulators are stretched—is I have had some of my partners in other ministries who are responsible for these saying, “Now I've got to go for additional resources through the business planning process for your priority rather than mine”.

**Mr. Pat Martin:** What about follow-up regulatory things? What about the regulation of the operation of leases in terms of, I don't know, burning stuff off or the settling ponds—the actual physical regulation of the activities of the lease itself?

**Mr. Neil Reddekopp:** The Alberta regime, certainly for conventional oil and gas, goes from the initial phases of exploration right through the issuing of the reclamation certificate. We also have—

**Mr. Pat Martin:** There wouldn't be any different standards for those on reserve or within the regime of the first nations than as per the rest of Canada.

**Mr. Neil Reddekopp:** There are probably a couple of things we'd have to deal with in the agreements, but the agreements would deal with that. One of the things we have in Alberta is what's called an orphan well fund. If a company goes out of business and abandons a project and it needs to be reclaimed, it is reclaimed at public expense. The handling of orphan wells would be something that would have to be dealt with by way of agreement.

There's a lot of effort right now—and much of the work has been done by first nations and their advisors—that has gone into what it is necessary to take from the provincial model to accomplish this. I think it was really the process of realizing this is more complicated than it looks that has led to the decision to proceed by way of the agreements.

Effectively, there are three options. One is to develop one's own regime. The other is to go through the provincial regulatory regime and referentially incorporate. Of course, referential incorporation is risky business. Sometimes you get stuff you don't want and sometimes it's the one thing you forgot. I think it was through that process that the first nations came to the realization that simply finding ways—the way any other owner of a resource does—of having Alberta regulate it was the preferred option.

•(1605)

**The Chair:** Thank you.

Thank you, Mr. Martin.

We'll turn to the government. Mr. Smith.

[*Translation*]

**Mr. David Smith (Pontiac, Lib.):** Thank you, Mr. Chair.

Mr. Reddekopp, thank you for being here today. I have had the pleasure of visiting the beautiful Province of Alberta a few times. I have in-laws who live in the Lakeview region.

We have also had the pleasure, on this committee, of welcoming the three first nations, who spoke to us about the virtues and benefits that might arise from the bill before us today.

One of my concerns is to do with the environment. I'm convinced that you share this concern and that the environment is important for all Albertans, as it is for all Canadians.

In your opinion, is the framework of this Bill — which we will have to vote on — is it rigorous enough for the environment to be adequately protected and respected by those who will be exploiting these natural resources, namely oil and gas?

[*English*]

**Mr. Neil Reddekopp:** In a way, this comes down to Alberta's concern that I had expressed about the future role of the federal government, given the existence of the Canadian Environmental Assessment Act and the harmonization agreements that have been put in place between Canada and the various provinces, including Alberta, regarding the enforcement of environmental regulations. I think all of the pieces are there for that to happen, but the only concern I have expressed is that we may find that once we get down the road of negotiating agreements, we can't get to the full degree of protection we would want without an ongoing role for the federal government in environmental regulation.

[*Translation*]

**Mr. David Smith:** When the agreement is signed and the process is under way, who will be responsible for seeing that the environmental framework is respected? Does this bill contain the structure necessary for that? How do you see it?

[*English*]

**Mr. Neil Reddekopp:** Certainly I can tell you that it's there in clause 43, in the agreement section, but the legislation is not prescriptive of what those agreements will have to include. It will be incumbent certainly upon those who draft the agreements and finalize them to ensure that the adequate protections are there and the seamlessness is there. We're very proud of our environmental protection regime and we hope to be able to forge that seamlessness and application on reserve. But I must go back to the concern I've expressed a couple of times that it may require an ongoing federal role.

[*Translation*]

**Mr. David Smith:** Mr. Chair, I am going to give the time remaining to me to my colleague Mr. Valley.

[*English*]

**The Chair:** You have about three and a half minutes, Mr. Valley.

**Mr. Roger Valley (Kenora, Lib.):** Thank you, Chair, and thank you, Mr. Reddekopp, for coming.

I just want to finish on the last of Mr. Smith's question and then I have my own.

You've identified these concerns in your opening remarks. You've identified the concerns you have, but you also state in here, and I think it says that it “need not (and perhaps should not) be addressed in the legislation itself” and it's something that could be dealt with after. I just want to clear up that point.

**Mr. Neil Reddekopp:** Absolutely. This is sufficiently complex subject matter. We are supportive of the concept of the legislation primarily being enabling rather than prescriptive.

**Mr. Roger Valley:** Good.

I'm going to go back right to the start. You mentioned two out of three projects in Alberta. I think you said that there were five originally; one dropped off due to capacity reasons in the first nations. At that time there was probably more interest than just the three in Alberta. I'm just assuming this, but it goes back to when Alberta started involving itself in this process. So were there any decisions back at that time or any effort to provide capacity for some of these first nations that did not have the capacity?

• (1610)

**Mr. Neil Reddekopp:** Just to clarify, when I say “capacity”, I don't mean funding or ability to actually be at the table. I think the capacity problems probably emerged on working through the three stages of the pilot project and the realization that first nations may not be ready for the leap as it goes through the co-management and enhanced management to transfer of management.

As I said earlier, we are now in the process of implementing a couple of programs to enhance the capacity of first nations to be involved in resource development matters and economic development matters, and we're hoping to see a benefit of this in the years to come.

**Mr. Roger Valley:** I'm glad to hear that's ongoing, but can you tell us, from Alberta's point of view, what has been said that's been negative about this process? Has it come from the ones that had to drop off because of lack of capacity? Can you share with us what has been seen that may not be of benefit?

**Mr. Neil Reddekopp:** Even my speculation that it was because of lack of capacity is based on second-hand knowledge, so I don't know. I can tell you, to be perfectly candid, the concerns I've received from my colleagues across Alberta include a wariness of first nations proceeding through building their own regulatory system model and questions of capacity to actually do that. Being able to know what's happening and being able to manage the trust fund and so on is one thing. Being able to handle the minutiae and the details involved in running an oil and gas regulatory regime, particularly for its environmental issues, is something quite different. I don't know what position I would be able to take before the committee if, for example, we had three first nations that were planning to proceed other than by way of clause 43.

**Mr. Roger Valley:** Okay.

**The Chair:** Thank you, Mr. Valley. That concludes the allotted time.

I'll turn for our second round to the Conservative Party. No? All right.

Anybody from the government side? No?

Mr. Valley.

**Mr. Roger Valley:** I just want to ask the point or make the point—maybe you could support it or find fault with it—nothing like success breeds involvement, so we should expect success on these two in Alberta. Other communities are going to see this and need to build that capacity when they have two very good models to follow. Where will the help for the capacity in these other areas come from? Will it come from us, come from the provincial government? Who will support this?

**Mr. Neil Reddekopp:** As I mentioned earlier, we are currently in the process of attempting to build capacity in first nations. This is actually the first year of what is called our first nations economic participation initiative, which is aimed at providing support for first nations in developing best practices regarding economic development. So we're hoping that this capacity will be there.

We also have been providing capacity-building funding as part of our aboriginal consultation initiative for the past several years, and the majority of Alberta first nations.... I believe there are only two or three that have not availed themselves of this opportunity. So that money is there. If I said federal money would be unwelcome, that wouldn't be the truth.

• (1615)

**Mr. Roger Valley:** Thank you very much.

**The Chair:** Thank you, Mr. Valley.

Mr. Asselin.

[*Translation*]

**Mr. Gérard Asselin (Manicouagan, BQ):** Thank you, Mr. Chair.

This afternoon, I have not only the honour but also the pleasure of replacing Bernard Cleary, who is the first sovereigntist aboriginal elected under the banner of the Bloc québécois. He is the first, but certainly not the last. Aboriginals are assuming their rightful place more and more: they are demanding their rights, they are becoming integrated within communities and they are defending their rights and their communities. There will probably be a lot of aboriginals in a sovereign government in Quebec. Bernard Cleary represents the aboriginal community. He also speaks for and on behalf of this community on the committee.

Increasingly, aboriginals are demanding their ancestral rights and their aboriginal claims. The Bloc québécois also acknowledges the aboriginal community. It has always done so. It was with pleasure that we welcomed Bernard Cleary as a colleague, an aboriginal representing a sovereigntist party in the House of Commons.

When René Lévesque was Premier of Quebec, the Parti québécois always recognized aboriginal rights in Quebec. Some very great agreements were signed then. We need only think of the agreements on hydroelectricity and James Bay, which were signed during René Lévesque's time in office.

Bill C-54 should give the aboriginal communities in Alberta the necessary autonomy to govern themselves, notably with regard to natural resources and their exploration. We are talking about natural gas and oil. As my colleague, Mr. Ménard, said, Bill C-54 should also foster their financial self-sufficiency. This is probably what the aboriginal communities are seeking. They would like to have experts in exploitation of the natural resources on their land. In the end, they hope to achieve financial self-sufficiency.



During your presentation, you seemed to be disappointed by section 43 of the Bill, on account of the federal withdrawal. I'd like you to go into that a bit more. This is your chance to do so. We are lucky to meet you, and the Bloc québécois will support Bill C-54. If you want to submit some amendments before clause-by-clause consideration of the bill, they could be considered with a view to improving it. This might satisfy the government, Alberta and the aboriginal communities. This is the time to do it. You seemed very disappointed with section 43 and a certain federal withdrawal. That's how I interpret your comments. Am I wrong?

[English]

**Mr. Neil Reddekopp:** I certainly wouldn't say I was disappointed or very disappointed and I don't think that any change to the bill is necessary. What I made reference to is, as we get more involved in what may be included in agreements, we don't believe.... And when I say we in this case, I mean those of us involved in the project, not necessarily a political entity. It becomes obvious to us that it may be necessary for a continuing federal role to be played beyond what is anticipated. But I have no complaints about the bill. The bill doesn't mandate federal participation in agreements. The bill doesn't preclude federal participation in agreements.

There's a certain operating assumption, I think, on behalf of federal officials that with the transfer of responsibility from Indian Oil and Gas Canada to these first nations, there was no remaining federal role. All that Alberta is saying is to remember that even after that happens, there is still a federal role, particularly in environmental protection, that will be ongoing. Once again, I don't want to imply any criticism of Indian Affairs in this. I think there was an operating assumption, but I've been greeted with nothing but willingness to revisit that assumption, should a functional analysis suggest that more of an ongoing federal role is required.

We certainly don't think of this as offloading. I just want to clarify that.

• (1620)

**The Chair:** Thank you, Mr. Reddekopp.

Thank you, Mr. Asselin.

On the government side, Ms. Barnes.

**Hon. Sue Barnes (London West, Lib.):** Thank you very much, and welcome very much to our committee.

We understand the intent of the bill was to provide some consistency between regulatory frameworks on reserve to off reserve. In your opinion, does this accomplish this in the bill?

**Mr. Neil Reddekopp:** Again, I don't know what my answer to that would be if it were not for the fact that the three first nations in this case have indicated a desire to proceed along the agreement route.

I know some of my colleagues would be a little worried about the precision of standards such as "as good or better" when you're talking about environmental management, so I don't know what it would be in that case. But certainly with the intention of these three first nations, I believe very strongly that it's a step in the direction of harmonization.

**Hon. Sue Barnes:** Okay, that's all I wanted to clarify.

Thank you.

**The Chair:** Thank you, Ms. Barnes.

Mr. Martin.

**Mr. Pat Martin:** I don't have any further questions.

Thank you, Chair.

**The Chair:** Is there anybody else on the government side?

Thank you, then, Mr. Reddekopp, for your presence here this afternoon and for your presentation, sir.

Mr. Harrison.

**Mr. Jeremy Harrison (Desnethé—Mississippi—Churchill River, CPC):** Seeing as how we finished up a little earlier than we had anticipated and seeing as how we've all professed to want to see this move forward as quickly as possible and passed as quickly as possible, I would propose that we ask for unanimous consent to do clause-by-clause today.

**The Chair:** Is unanimous consent given to that? No? All right.

Ms. Barnes, do you have another point?

**Hon. Sue Barnes:** As you know, I submitted a list of witnesses to appear here, and among them was the IRC. I argued strenuously for them to appear. I now am in receipt of a letter that was addressed to you as chair and copied to all members, which I hope they have looked at in their offices. I was just made aware of this yesterday.

I think we should proceed to clause-by-clause, but at the meeting that has been called for in the agenda. I'm not aware there are going to be any amendments. Perhaps we could take the time before that to invite the IRC, because they were—and I raise this again—involved from the start and I think it's only respectful that we have them here.

My original notice came out with two other witnesses, and I just want to see whether.... I understand from the clerk that one has turned it down. It's potentially available for another date. We can do that if we have a two-hour time slot. If there are no amendments, we're not going to take two hours to do clause-by-clause. I was just hoping.... I think it's the FSIN, if they're out of their legislative assembly by then.

• (1625)

**The Clerk of the Committee (Mr. Roger Préfontaine):** They declined to come because their legislature is presently sitting.

The possibility of them appearing next Tuesday was not raised to them. If the committee so desires, I will raise it with them.

**The Chair:** Ms. Barnes, you made mention of a letter that was circulated among committee members. I just want to be certain that in fact all committee members have received the letter dated October 18. It's a four-page letter, authored or at least signed by Roy Fox, President, Indian Resource Council.

Have all committee members received such a letter?

[Translation]

**Mr. Serge Ménard:** Mr. Chair, I hadn't seen it. Before blaming this on my political attaché, I wanted to check, and she hadn't received it either. Mr. Préfontaine has just confirmed that he hadn't sent it to us because the translation wasn't yet available.

[English]

**The Chair:** Mr. Valley.

**Mr. Roger Valley:** Thank you.

It's unfortunate that some members haven't seen it, but I think it's important that they do see it. I think we agreed to somewhat speed up the process because there was agreement by all parties. There were comments made, especially by the Bloc, that we need to take some serious time with this issue and have some witnesses in. We were under the understanding there were going to be three today. We understand that couldn't happen. I see no reason why we can't invite this individual who has been involved. The clerk has said maybe we can get him for Tuesday. If we can, we should listen to him and move to clause-by-clause after that. I think we have to make a little bit of an effort to try to hear some people.

**The Clerk:** My comment was directed towards the FSIN people. The IRC people have not yet been approached.

**Mr. Roger Valley:** Is it possible for us to ask them?

**The Clerk:** I suspect they would be happy to appear on Tuesday, but that remains to be confirmed.

**Mr. Roger Valley:** If we have witnesses in Tuesday, that won't hold up our schedule in any great detail. We'll still have time to move things forward.

**The Chair:** The proposal, so to speak, as I understand it, is that we have a witness or witnesses on Tuesday, and following their presentations we then go through clause-by-clause analysis of the bill.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chair, I'm just wondering what this particular witness would bring to the table that we aren't aware of and haven't heard already. Just because we get a strongly worded letter from somebody doesn't mean we leap into action and change our agenda, frankly, or else we'd be changing our agenda all the time. If the person's generally in favour of them.... I mean, some of the organizations that he cites as first nations with major oil and gas reserves I know are in favour of this bill. So he's saying that this group of first nations hasn't been to our panel, but if they're in agreement with the bill why do we need to...?

I just have a bad feeling about this. I personally don't want any delays in our treatment of the bill. Even if it just means an hour out of the clause-by-clause meeting, it might mean we don't get through clause-by-clause in a single day. I'm not interested in that.

**The Chair:** Mr. Asselin.

[Translation]

**Mr. Gérard Asselin:** Mr. Chair, this sure sounds a lot like improvisation! People seem to want to invite witnesses they have just discovered they think should be here. It seems they want them to appear probably Tuesday or Wednesday.

I don't know what the government's strategy is for delaying the process of the committee. The committee's proceedings were supposed to end this afternoon. So let's get on with orders of the day for clause-by-clause consideration of the Bill next week. As far as appearances by witnesses are concerned, that was supposed to be this afternoon.

Mr. Chair, you have all the authority necessary to present a motion in prescribed form in order to extend or not the committee's sessions so that witnesses can appear. Still, such a decision mustn't be made lightly. This seems to be improvisation, imagining, delaying and inviting witnesses without even having consulted them beforehand. This is just a strategy for slowing down the committee's work.

Mr. Chair, you have the necessary authority to present a motion in proper form to extend or end proceedings. If we can't agree, I would ask you to put it to a vote.

• (1630)

[English]

**The Chair:** Ms. Karetak-Lindell.

**Hon. Sue Barnes:** Do a roll call vote.

**The Chair:** Ms. Karetak-Lindell.

**Ms. Nancy Karetak-Lindell (Nunavut, Lib.):** I just want to intervene on behalf of the group, because we heard from a witness today who said their group had only been involved in the process for maybe the last six years, and these other people have been involved in this pilot project right from day one and they represent many first nations. We keep saying that we want to hear from the people who are going to be affected. For the meeting we're going to have next, we would not delay clause-by-clause and we would still be done at the end of the day whether we had witnesses or not.

We didn't find out until this morning, I believe, that the other witnesses that we had expected today didn't show up, so we're short two parties that we would have heard from on the legislation. We had asked for FSIN and Mr. General, I believe, and they didn't notify us until this morning that they would not be able to show up. We're actually seeing fewer people than we had agreed to in the original list, so I don't see why it would be a big problem to hear from this group and still go into clause-by-clause, and we'd be done by the end of the day on Tuesday.

**The Chair:** Mr. Valley.

**Mr. Roger Valley:** I'd like to ask a question of the clerk.

We fully expected to hear three people today. We understand why that can't happen. Did we just find out today? Would it not be normal to proceed to the other people on the list, such as this individual and other ones, if we wanted to have three people in today?

**The Clerk:** I think it's a decision for the committee, Mr. Valley. The committee agreed to hear the witnesses we were supposed to hear today. Beyond that, it's a decision for the committee.

**The Chair:** Mr. Smith.

[*Translation*]

**Mr. David Smith:** Mr. Chair, I agree with my colleague Mr. Asselin when he stresses the importance of doing the exercise as quickly as possible, with respect for the orders of the day established at the beginning. I think that all the Members here are acting in good faith and wish to complete this examination and send it back to the House of Commons for it to be passed.

I also agree with my colleague Nancy Karetak-Lindell when she says that this collectivity, this group, has been here since the beginning.

So, if we can do the whole exercise as a group by inviting these people to take part for an hour next week and then do the clause-by-clause of the bill in order to conclude the exercise, we will have achieved something good collectively, respecting the witnesses who were here at the beginning and listening to the first nations representatives. Then, we will all have met our objective.

Thank you.

[*English*]

**The Chair:** Mr. Martin, do you have a further comment?

**Mr. Pat Martin:** Mr. Chair, I'm looking at this letter. It was dated October 18, 2005. I just asked my staff what day it is today, and he said it is the 20th. So this letter was written on the 18th and it was faxed to me on the 19th, which was yesterday, demanding to appear before the committee essentially today, which was our day for hearing witnesses. I don't think we can interrupt the work that we're doing. We are fast-tracking this bill with the cooperation of the opposition parties, trying to get it through this committee and into the House on behalf of the first nations this bill applies to.

I would speak strongly against stopping the progress that we're making now to entertain a very much late arrival in terms of the witness list. As somebody said, we should put it to a vote. Rather than debate the attendance of this witness, let's vote on whether we entertain this witness or not and get it over with.

•(1635)

**The Chair:** We'll shortly do that.

Mr. Harrison.

**Mr. Jeremy Harrison:** Mr. Martin made the point that we've agreed to fast-track this bill. We want to get this through the House, through committee, as quickly as possible. We've agreed to cooperate with the government to do that. We had made a schedule. I proposed earlier, let's just do the clause-by-clause right now. If we're really serious about getting this completed as quickly as possible—there are not going to be any amendments—why don't we do the clause-by-clause right now?

**Hon. Sue Barnes:** That wasn't the schedule, was it? And we don't have the people here.

**Mr. Jeremy Harrison:** Okay, well, let's stick to the schedule we had then, and that's the end of witnesses.

**The Chair:** Ms. Barnes.

**Hon. Sue Barnes:** It's very apparent to me, having listened to the opposition, that they're not interested in having the IRC here. The

government would have liked to have heard from them, but knowing that the agreement was made, I do not see that it's worth while to do a nominal vote on this, because I know the result.

Thank you.

**The Chair:** Mr. Prentice, you have the last word.

**Mr. Jim Prentice:** I resist the temptation to jump into this, but, Ms. Barnes, I think that is not a fair summary of where we are. What the committee has heard in all of its deliberations to this point concerning Bill C-54 has been single and unanimous that this bill will assist first nations; that we have been trying to ensure that it clears this Parliament before an election takes place; and that it's extraordinarily important legislation to the first nations who wish to see it passed. That is what we have heard from everyone until this letter showed up.

The committee deliberated on this at some length and decided that we would set aside two meetings to hear from witnesses. There were very specific discussions about making sure we heard from people who were opposed to the legislation. We were told by yourself that there was no opposition to the legislation. We now have in front of us a letter that says in the clearest of terms from a respected party, the Indian Resource Council of Canada, and former chief Roy Fox, who is one of the more respected aboriginal leaders in the country, that he was not consulted at all by the government. He is critical of the government; he is not critical of the committee.

Those facts are at variance with what we have been told. It's surely the responsibility of the parliamentary secretary to make sure that when two days were set aside for hearing of this matter that the appropriate lineup of witnesses was put before us, because none of the rest of the people in this room have the staff to do that. We understood, coming here in good faith, that all of the necessary witnesses were before us, and we've been carrying on, all of the opposition parties, in good faith, on a concerted plan to try to get this through the House because it's in the interests of first nations.

If I understand correctly, you are saying that you don't wish to do the clause-by-clause, that you don't wish to see this legislation through today, because the other—

**Hon. Sue Barnes:** That's not true.

**Mr. Jim Prentice:** —members are saying they're prepared to do so.

**Hon. Sue Barnes:** No, that's not true.

**Mr. Jim Prentice:** When you suggest that we are saying we don't want to hear from the Indian Resource Council of Canada, you're not being fair. I want the record to reflect that.

**The Chair:** Thanks, Mr. Prentice.

Mr. Asselin is correct. I believe, new as I am to the chair, I do have the power or authority to propose certain courses of action. I'm proposing on the strength of a letter that was directed to me that the Indian Resource Council of Canada be invited to attend at our meeting on Tuesday, October 25, in order to make a presentation.

That's the proposal, and I would ask for a show of hands of those who are in favour of the invitation being sent out.

(Motion negated)

**The Chair:** Mr. Martin.

**Mr. Pat Martin:** On a point of order, Mr. Chair, I know you're new in the chair, and I appreciate that, but I don't think it's right to make a counted vote, or whatever the term is when everyone's vote is identified, unless it's asked for. In most committees that I sit on votes are done by a show of hands and it's either for or against. Sometimes the numbers will be listed in the record, but it's rare to identify how each individual voted unless somebody asks for that.

• (1640)

**The Clerk:** Mr. Martin, you're referring to a recorded vote, and this was not a recorded vote. The chair simply mentioned verbally.

**Mr. Pat Martin:** Yes, but he's now entered into the record everybody who voted against that motion and everybody who voted for that motion.

**The Clerk:** It will not be reflected in the minutes, however.

**Mr. Pat Martin:** I see, very good, thank you.

**The Chair:** On a housekeeping matter, and I appreciate there may be other business, the clerk advised me before the commencement of the meeting that, subject to the wishes of committee members, our meetings could be changed to 9 a.m. to 11 a.m. at La Promenade Building on Thursdays, at least. Our Tuesday meeting from 3:30 to 5:30 would be retained, but our Thursday meetings weekly would be 9 to 11 in the morning at La Promenade Building. Is there any comment on that switch or potential switch?

**Mr. David Smith:** Thursday.

[*Translation*]

**Hon. Sue Barnes:** It would be from 9 to 11 a.m. every week? All right.

[*English*]

**The Chair:** Am I hearing—

**Mr. Jeremy Harrison:** If you have another committee, it would be too hard for you....

**Mr. Pat Martin:** Thank you, Mr. Harrison. I was just checking. Actually, I don't have a conflict at that time of day, so Thursday meetings from 9 a.m. to 11 a.m. are acceptable to me.

**The Chair:** Then can we consider it agreed to? Our Thursday meetings will change.

**Hon. Sue Barnes:** Is there conflict for anybody else?

**Mr. Jeremy Harrison:** I think we have a bit of an issue with changing it to that time. My understanding is the whips had agreed to the times of the committees owing to potential conflicts and avoiding potential conflicts. We wouldn't be agreeable to changing it to 9 a.m.

**The Chair:** Ms. Barnes.

**Hon. Sue Barnes:** I thought this committee had instructed our clerk, because the whips had said that if there were another room available and no personal conflict, it would be fine. Those were the instructions we gave to our clerk last week. He's found us something now that works.

**The Chair:** Mr. Prentice.

**Mr. Jim Prentice:** You might leave it with us. I think Mr. Harrison has been very clear that we understood the whips had collectively agreed on a schedule for all the committees, and that

there was some methodology in why they did what they did. I think we each need to go back and make sure we're not abrogating something they'd agreed on.

**Hon. Sue Barnes:** Okay, that's fine.

Our whip told us if they could find something, and we just found out that your whip said the same thing.

**The Clerk:** Just for the information of the committee, we would not be the only ones doing this, if we do it. There are other committees whose time slots were not to everyone's agreement; they did something similar to what we're talking about now, so there's a precedent to that effect.

**Mr. Roger Valley:** I want to thank the clerk for finding us another time. Hopefully the official opposition can support it.

Thank you, Mr. Chairman.

**Mr. Jeremy Harrison:** This isn't a partisan issue. We'll check with our whip.

**Mr. Jim Prentice:** I have a point of order, Mr. Chairman. In terms of our next meeting, could we turn our attention for a moment to a housekeeping issue—that is, where does the committee go from here? Clearly, we will be doing the clause-by-clause study of Bill C-54 in very short order at the meeting next Tuesday. We will then be free to proceed with the business of the committee. There being no legislation in front of the committee, that takes us to the next matter on the agenda of the committee, which is the specific claims motion passed several weeks ago.

It would seem to me, subject to any comments my colleagues have, that probably the most appropriate way to start that study would be for the chair and the clerk to arrange for the chief commissioner and the commissioners of the Indian Claims Commission to appear before the committee, be in a position to address the committee about the status of the commission, and respond to our questions. That would seem to be the logical place to start. I'm not aware of any other business before us.

• (1645)

**The Chair:** Are there any comments?

Ms. Barnes.

**Hon. Sue Barnes:** I think the normal procedure is that we have a future-business meeting to figure out who the witnesses are. We've already established that we're going to do the study, but we haven't had a future-business meeting to discuss witnesses. That's not on the agenda for today. I would suggest we spend only the first hour, say, doing clause-by-clause. We could look at a future-business meeting in the second hour, so that we could then be ready for whatever we decide.

Future business for choosing witnesses is not on today's agenda. Let's do this logically. I don't like this hodgepodge stuff, coming in and being asked to do something that's not on the agenda. Today it was witnesses; it wasn't clause-by-clause. Next week can be clause-by-clause. I would suggest we have a future-business meeting, and it will be up to the chair to decide if it's that same day or not.

**The Chair:** Mr. Martin.

**Mr. Pat Martin:** Thank you, Mr. Chair.

I think it's only reasonable. We have forty minutes of this scheduled meeting left. I think it makes sense. All the parties are represented; we should do our best to use our time well, and that means work out some of the details of our future business.

I was here at the planning meeting when we agreed that our next order of business, after Bill C-54, was to be the Indian Claims Commission. The logical first witnesses, I agree, would be the commissioners of the Indian Claims Commission. We could get a state-of-the-nation address from them and we'd be able to ask some logical questions to get us started.

I think it's a delaying tactic. I don't understand why the parliamentary secretary would want to stall this work, because the sooner we get finished with the Indian Claims Commission work, the sooner we'll be freed up to do other business she may have in mind.

I think it would be a good use of our time now to adjourn this meeting, reconvene ourselves in the same bang of the gavel as a planning committee, and use our time effectively by agreeing to invite the commissioners to a meeting.

**The Chair:** Thanks, Mr. Martin.

Mr. Valley.

**Mr. Roger Valley:** I would like to thank the opposition for trying to speed things along. That's not the way it normally goes around here, but I believe we do have an agenda. I believe there is a procedure if you want to add things to the agenda, and I believe it's unanimous consent.

Mr. Clerk, is that right?

We don't have it on the agenda here, so I don't think we should be talking about it today.

**The Chair:** I'm of the view that these items were not on the agenda. I believe that an hour and a half ago, all of us anticipated hearing from witnesses throughout the course of the afternoon. That hasn't happened, for different reasons. I appreciate that time is of the essence, but I think that on Tuesday of next week we can deal with the clause-by-clause and also conduct a future business meeting, and that both those tasks will easily be accomplished within the two-hour meeting.

**Mr. Pat Martin:** Before you're done, I have a point of order. I would like to know if Mr. Valley is correct that it requires unanimous consent, or if it just requires a majority vote to decide whether to continue meeting on the subject of future business—in other words, to amend the agenda to include ten minutes of discussion on future business.

**The Chair:** Subject to the clerk indicating otherwise, I understand that with respect to the agenda, it's the call of the chair.

**Mr. Pat Martin:** Very good, then. My only point is, as a point of order...then you're saying it does not require unanimous consent. I had never heard of that before, at this or any other committee.

Having said that, I'd like to call a vote on a motion that we amend the agenda to include the study of future business, including calling witnesses for our next study—so it's a motion.

• (1650)

**The Chair:** Are there any comments or discussion about Mr. Martin's motion?

Mr. Valley.

**Mr. Roger Valley:** I have a question. You said the clerk advised you that the chair could make the decision on adding agenda items.

**Hon. Sue Barnes:** Yes, but he can call—

**Mr. Jeremy Harrison:** He can take advice from the committee, though.

**Hon. Sue Barnes:** I just don't have the stuff here to do that.

**Mr. Pat Martin:** We're only talking about at the first meeting. Can we not agree that the logical first witnesses would be the commissioners—the co-commissioners of the Indian Claims Commission? That's all we're asking.

**The Chair:** I will ask for further comment.

**Mr. Jeremy Harrison:** Perhaps the chair would appreciate the advice of the committee in terms of a vote on Mr. Martin's motion, and can then make his decision based on that. I think that would be a reasonable way of proceeding.

**The Chair:** Mr. Martin, your motion was to have a future-business meeting conducted now.

**Mr. Pat Martin:** Yes, within the normal timeframe that we dedicated for this meeting—yes.

**The Chair:** It's my understanding that Ms. Barnes, not anticipating that, is not comfortable dealing with future business and potential witnesses until she's thought it through.

**Mr. Pat Martin:** That's one vote.

**Hon. Sue Barnes:** The agenda for this meeting—

**Mr. Pat Martin:** Well, just because she's parliamentary secretary doesn't mean she can dictate what happens here.

**Hon. Sue Barnes:** I'm just thinking of the precedent. Right now the agenda for this meeting is to hear witnesses. We came in with a notice that was at all of our offices thinking we're hearing three witnesses. We unexpectedly have some time. I've been asked during this meeting to go to clause-by-clause when that wasn't on the agenda. Now we're hopping to something that's normally done in camera with a future business meeting. We're not in camera right now.

I can tell you I don't have with me all the.... I am certainly trying to gather the list of witnesses that we would be proposing for the study, and I've certainly asked for that material to come and I will make sure that I have it on that day.

I thought we had 24 hours notice of motion. It seems like we're entertaining motions that are verbal, that are not translated, that are not in writing. We can do things by consensus here, but there's not a consensus at this point, and some of us do have other things to be doing.

**Mr. Pat Martin:** Consensus doesn't mean the committee. A consensus can be a majority.

**The Chair:** Mr. Asselin.

[*Translation*]

**Mr. Gérard Asselin:** Mr. Chair, the motion by Mr. Martin makes a lot of sense. But it was not made by the required deadline and does not exist in written form. Unanimous consent would therefore be needed.

Are we going to discuss this for 35 minutes and finally end up at the same place at 5:30 p.m., just because we will have argued about the motion without managing to reach an agreement and because we won't have had time to start the proceedings?

I'm not sure there will be unanimous consent on Mr. Martin's motion, at least concerning the government part. In this case, Mr. Chair, you could ask for unanimous consent. If we don't get it, I would ask you to end the meeting so that we can stop wasting our time here and all go home.

[*English*]

**Mr. Jeremy Harrison:** My understanding is that the ruling was that the chair had the discretion regarding the agenda here. That was my understanding. That's what I thought I heard. And if that's the case, I would suggest to the chair very respectfully that perhaps he take the advice of the committee as to how we want to proceed in the last 33 minutes of this meeting.

**The Chair:** And if the advice of the committee is unanimous, then I'm comfortable proceeding with the future business meeting now. But if the committee is not unanimous, then I'm not wishing to proceed.

**Hon. Sue Barnes:** It's not unanimous.

**Mr. Jeremy Harrison:** Let the record show the government's attempting to drag its feet on very specific claims.

• (1655)

**The Chair:** The meeting is adjourned.

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**Published under the authority of the Speaker of the House of Commons**

**Publié en conformité de l'autorité du Président de la Chambre des communes**

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