House of Commons
CANADA

Standing Committee on Aboriginal Affairs and Northern Development

AANO • NUMBER 043 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, March 29, 2007

Chair

Mr. Colin Mayes

Standing Committee on Aboriginal Affairs and Northern Development

Thursday, March 29, 2007

● (1115)

[*English*]

The Chair (Mr. Colin Mayes (Okanagan—Shuswap, CPC)): I would like to open this meeting of the Standing Committee on Aboriginal Affairs and Northern Development on Thursday, March 29, 2007.

Committee members, you have the orders of the day before you. Pursuant to the order of reference of Wednesday, February 21, 2007, today we'll be looking at Bill C-44, An Act to amend the Canadian Human Rights Act.

The witnesses before us today are from the Assembly of First Nations. We have National Chief Phil Fontaine and Chief Lynda Price.

Welcome to the witnesses.

The chair is going to run over on our time to make sure we have adequate time. We were only going to go to 12:30 p.m. with the witnesses and then we were going to move on to committee business. Is it the pleasure of the committee that I allow 15 minutes if we need it, because of our late starting? I see we agree to do so.

We will have the presentation from Chief Phil Fontaine. Thank you very much for your attendance.

Chief Phil Fontaine (National Chief, Assembly of First Nations): Thank you very much, Mr. Chairperson.

Greetings to all of the honourable members. We thank you for the opportunity to appear before this committee.

I would also like to acknowledge Chief Lynda Price from Ulkatcho First Nation, British Columbia, who is with me; and Candice Metallic, who is legal counsel for the Assembly of First Nations here in Ottawa. We also have the honour of having Chief Maryanne DayWalker Pelletier here from Okanese First Nation in Saskatchewan; Chief Rose Laboucan from Driftpile First Nation in Alberta; Chief Sarah Gopher from the Saulteaux First Nation in Saskatchewan, not here; and Chief Ann Mary Simon from Bouctouche First Nation in New Brunswick.

They're all here to demonstrate their support for our submission before you this morning. They also will be scheduling time with the committee clerk to hopefully present their unique perspective to this committee sometime in the near future.

Today I'm especially looking forward to explaining AFN's position on Bill C-44, An Act to amend the Canadian Human Rights Act. I was anxious to be here because I'm concerned that our position has been misrepresented in the press. So we see this as an opportunity to set the record straight.

First of all, there is no group in Canada that is more conscious and aware of the importance of human rights than our people. The reason is that we've had to fight for our rights every step of the way since colonization, and more often than not we have been shortchanged. More specifically, we have had to fight for our collective right to exist in our homelands, resisting numerous attempts by the Canadian government to destroy our culture—or cultures, more appropriately. The best example of that, of course, is the residential school experience. But you can add a whole bunch of other experiences: the Indian agent, the 1960s scoop of our children. The list is lengthy.

Governments have tried to deny us our treaty rights, aboriginal and land rights, and made a very concerted attempt to assimilate us. We've had to fight not only for our collective rights but for our individual rights, the rights to the custody of our children, rights to have access to fair employment opportunities and accommodation without discrimination, the right to vote, the right to be treated fairly in the courts. For example, we were denied the right to retain legal counsel to fight for our land claims until 1952. We have fought for our rights internationally for the past 25 years, only to have all of these efforts be summarily dismissed when the government decided that it would oppose the UN Declaration on the Rights of Indigenous Peoples.

The same government that voted against our rights internationally is now denying us our basic human rights to water, because water is a basic human right. We don't have access to quality, safe drinking water; decent housing; health; education; or natural resources within our own traditional territories.

Successive federal policies—and I'm saying successive, but most particularly this most recent budget—ensure that an unacceptable state of poverty within our first nations communities will be perpetuated for the foreseeable future, while government spends billions upon billions on the so-called fiscal imbalance. The true fiscal imbalance in this country is the imbalance between what the first nations receive from the federal government to meet our basic needs compared to what everyone else receives.

Let me explain here, once again. I've done so before, as you know.

Since 1996 the funding for core programs and services has been capped at 2%, but our expenses—the cost of living, the population growth rate—have gone up significantly, by 11.2%, while per capita expenditures for basic services in our communities have declined by 6.4%. We all know that the provincial and territorial governments have received a 6% increase, and that'll be consistent over the years. When it comes to health, the increases are secure, and the governments will review the situation seven years hence. That is not so in our situation.

In real dollar terms, this inequity has cost our communities about $14 billion since the cap was introduced over 10 years ago. The result is that existing federal policies prevent first nation governments from acting in the best interests of their communities, limiting their flexibility to plan and manage effectively and to make decisions for the future well-being of our children.

You see, I'm prepared to discuss this matter of the budget and the $9.2 billion—now $10 billion—and the argument that has been made that we're receiving an awful lot of money. No one makes that argument with all the billions of dollars that have been transferred to provincial governments; when it comes to us, the suggestion is there should be value for dollar. Well, that same proposition is not put to provincial or territorial governments. The transfer is made without question. But when it comes to us, it's an awful lot of money, and there should be value for dollar. That's completely unacceptable.

People should rise up and say that's unfair. Everyone should be treated fairly and justly. We shouldn't be treated the way we're being treated. We are seen as vulnerable and unimportant and as not making a difference when it comes to the electoral process—but darn it, we matter a great deal; we're integral to Canada.

This is our homeland. We were here first. We shouldn't be denied fair treatment. We shouldn't be excluded from being treated justly.

To say the status quo is a disgrace is an understatement. We look forward to being able to use the provisions of the Canadian Human Rights Act to correct these egregious discriminatory wrongs. For example, there is the $10 billion; people ignore the fact that there are 10,000 civil servants working to deliver programs to aboriginal people—10,000. Can you imagine the costs of that? Well, no one includes that in the equation when they're discussing how much money is being delivered for aboriginal people.

In fact, it's not $10 billion that reaches our communities; it's $5.4 billion of the $10 billion that goes to our communities. That is fact. We've analyzed all of the expenditures of the federal government over the last number of years, so there should be no attempt to try to convince Canadians that we receive too much money. The argument should be for more money. Canadians should be convinced that the situation we find ourselves in is completely and absolutely unacceptable in a country as rich as Canada.

● (1120)

We're not asking for handouts, not for a moment. We want to be real contributors to Canada's prosperity. That's what we want to be; that's what we want to do. We don't want to deny someone else their basic human rights—of course not. And any suggestion that we want to deny our people their basic human rights is completely false. It is a complete and absolute misrepresentation of our position and the true situation in our communities.

We recently launched a complaint at the Canadian Human Rights Commission to draw attention to the fact that 27,000 first nations children are in care because the government will not provide the necessary resources for preventive measures to support families and keep them together.

Minister Prentice is right when he says there are 9,000 first nations children in care, but that's with first nations child welfare agencies. There are another 18,000 first nations children in the care of provincial agencies. That's where we come up with the figure of 27,000, and these are only for those territories and provincial governments that keep records. Others don't keep such records.

From the residential school experiment to the white paper, from the takeover of our land to the dishonour of treaty rights, from discrimination on the provision of basic services to discrimination in accessing housing, we have learned that our very existence as people depends on our commitment to the preservation and promotion of our rights. Consequently, human rights, both individual and collective human rights, are the very cornerstone of our beliefs and values.

So you can see when the media and others suggest the Assembly of First Nations is opposed to the repeal of section 67 because we are opposed to women's rights—my gosh, those people are so off the mark. It is so completely untrue. It is a complete misrepresentation, a deliberate misrepresentation of our position.

It is against this backdrop that we speak to you here today. I'm now going to turn to Chief Lynda Price.

● (1125)

Chief Lynda Price (Chief, Ulkatcho First Nation, Assembly of First Nations): *Dawhoja*. My name is Lynda Price. I'm the chief of the Ulkatcho First Nation. Our community is located in the central interior of British Columbia. I also sit on the B.C. First Nations Leadership Council, working with the Union of B.C. Indian Chiefs.

I would like to acknowledge the first peoples who were on this territory. I would like to say thank you for allowing us to meet here today as part of our custom.

First and foremost, I would like to say that we support the repeal of section 67 of the Canadian Human Rights Act. It is about time.

Thirty years ago when the Canadian Human Rights Act came into effect, we were told by the then Minister of Justice, Ron Basford, that the exemption was only temporary. Well, 30 years seems to me to be beyond temporary. What was clear at the time and is still clear is that section 67 shields many discriminatory provisions of the Indian Act and other government behaviour that hurts and disadvantages us.

I would like you to know that when we are talking about 30 years, I think about the timeframe and my mom, who was only allowed to vote when I was one year old. So for most of her life she was not allowed to vote. That gives you some backdrop as to the timeframe. It was only after I turned one that my mother was allowed to vote. That gives you an idea of what kind of discrimination was going on.

Repealing section 67 and replacing it with appropriate legislation to protect our individual rights and collective rights will be a giant step forward. Getting it right will be the challenge.

There are a number of changes that need to be made to the bill to get it right.

First of all, Bill C-44 must take into account the relationship between the Canadian Human Rights Act and first nations self-government. This is because human rights guarantees will affect the way we govern ourselves. Aboriginal rights are unique. The courts have recognized this and the Canadian Human Rights Act must recognize this.

Second, within first nations communities, human rights must be in harmony with aboriginal and treaty rights while facilitating the preservation and promotion of distinctive first nations culture. As you know, the issue in B.C. has not been settled yet.

To meet these fundamental challenges, a number of critical components must be put in place. First, we must figure out how long it will take to make the transition from status quo to the Canadian Human Rights Act. And make no mistake, there will be a big adjustment. Also, there have been precedents set.

Just as Canada gave itself three years to make the necessary adjustments to comply with section 15 of the charter, so will Canada need sufficient time to undertake a review of their policies, procedures, and laws to identify discriminatory provisions and take the necessary remedial measures before complaints are filed. Similarly, the first nations also will need sufficient time to make the necessary adjustments to comply with the provisions of the Canadian Human Rights Act.

Right now this bill that is being contemplated provides for only a six-month transition period. This is not long enough for the meaningful consultation and adjustment that will be required. A minimum of 36 months will be necessary to ensure that implementation measures are in place and the necessary infrastructure resources obtained, so that those who wish to make use of the act will have a real chance to succeed in obtaining the protection it holds out.

In an effort to ensure proper implementation, we seek an amendment to the bill that would provide for a joint Canada and first nations operational review to commence immediately and no later than 18 months. This is to identify the nature and scope of work that must be done and the amount of additional fiscal resources that will be required by first nations government.

● (1130)

Second, an interpretation clause must be included in the legislation to ensure that those bodies interpreting and applying the act in future cases will be guided by an awareness of our unique collective, inherent rights, interests, and values. Without an interpretation clause, our rights will be at risk. It would be ironic indeed if the result of Bill C-44 were to diminish or undermine our rights rather than enhance and protect them.

We've provided you with a draft interpretation provision at schedule B of our written submission. You should have that.

Third, a non-derogation clause must be included in the bill. This is essential if our established and asserted aboriginal treaty rights are to be protected when section 67 is repealed.

It is no answer to say that the non-derogation provision in section 25 of the charter is good enough, because it doesn't apply to the Canadian Human Rights Act. It is not good enough to argue that section 15 of the charter will come up in any human rights complaint and thus trigger the use of the section 25 non-derogation clause as the defence.

The fact of the matter is that there may be cases where section 15 is not argued; therefore, to ensure that aboriginal and treaty rights are protected, the Canadian Human Rights Act must have its own non-derogation clause. We are providing you with a draft clause as a proposed amendment to the bill at schedule A of our written submission.

Fourth, clause 3 of Bill C-44 refers to “aboriginal authority”, in the transitional section. We want to see this term removed and amended to state, for greater certainty: “any first nation government, including a band council, tribal council or governing authority operating or administering programs and services pursuant to the Indian Act”. That's for greater certainty, just to know who this is intended for.

Once these four amendments are made, the next step will be to secure the necessary federal operational commitments, so that the Canadian Human Rights Act can be properly implemented once section 67 is repealed.

First, the repeal of section 67 must be conditional upon Canada's committing the necessary financial resources within 18 months, establishing funding mechanisms to build the capacity required to implement the act at the first nations level.

The repeal of section 67 will create a host of new obligations for first nations governments, including increased administrative capacity to deliver programs and services on an equitable basis, substantive legal resources and capacity to provide legal, policy, and procedural review and reform to comply with section 67, and legal resources to review, defend, and prosecute claims.

Resources must be made available for the development of community-based dispute resolution mechanisms to ensure culturally appropriate resolution processes that will be consistent with our traditional laws and values.

Training resources will be required to ensure that adjudicators and other commissioned personnel have the expertise to balance collective and individual rights in individual complainants' cases.

Secondly, the federal government must also commit, as a condition to repealing section 67, to the establishment of an independent first nations human rights commission, to be operational by the time the 36-month transition period expires. This commission will consider complaints against first nations institutions, governments, and agencies.

Finally, the AFN would like to see the federal government commit to a communications plan to ensure that first nations citizens and government have sufficient information and resources to make use of the potential the commission will offer.

● (1135)

I would like to thank you, Chair Colin Mayes and honourable members. I appreciate the time you've taken today to listen to our submission, and I say *cha nal'ya,* which is "thank you" in our language.

The Chair: Thank you very much, Chief Price.

We will move on to the questions. Who would like to start on the opposition side? Madam Neville.

Hon. Anita Neville (Winnipeg South Centre, Lib.): Thank you, Mr. Chair.

Thank you, National Chief, and to all of the delegation that is here today.

I appreciate your comments, National Chief, at the outset of the presentation. One of the issues that you've not brought up and I wonder if you would comment on is consultation, consultation that did or did not take place as it related to this particular bill, consultation that does or does not take place as it relates to other initiatives or lack thereof with this government.

Have the government members entered into any discussions with you or with any of the other regional chiefs on the potential impact of the repeal of section 67? I appreciate the recommendations that Chief Price has made, but have you had an opportunity prior to the drafting of the bill, to the best of your knowledge, to have input? And I would appreciate some comment on consultations overall.

Chief Phil Fontaine: I'll very quickly respond with a partial answer to your question, and then I'm going to turn to Chief Price to complete the response.

Consultation is essential. We won't achieve the kind of body and mandate that we know our people deserve if we don't consult. We must. This is a responsibility and obligation that the federal government has.

Chief Price.

Chief Lynda Price: It's my understanding that the minister has stated that there has been 30 years of consultation on this issue. That's my understanding. But there has been no discussion on the repeal of section 67 specifically.

It's my understanding also that on December 13, 2006, the Government of Canada introduced Bill C-44, an act to amend the Canadian Human Rights Act, which provides for the immediate repeal of section 67. Ideally, the federal government ought to have engaged in discussions with first nations prior to that. When I listen to this question, I think about this and I think about the processes that I'm accustomed to, and certainly these aren't proper consultation processes.

At a minimum, the honour of the Crown and the requirement for reconciliation of first nations and crown sovereignty imposes an obligation on the federal government to analyze the potential impacts of the repeal of section 67 on the aboriginal and treaty rights of first nations people and potentially significant impacts on first nations communities before proceeding.

I say this as a leader. You just can't carry on business without proper consultation, because it has serious impacts on our communities.

However, when the minister appeared before this committee last week, it was evident that such an analysis was not undertaken. Rather, the federal government chose to defer review of the application of the CHRA five years after its application. Understandably, this raises questions among first nations regarding the depth of the Crown's honour.

It would be irresponsible for the federal government to proceed with the repeal of section 67. Simply put, it's unfortunate in our country for aboriginal people to have to take government to court in order to prove our rights. It is discouraging for me as a leader.

You have to recall that Delgamuukw in 1997 caused a lot of uproar. It caused provincial governments to put in place consultation policies. In 1998, the provincial government where I live put in a consultation policy. Shortly thereafter, the Haida decision in 2004 reinforced the importance of that issue.

Currently in B.C., the First Nations Leadership Council and the province are in a joint review of that consultation framework, because the policy they drafted and put in place is not appropriate. It doesn't work for the government. It doesn't work for first nations. So we're under a process to change that.

What do I see here at the federal level to accommodate those court cases? I guess that's the question I'd have to ask.

● (1140)

Hon. Anita Neville: Chief Price, could you briefly outline the potential implications? I don't know your community, but what would the real implications be on the repeal of section 67 in your community? Could you give us some examples to make it more tangible and real?

Chief Lynda Price: As information for all of you, I'll give you a little background.

I'm located in a very rural community; a lot of people call it a wilderness community. We're in the interior of British Columbia, in Cariboo-Chilcotin. Our MP is Dick Harris. We're located 320 kilometres west of Williams Lake. It takes about four hours to drive there from the local provincial government office.

What I see here is that right now under the fiscal restrictions, as Chief Fontaine indicated, at a 2% cap for the last 10 years we don't have adequate funding to address O and M. We don't have adequate funding to provide for the basic needs of a lot of our community members. Basically, by introducing this at this time without proper preparation, we're adding more pressure onto the community.

Basically, that would provide more frustration for our community in the way of capacity development, more requirements to review appropriate procedure in order to address these new issues coming down in this legislation, and also to try to provide meaningful understanding to our community of what this means and to provide proper measures and processes for us to ensure that our communities' needs are addressed.

I have to mention that I was a school trustee in school district 27 for 10 years. Whenever the provincial government implemented any kind of change—for safety, regulation, or whatever—they would always provide us with resources to make that change. They would also provide an adequate timeframe in order to make that change. They wouldn't it impose it on us immediately. And I think it's out of respect that the province did that for their school trustees, who are our local governance over our school districts. It provided them with the decency to do that.

I'm sure all our school districts would have responded in a very negative way if something like this happened to them. I have to say that I use that as a comparison, because there are always measures you have to take on the ground; you have to have proper resources and funds and processes established to deal with the change.

● (1145)

The Chair: Thank you.

Mr. Lemay is next.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Good morning. Thank you for being with us.

National Chief, ladies, I have to say how impressed I am to see so many women community leaders. It seems to me that there are relatively more women heading aboriginal communities than head cities and regional municipalities across Canada, or are members of Parliament. I congratulate you on your involvement.

National Chief, when Bill C-44 came before the House of Commons, my first reaction, having been a criminal lawyer for almost 30 years, was that finally aboriginal people were going to achieve equality with other Canadians. I have to say that my remarks were a little premature. I do not want my colleagues opposite to accuse me of a flip-flop. The expression is used quite often, but this is no flip-flop for me; rather, it is the result of considerable thought that began because I did not understand that collective rights are as important for first nations as the individual rights that have always been of prime importance for us. This is because, when we appear before a court, we are defending an individual against one system of laws or another. I told myself that if the Canadian Human Rights Act could at last apply to first nations, they would achieve equality.

I read your submission with great interest. National Chief, I have to say in all sincerity that I would like to have received it a day or two in advance. But even so, it reflects what you have said, and what several others from first nations have said in recent months. I find that interesting; no one can accuse you of making nothing but demands, because you provide concrete suggestions for us to consider.

My question is for the National Chief; Ms. Price may well be able to answer as well. If we pass Bill C-44 quickly, as the government is asking, what would be the worst impact, or the greatest impact, on the first nations that you represent?

[*English*]

Chief Phil Fontaine: First of all, the result would be an unfair imposition of something that's as significant and as important as Bill C-44. We would be treated unfairly, because we wouldn't have the same time consideration as was provided to the federal government and the provincial and territorial governments with the implementation of the charter. They were given three years, and we're being told that this must be implemented immediately.

Second, there would be an unfair burden placed on first nation governments, because we don't have the resources, we don't have the institutions, we don't have the wherewithal at the moment to be able to deal effectively and fairly with the provisions of Bill C-44, if complaints were to be registered against first nation governments. There has to be sufficient time to enable first nation governments, chiefs and councils, to be ready, to be able to respond fairly and appropriately to these provisions, even though we recognize that most of the complaints, much of the initial attention, maybe over a prolonged period, would be directed toward the federal government —most of the abuses of human rights have been by government— because first nations have been rather limited, if I can put it that way, in their ability to abuse their citizens.

Take, for example, water. The suggestion has been made that it's somehow less than transparent, irresponsible, and non-accountable chiefs and councils who have caused the crisis situation with safe drinking water not being accessible to our communities. Well, we didn't pollute our waters. We didn't cause our river systems, our lakes, and our streams to be polluted, but we're being held accountable for that.

On the inadequate housing situation—let me put it fairly and properly, the housing crisis in our communities—the expectation and the demand, in fact, would be that we make appropriate provisions for the disabled. We're not in a position to be able to deliver the goods on that.

Concerning Bill C-31, at present there are at least 60 cases before the courts because of Bill C-31 and its unfair provisions that deny many of our people the right to citizenship in their nations. There are 60 cases. I think the government knows it will probably lose all 60 cases, as these are charter violations clear and simple.

● (1150)

The Chair: Do you have no more questions?

Mr. Marc Lemay: No.

The Chair: Madame, you can answer, and be concise. I have to watch the clock, Ms. Price.

Mr. Marc Lemay: Why?

Chief Lynda Price: Thank you, Mr. Chair.

I just have to reflect on history. When I look back to 1982 and the repatriation of the Canadian Constitution, I think about late Prime Minister Trudeau and about the time he ensured that there were proper meetings set up with the chiefs across Canada. I watched the video *Dancing Around the Table*, and I have to say that when I look at that video and compare it with what's going on today, there's been quite a change.

The recognition of our rights was entrenched in the Constitution, and that came as a result of that meeting. It was a meaningful process that took time for the government of the day to understand our culture—that we opened up with prayer and that we had our ceremonies—and to honour and recognize that; to recognize the culture of aboriginal people and not deny it.

It's discrimination to deny our culture. I have to say that when I was in university and I watched that video, I was really quite upset with the Prime Minister, because he rather disrespectfully did things that were inappropriate. But I have to say that today, meeting with the government members here, things have changed quite a bit. It's all about building relationships.

We have to be recognized for our rights. In order for us to ensure that we move forward with this initiative, we have to protect those rights. We have to ensure that there is provision to protect our aboriginal rights and title.

I wouldn't be willing to move forward with this initiative if there was no provision. It was made in the past and it should be made today. It's as simple as that; I don't have to further expand.

But yes, there will be financial, fiscal implications on our community as a result of the way it's currently looking.

I'd like to thank you for that question.

● (1155)

The Chair: Thank you.

Madam Crowder, please.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Mr. Chair.

I want to thank National Chief Fontaine and Chief Price for coming before the committee today, and the other chiefs who have come to witness today. I also want to thank you for your very concrete suggestions for how this legislation could be changed and what kind of processes need to be in place, because I think they're very helpful.

I actually want to address a particular aspect of what's been put forward on this bill. I think it's important, because I think there's either a misunderstanding or an attempt to mislead. I would hope it was a misunderstanding.

My understanding of this bill is that it repeals section 67, which allows people to file a human rights complaint under the grounds of the Indian Act. Yet when the minister came before the committee the other day, he said that this repeal of section 67 would allow us to have a country—I'm paraphrasing here—such that, whether it's in the education system, the health care system, allocation of resources within the community.... He was implying that this repeal of section 67 would allow community members to file complaints about education and health.

We can see from the complaint that the Assembly of First Nations has raised around child protection that there already are mechanisms that allow first nations to appeal decisions made by governments that violate their human rights. There are a number of other court cases, which our researchers kindly identified, in which people have been able to proceed on human rights violations already.

I wonder if you could comment on what specifically this repeal of section 67 will give communities access to, if there's a due process in place that people agree to.

Chief Phil Fontaine: Let me first conclude my response to the previous question about how this whole matter would affect first nation communities. I talked about Bill C-31. I want to conclude my response to that, and then I'm going to turn to Candice Metallic to speak to your question, Jean.

When Bill C-31 was introduced, it was to correct a wrong that had been inflicted on women primarily. It was heralded, and everybody was all excited that finally there would be justice done. When it was brought to us, we were told that as a result of Bill C-31, no first nation community would be worse off. What happened is that there was this unfair burden imposed on first nation communities. In fact, with the overwhelming numbers of our people who were reinstated, we just couldn't deliver on demands related to housing, education, health, and land.

In fact, Bill C-31 is a termination bill. That's what it is. So it wasn't what we were told it would be when it was brought before us in 1985. In fact, just about every first nation community is worse off as a result of Bill C-31. We have a housing crisis. We can't deliver safe drinking water to our communities. People can't access quality health care.

So it's an unfair burden that has been imposed on our communities, and we don't want the same thing to happen here.

Candice.

Ms. Candice Metallic (Associate Legal Counsel, Assembly of First Nations): Good morning.

I would begin by answering your question with the very first principle, that the charter of human rights applies in any event of the Canadian Human Rights Act. That will always give every citizen in Canada an avenue to raise complaints of discrimination against any government organization or agency whatsoever.

What the Canadian Human Rights Act does is provide a more affordable way for people to bring complaints, because it's more a dispute resolution process than it is a litigious process. However, we know from past experience that the Canadian Human Rights Act is not inexpensive itself either. It does require the organization to put significant legal resources forward to defend itself, and it does allow the complainants a great deal of flexibility and affordability in bringing these complaints forward, but it's the first nation government, nonetheless, that will have to do the legal research that's required to defend their position.

We suggest that the interpretive clause should be within the statute itself, and that will enable first nation governments to say we're doing this because it's in accordance with our traditional laws, our traditional values, the practices that our communities have come to adopt over the years. It's a complete defence to any allegation of discrimination. Not that any allegation of discrimination would be without merit, but at least the interpretation clause gives it a way to balance the individual rights with the collective rights within the context of the first nation itself.

● (1200)

The Chair: You have exactly one minute, so be concise.

Ms. Jean Crowder: I want to come back to Bill C-31, and I want to thank National Chief Fontaine for completing that answer, because that would have been my next question.

The only other comment I want to make about Bill C-31 is that, in addition, my understanding was that the timeframe that communities had to access additional resources was fairly narrow. By the time many communities were aware of whatever additional resources were available, as minimal as they were, the timeframe had already lapsed, and I think that placed an undue burden on communities as well.

Chief Phil Fontaine: It did—for example, with housing. The way housing is delivered to first nation communities, you develop these lists. In many communities, because of the crisis situation that exists—there is a backlog of approximately 80,000 houses needed to catch up—that list has been growing and growing. If the community already had a list, Bill C-31 people who were reinstated just went to the bottom, and the pressures just grew and grew on our communities.

That's why the situation exists as it does. It's not because chiefs and councils or communities are not transparent or don't manage well or are not accountable. It's just all of these provisions that have been introduced without due care in terms of ensuring that communities develop the capacity. We end up in the situation we're in, and we're cast then, as a result, in a very negative light. It's just so completely unfair.

It's not that we're without error or mistakes. We are like any government. What one has to do is look at the situation now in the business community and in governments and all of these other major interests. They make mistakes, but the entire community is not cast in a negative light as a result. But if we have one mistake in one community, lo and behold, every first nation community is the same way.

The Chair: Thank you.

I'm going to turn it over to you, Mr. Bruinooge. Are you going to speak?

Oh, Chief Price.

Chief Lynda Price: I just wanted to respond to the question. Thank you.

What I'd like to reflect on is how it would impact us in my own territory. In our territory, we had five longhouses. We're very organized and we had structures in place to look out for our community. We were self-sufficient; we weren't dependent. We didn't have a welfare society; we didn't rely on government handouts. We had our own economic base, and that's what we're striving for today.

Our people are tired of just being allocated revenue. We would like to have our own economic base, our own revenue-generating base, so that we could adequately look after our own people. As you know, my mom was sent off to a residential school, and she was taught not to speak our language, let alone hand down the practices that we had in our longhouse system to take care of our families and community, which was what the longhouse was all about.

Today, we're under a government structure, the Indian Act, that doesn't benefit our culture or language or maintain what we practised. Right now we're moving towards implementing our own first nations governance structures, and we're right in the process of developing our framework for how we're going to have a governance structure for our own community, based on the longhouse. It's going to be based on the foundation of the longhouse, and all of our policies and processes will be for education, housing, and all those other important initiatives. And economic development is at the base.

For us to move through that process takes time and effort. To have the federal government impose other legislation on us that won't allow proper processes to be established in our communities first is discrimination to us, because those processes were in place prior to contact.

It was in 1906 that my grandparents were told not to go to the longhouse or they would be incarcerated for up to three months. So they had to totally abandon the longhouse.

All we have today are pictures. What we are doing is re-establishing those, and we're putting back into our culture. And I thank God up above that He's helping us do that.

● (1205)

The Chair: Mr. Bruinooge.

Mr. Rod Bruinooge (Winnipeg South, CPC): Mr. Chair, I thank the witnesses for coming today. I extend a special greeting to the national chief, a fellow Manitoban. It's good to see you again.

I would like to start by pointing out to the national chief, on his point about how it is with this most recent government that our human rights are being denied in terms of access to water, that when we came to office, we inherited 193 communities that were at high risk, and the Minister of Indian Affairs and Northern Development just last week reported that we've reduced that number to 97.

I believe this is some progress. Clearly there are still a lot of issues in place on first nations reserves throughout Canada, but when you set a priority to clean up water, you have to make efforts and make things happen, and I believe that cutting that number in half was a good start.

I would like to move on. I see that you've brought forward some recommendations. I'm definitely appreciative of receiving them, because it's only through collaboration with the Assembly of First Nations and other first nations leaders throughout Canada that we're going to be able to come up with the right solution to repealing section 67, which I think everyone agrees is essential.

Perhaps I could talk a bit about the interpretive provision that you've included on schedule B. In point "a" of that, on page 14, you talk about "the entitlement of a First Nation government to provide programs and services whether exclusively or on a preferential basis to its members". What specifically do you mean by "preferential basis"?

Chief Phil Fontaine: First of all, I want to respond to the point you made, Mr. Bruinooge, about the emergency water intervention strategy and the status report that Minister Prentice issued last week.

We question the report and we question Minister Prentice, because what we have in this status report is an internal reporting mechanism of the Department of Indian Affairs. It is not subject to an independent risk assessment. There's no independent engineering assessment of this grading system; a new grading system has been instituted, and it is entirely subjective.

For example, the fact that 40% more operators were trained was marked on the positive side of the ledger; the fact is that we lost 40% more of the operators to municipalities and others because first nations communities didn't have the money to pay these operators, but that negative is not reported anywhere.

You were marked positive if you had SWOP, the safe water operations program, out of Ontario. That's an oversight thing; if you have it, it doesn't necessarily mean you have safer drinking water.

This has been in the works for eight months, and there hasn't been one new water system plant installed or constructed in any first nations community. Do you know why? It's because it takes at least three years to put a plant in place, Mr. Bruinooge. It is at least six months of planning, a year to bring supplies into these remote communities, a year to construct the plant, and a year to commission the operators. Not a single community has these new plants as a result of this emergency intervention plan.

But the more serious deficiency here is that our water systems in first nations communities are underfunded by at least 40% compared with municipal water systems and other such situations.

I'm going to be sitting down with Minister Prentice to talk about this report and to make sure we have a meeting of the minds on this very important issue—

● (1210)

Mr. Rod Bruinooge: Mr. Fontaine, clearly you disagree that we've accomplished anything on that front. I accept your opinion on that. So perhaps we could—

Chief Phil Fontaine: —that in fact we have what you've suggested, a situation where 40%, or at least half of the communities that were in crisis, are no longer in crisis.

The Chair: Thank you.

Candice.

Ms. Candice Metallic: I appreciate your question, because what it does, I think, is illustrate the need for this interpretive provision. I think it's a good demonstration of the need for it.

First of all, first nations people are constitutionally recognized as distinct from all Canadians, so when we are talking about providing programs and services exclusively or on a preferential basis to the citizens of our communities, it's on the basis of the section 35 right to do that. Also, if you look at the way first nation governments are funded, we don't have the funding to provide services to people who are not citizens of our first nations.

Mr. Rod Bruinooge: As a follow-up to that, perhaps if on-reserve there was a family that had a breakdown in their marriage and the home was going to be allocated on a preferential basis, could the home—I guess still under this interpretive clause—be allocated to either one of the individuals? And on what basis would that allocation occur?

Ms. Candice Metallic: Chief Price, would you like to take this?

Chief Lynda Price: I guess it would depend. Where I am chief, all of our *keya* areas, the way that we're set up, we call our traditional area. Our traditional area goes north to Naglico Lake, south to Potato Mountain and Tatlayoko Valley, west to Stuie and Kimsquit on the coast, and then it goes east to the Itcha-Ilgachuz mountain range. That is our traditional territory. When I look back at where all of our longhouses were allocated, I see we had specific reasons for those places being where they are, because they were on our *keya* territory.

What happened is that when our people were taken off the *keya* territory and put on reserve systems, the people were put on the Squinas traditional territory. Right now, Indian Affairs has set up a residential area on the Squinas traditional territory. Basically, that residential area belongs to the Squinas family. So tell me, how do you divide matrimonial property on that?

● (1215)

Mr. Rod Bruinooge: So in theory, if, for instance, the mother and her children weren't the preference of the community, then the home could be allocated to the father, I guess, or whoever else was living in the house.

Chief Lynda Price: Yes, but what I'm saying is that the matrimonial property is in question because the land issue is still in question. It will take us a while to get through that, I'm sure, to explain it, but it is an issue we need to address, for sure.

Chief Phil Fontaine: In fact, Mr. Bruinooge—if you don't mind, Mr. Chairman, a quick addition to this point—in our community the preference is to provide protection to the children. So to whoever has custody of the children, preferential treatment will be provided and has in fact traditionally been provided. If it's the woman, it's the woman. If it's the husband or the man, it's the man who would be afforded preferential treatment.

In fact, this is the way this has been handled in our communities for a long time. In isolated situations, maybe people haven't been treated fairly, and we admit that we have to do all we can to provide the appropriate protection for the rights and interests of all of our citizens, including women, children, and elders. That's why—the point I made earlier—we support the repeal of section 67 and support Bill C-44, with appropriate provisions for the protection of our interests as distinct governments in the country.

The Chair: Thank you.

Ms. Keeper.

Ms. Tina Keeper (Churchill, Lib.): Thank you, Mr. Chair.

I would like to thank National Chief Fontaine, Chief Price, and Ms. Metallic for presenting here today, because we're talking about a very important issue in terms of human rights.

I have 33 first nations in my riding. We have seen, certainly under this current government, a lot of concerns being raised, water being one of them. A community in my riding has been in a public health crisis for the last couple of years, and they are not on that water list.

They have one water truck. In the winter the pipes freeze up, and sometimes they can't even access water. They do not have an all-weather road; they have a winter road. They can't even have supplies brought in. Right now the province has said that they're going to cut down the days of the winter road, and they are trying to move in stuff, everything from fuel to supplies for building in the community. That community is not even on their list.

We have in this last budget, again, private housing. We don't even have adequate housing to begin with. We don't have—

The Chair: Let's have a question on the topic, which is Bill C-44.

Ms. Tina Keeper: There has been mention that this bill will put first nations on an equal footing, yet there has not been any suggestion, other than your recommendations, that there are going to be measures and resources to ensure that the equal footing will be met.

Can we talk about what the cost would be? Have you costed out what those resources might be in terms of institutions, development, capacity, and bringing things up to a level in terms of basic human rights being met in communities?

Chief Phil Fontaine: I would have to admit that all these measures we are recommending haven't been costed out.

The only point I would make, again, is that we need to ensure there's capacity within our communities to be able to respond fairly and appropriately and promptly to the provision of services to first nations citizens. If those have been denied, either deliberately or by circumstance, our fear is this. The way this particular legislation is being introduced and the suggestion that we don't need to consult with first nations citizens is not a good approach. There has to be appropriate consultation with our communities. We need the same kind of time other governments in the country were given; they had three years to be able to deal with the charter.

We don't want the integrity of our government to be compromised in any way. That's why we've offered a number of recommendations that we believe will strengthen this legislation. We're not here to try to undermine this important process or to try to put the brakes to this legislation. That is not what we're about. We want to see a real improvement that will make it better for everyone—the federal government, first nations, and first nations citizens.

● (1220)

Chief Lynda Price: I was going to respond by saying we would hope there would be an operational review, just to ensure that proper measures were taken to identify the costs and so forth.

Ms. Tina Keeper: I have a quick question.

In your presentation you say that section 25 of the charter does not apply to the Canadian Human Rights Act. Could you elaborate on that, please?

Ms. Candice Metallic: Sure. If you read the text of section 25, it says it applies only to the charter. It is right in the text of section 25.

A lot of individuals raise section 15 of the charter in many complaints that are brought to the courts on discrimination, which is fine, and then the Human Rights Tribunal and the courts can consider section 15.

However, there have been cases in which section 15 of the charter has not been raised. Section 25 would not apply if section 15 wasn't raised, so there may be instances within the context of the Canadian Human Rights Act in which someone alleges discrimination just based on the Canadian Human Rights Act alone, and not on the Charter of Rights and Freedoms.

That is why, for purposes of certainty and clarity, we think the non-derogation clause should also be included within the Canadian Human Rights Act itself.

Chief Phil Fontaine: I'll make one more quick intervention, and this is in response to your first question, Tina. It has to do with the costing out of these provisions.

We've recommended an 18-month review process. This would be a joint review process between the federal government and us. Part of the responsibility of this review would be the costing out of the various provisions, to ensure that there is appropriate capacity in our communities and that first nation governments can actually respond in the same way as we expect the federal government to respond to these matters.

The Chair: Thank you.

Mr. Albrecht, please—and we're on the five-minute round now.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair. My questions will be directed to Chief Price.

First of all, Chief Price, let me congratulate you and your family on your son's accomplishments in Sweden a few weeks back. I know all Canadians were proud of those accomplishments, although surely not as proud as you are.

I also want to acknowledge positively your recognition of your spiritual culture and values. I really believe our country is better served when we recognize those foundations. I was particularly pleased, at the launch of the polar year just a few week back, to see the Inuit elders asked to lead in the prayer at the beginning and the end of that service, and I commend you for that.

My questions are related to the interpretive clause and the phrases that have been put forward here. I think there are six of them. My concern would be with the number of different cultures that aboriginal communities reflect. There would be a large variety of issues. Would an interpretive clause be able to cover all of the what-ifs within the different cultures that exist?

Secondly, has this proposal in schedule B been put to the test in terms of putting it past the Canadian Human Rights Commission for comment, in terms of whether this might create problems or not?

Could you address those, please?

Chief Lynda Price: Thank you. I appreciate your congratulations. It was a unique experience, for sure.

What we're hoping for here is that we would probably take time to look this process through thoroughly. With every process, we need to have an opportunity to review it. I know that in certain cases this is the question that I had in the back of my mind as well. Having been a school trustee for many years, and understanding that we are dealing with unions and other people who have interests in providing services to us, we have to make sure we don't display discrimination against people. There has to be a balance. I believe our communities are able to do that. So far in my reign as chief, I have seen that all of the policies and procedures we've adopted so far at the council table make sure of that.

I know it's very difficult in rural communities, especially one such as ours—which is considered a wilderness community to a lot of people in Victoria—to find capacity and to find resource people to come in to work for us. A lot of times those positions are filled by non-native people, and most of our communities certainly understand that. However, at the same time, we have to try to build the capacity of our community members, so whatever process we develop will ensure that it doesn't discriminate, because the last thing we want to do is infringe on somebody's rights. For us to say we would be doing that would be inappropriate, and I have to say that is something we would hold high.

● (1225)

Mr. Harold Albrecht: I don't think you answered the second part of my question.

Chief Lynda Price: What was the second part?

Mr. Harold Albrecht: Maybe you did, in terms of whether this has been floated past the Canadian Human Rights Commission, in terms of getting the response from them as to whether it could potentially create some problems.

Chief Lynda Price: No, it hasn't.

Chief Phil Fontaine: Mr. Albrecht, these are the result of legal opinions. We haven't had discussions with the Canadian Human Rights Commission.

Our concern is that these would be incorporated as part of rights as opposed to legislation. If they were incorporated into the legislation, we believe they would have greater strength.

Mr. Harold Albrecht: Chief Price, you commented about the thirty years and the fact that there really wasn't consultation going on during that entire time. I think we all acknowledge that. Could you describe to us what adequate consultation might look like? I know we all want to do as much as possible.

You said you were a trustee. I was too. Obviously you can't always talk to each teacher or each person involved before you implement a new policy, so how would you envision adequate consultation?

Chief Lynda Price: That's something we're wrestling with right now in the province. I sit on the leadership council for the province and I work with the ministries. Right now, we're working through a consultation and accommodation framework. We have a joint working group on that.

That takes some time. We haven't come up with the template or the framework as of yet, but we understood that when the Delgamuukw and the Haida cases were completed, the policy that existed in the province for consultation wasn't working adequately. It wasn't working for the province, and it wasn't working for first nations. We needed to address how that would work better.

What we did was set up this working group to address this issue, and we're in the midst of it right now. We hope to get it done here fairly soon, and we'll probably be able to share that template once it's done.

As I said, it does take time. We don't have all the answers yet, but we do know for sure that there has to be a proper consultation process, to ensure that all of our views are noted.

The Chair: Do you think that template you're talking about as far as consultations are concerned is going to have to stand the test of the courts in order to determine what is adequate consultation? Do you really think that once you get this template, that's going to be the end of it?

Chief Lynda Price: As the judge says, we're all here to stay. What the province and the first nations in British Columbia are trying to do is stay out of the legal system as much as possible. Whatever frameworks they develop are to ensure that we do stay out of that process. Certainly that's our goal.

The Chair: So the idea is to get mutual agreement and consensus and then move forward. Okay. I just wanted some clarification on that. I didn't want to take any time from the next speaker.

● (1230)

Ms. Candice Metallic: May I comment on your question?

The Chair: Certainly.

Ms. Candice Metallic: The development of the policy is only going to be one aspect. That policy is going to have to be implemented, so determining whether the policy is going to be subjected to the courts is going to really rely a lot on part of the way it's implemented by the provincial government and by first nations.

The development of the policy is excellent, and doing it on a joint basis will likely prevent some of the challenges to it. But that's only one part of it, because it still has to be implemented as well.

The Chair: But that would reflect on comments about best practices and reasonable expectations for services, because you're going to be dealing with those too. Will those be tested by the courts, or are we going to try to determine them through negotiations with your communities or with the Government of Canada?

I'm taking more time here. I'm being unfair.

Chief Lynda Price: I would like to make a last comment on that as well.

It's more productive and beneficial for all of us to spend the money doing this process, versus ending up spending it in the court system.

The Chair: Thank you.

The Bloc, please, and Mr. Gaudet.

[*Translation*]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chair.

I am very happy to be with you this morning, replacing one of my colleagues who is out of town. I have a suggestion to make that I have not discussed with anyone.

Mr. Fontaine and Ms. Price, would you agree to your seven recommendations being included in Bill C-44? What argument would you present so that we could include them?

[*English*]

Chief Phil Fontaine: There are a couple of points, and Chief Price or Candice may wish to add to my comments.

We're dealing with the human rights of individuals, as well as the collective rights of first nations people. As we said earlier, we need to strike an appropriate balance between the two.

Given the important value we place on human rights here, domestically as well as internationally, we need to take whatever time is necessary to do this right.

We see this as very important. It would be wrong to rush this. We need to take the time to do it right, because it affects individuals and collectivities. We believe that if the seven recommendations were to be incorporated, they would serve the interests of first nations fairly.

Chief Lynda Price: I would say *owet'se*, which means yes, that's fine.

[*Translation*]

Mr. Roger Gaudet: Ms. Price, could you talk to us a little about the non-derogation clause mentioned in schedule A, on page 15 of the French version of the document entitled "First Nations Perspectives on Bill C-44 (Repeal of Section 67 of Canadian Human Rights Act)?" I can't say that I am familiar with all these questions.

[*English*]

Chief Phil Fontaine: The point was made earlier by legal counsel, and she may wish to reiterate those points.

Ms. Candice Metallic: I'd begin by referring back to the Constitution Act of 1982. When the document was being negotiated, our leaders of the day felt it was extremely important to ensure rights that were being discussed in the charter would not have an adverse impact on the aboriginal treaty rights of our people. They negotiated section 25, which means the interpretation of the Charter of Human Rights cannot be interpreted in a way that would have an adverse impact on aboriginal and treaty rights.

It's the purpose of a non-derogation clause. First nations people in this country have individual rights, but they also have collective rights that are constitutionally recognized and constitutionally protected.

The purpose of a non-derogation clause is to ensure that whoever is adjudicating a dispute about discrimination will be able to take into consideration the distinct and unique nature of aboriginal and treaty rights of first nations people in the consideration of the dispute at hand. It's essentially what the purpose of a non-derogation clause would be.

When the Canadian Human Rights Act is brought to bear on an individual's rights, it could be looked at in a manner that's consistent with the constitutionally protective rights of first nations people generally.

● (1235)

[*Translation*]

Mr. Roger Gaudet: Thank you, Ms. Price.

That is all, Mr. Chair.

[*English*]

The Chair: Mr. Blaney, please.

[*Translation*]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you.

Good morning, and thank you for being here. I will make my remarks in French.

I am pleased to see that the Assembly of First Nations looks favourably on the bill, accepting that you are telling us about the reservations you have and the improvements you would like to see. I have some questions, and some comments that I would like your opinion on.

In the document that you submitted to us, I noticed that you do not necessarily distinguish between the bill's impact on aboriginal people living on-reserve and its impact on those living off-reserve. Could you talk to us about the repercussions of the bill? Do you anticipate that the effects would be different depending on whether a person lives on-reserve or off-reserve?

You mentioned that Bill C-44, and the repeal of section 67 of the Canadian Human Rights Act, could require a significant amount of resources, or an increase in financial capacity. I am a little surprised by that request, because, as I understand it, independent aboriginal governments have not really experienced any particular increase in the number of complaints.

What is the difference between aboriginal governments and autonomous governments that would warrant additional resources?

Lastly, Chief Fontaine, your support in principle is surely based on your recognition that it is important to establish a new balance between individual rights and the collective rights of aboriginal peoples. This morning, you presented the case for ancestral rights very well. In my view, this is certainly a positive position.

Those are my comments and questions, and I would like to hear your thoughts on them.

[*English*]

Chief Phil Fontaine: I'll respond to part of it, and Chief Price wishes to add her comments as well.

First of all, the distinction here is between on-reserve and off-reserve first nation citizens. Our position is that first nation governments ought to be able to extend the provision of good government to all of our people regardless of residency. In many situations, for example, you have tribal councils and first nation governments that provide education services off-reserve. There are tribal councils that have property off-reserve. They deliver child welfare support programs to communities off-reserve, and this is done in cooperation with provincial governments, sometimes by reference and other times by certain arrangements.

In terms of the application of Bill C-44, however, we're talking about the Indian Act. The Indian Act applies only on-reserve, so there's a distinction there that's the result of the Indian Act.

In terms of capacity, the demands on government—the federal government, for example—would be similar to the demands that would be placed on first nation governments to provide to first nation citizens. For example, in housing, in the case of access for the disabled, there's a real cost to this, and we're faced with a crisis situation right now. So someone could come to us or someone could file against the first nations government, and a ruling could be made that causes the first nations government to respond to this. If you don't have capacity, if you don't have the wherewithal, the decision could be meaningless. The person could be further jeopardized, because the resources and capacity would not be there in our communities.

I don't know how else to explain this matter.

● (1240)

The Chair: We'll have a comment from Chief Price, and then I'll move to Madam Crowder for the last question.

Chief Lynda Price: I was just going to say that the Indian Act already causes discrimination to our people. There is discrimination, because when our people want services and they're not residing on-reserve because of lack of housing, that's discrimination. So the Indian Act itself is discriminatory against our members. I wanted to point that out with the off- and on-reserve issue.

You were surprised about the second issue, additional resources. It's no surprise if you come to our communities, and we invite you to ours. There are a lot of communities out there that don't even have the resources to build their own band offices. It's amazing, when you go to some of the communities. It's disheartening as well.

We were fortunate enough that we were able to generate a joint venture between the community and the government—the Ministry of Forests and the band—to set up a mill to employ 80 people in our community. In order to get there, we had to set up a road block. Isn't that sad for us to have to do that first? There's no need for that, and it's disheartening to me that we always have to fight for our way.

Without those resources from that joint venture, we wouldn't have been able to build a lot of the infrastructure, our community hall, our church. When we built those structures, we made sure there was provision for the disabled, but under the regime we have with the INAC system, the funds aren't there to do that. There's inadequate funding for capital.

I wanted to point out that we definitely need additional resources. You have to come out to our communities to see that.

The Chair: No, there are no more questions. We have Madam Crowder, and then we're finished.

Madam Crowder.

Ms. Jean Crowder: I have just a very quick question. It's about the interpretive clause once again.

When the minister came before the committee, he said that section 35 of the Constitution is already in place to recognize the collective aboriginal and treaty rights, and this is probably more a constitutional issue. The minister feels this would protect those rights. I wonder if you could say specifically why section 35 will not protect the collective rights and why there continues to be that need within the interpretive clause.

Ms. Candice Metallic: I think the minister is correct that section 35 will always be there to protect and to promote first nations inherent and recognized and established aboriginal treaty rights. The interpretive clause is a tool for any adjudicator or judge who's hearing a dispute against a first nation government or another organization or federal organization. It's a tool to guide them in how to balance collective rights with individual rights.

Ms. Jean Crowder: But the minister is saying that section 35 will do that. So what is missing in section 35?

Ms. Candice Metallic: Section 35 is not missing anything.

● (1245)

Ms. Jean Crowder: So it's not strong enough.

Ms. Candice Metallic: No, I think section 35 stands on its own, but the interpretive clause doesn't flesh out the details.

Ms. Jean Crowder: Okay, so it's detail that's missing.

Ms. Candice Metallic: That's what the interpretive clause is there to do. It's there to serve the adjudicators or judges, to guide them on how those collective rights can be balanced with individual rights. It's more detailed.

Ms. Jean Crowder: Do you have any examples of interpretive clauses already in existence that have worked for other nations, that the committee might be interested in looking at? You suggested one. Are there examples where it's already in effect somewhere?

Ms. Candice Metallic: There are some self-government agreements that have included interpretive clauses. We did look at those when we were drafting the one that we presented to you. But of course that was specific to a first nation. We wanted to make the clause sufficiently broad that it would accommodate diverse first nation cultures and values, and laws as well.

The Chair: Thank you.

Thank you very much to the witnesses. I think it was really informative—at least it was for me, and I'm sure it was for the rest of the committee members—about the issues that arise from Bill C-44.

The committee has a list of witnesses that we're going to continue with. We have also advertised for submissions from aboriginal communities and individuals, which will be received by the committee. We are going to go through this process, and if at the end of our witness list the committee feels it hasn't adequately heard enough witnesses and had that input, we will extend the list of witnesses.

Thank you very much. We really do appreciate the time you have taken to be with us today.

We'll adjourn for four minutes.

[*Proceedings continue in camera*]

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

Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
http://www.parl.gc.ca
