HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Aboriginal Affairs and Northern Development

AANO • NUMBER 071 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Thursday, May 2, 2013

Chair

Mr. Chris Warkentin

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● (0845)

[*English*]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I call this meeting to order. This is the 71st meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we continue our review of Bill C-428.

We have representation today from the First Nations Lands Advisory Board. It is a privilege to have five folks here from different regions.

We are privileged to have the chair of the board, a friend of mine and a friend to many in this room, Chief Louie. Thanks so much for being here.

Chief Bear, it's always wonderful to see you. Thank you for joining us as well.

We also have Ms. George-Wilson and Mr. McCue, and we have Mr. Henderson.

Thank you all for being here. We appreciate your willingness to come to Ottawa to join us in this review.

We'll turn it over to you for the first 10 minutes, and then we'll have some questions.

Chief Robert Louie (Chief, Westbank First Nation, and Chairman, First Nations Lands Advisory Board): As chairman of our Lands Advisory Board, I thank you, Mr. Chairman and honourable members of the committee, for providing me time to respond to Mr. Clarke's private member's bill, Bill C-428.

In preparation for today, I've had the opportunity to review the comments made by Mr. Rob Clarke on Tuesday, March 19, as well as comments from other groups appearing before you. Those groups include the Native Women's Association of Canada, the First Nations Financial Management Board, the BC of Assembly of First Nations, and the Canadian Bar Association.

I want to particularly commend to you the evidence of Regional Chief Jody Wilson-Raybould, who, in addition to her other duties and services to first nations, sits as director of the Lands Advisory Board. The distinction she draws between the provisions of Bill C-428 that repeal and amend archaic, dated, and even offensive provisions of the Indian Act on the one hand and the post-colonial amendments and additions on the other hand are very telling. You will recall that she has opposed what might be called the “modernizing provisions” of Bill C-428 because they would impose burdens on first nations and because they do not present options. In that, we join her.

As first nations identify their own priorities and governance strategies, they need options to pursue their individual goals and aspirations.

Everyone is not moving on the same issues at the same time, at the same speed, in the same way, or aiming for the same result. The Lands Advisory Board and the first nations who have become signatories to the Framework Agreement on First Nation Land Management have set their own course, and that course takes us outside the Indian Act and affords us the option of truly governing our reserve lands and resources. This has become an attractive option to many first nations, both those who have signed the framework agreement and many more who have signalled their desire to become signatories. Where we see real progress in governance in our case and similar progress on other fronts, we find options, not the heavy hand of Parliament prescribing one fix for all first nations.

Mr. Clarke, I have read your answers to the committee's questions. I certainly understand and appreciate what you are attempting to accomplish on behalf of aboriginal peoples.

I would like to quote a statement made by Mr. Clarke to the committee:

> I truly believe there's a consensus to replace the act. The real questions are, how should that happen, and what will replace it?

For years, many first nations leaders as well as the Government of Canada have said the Indian Act must be replaced. Mr. Clarke, you have made an attempt to turn words into action. Along with my colleagues, I commend you for your initiative. However, I sincerely believe that your intent would be more successfully realized if your proposals presented options for first nations rather than having them imposed. I say this based on the success that the Framework Agreement on First Nation Land Management and the ratifying document, the First Nation Land Management Act, has achieved.

Currently, 72 first nations are signatories to the framework agreement; 39 first nations have already enacted their land codes; 30 first nations are in the active development stage, preparing the land codes to be put to a community vote; 68 other first nations are on a waiting list. Canada has already committed to adding 25 new signatories during the next two years. The Lands Advisory Board is very appreciative of this support from Canada. Make no mistake, we could not have achieved the success we have without that support in our process, including significant financial support to first nations.

One of the key factors to the success of this historic first nations-led initiative is the fact that the process to assume jurisdiction and control over reserve lands is optional. All of our first nations have pursued or are pursuing jurisdiction over reserve lands and resources because they choose to pursue it. They think it is right for them and their communities to make the ultimate decision on whether to ratify the framework agreement and enact a land code.

● (0850)

The framework initiative began in the early 1990s with a small group of nine first nations. We were frustrated with the restrictive and outdated land-related provisions of the Indian Act. The decision-maker was the minister, not the community and not the chief and council. This was true whether the issue was the allotment of a certificate of possession, the issue of a permit to access or use reserve lands, or recommending a designation for leasing to the Governor in Council. It was tedious, it was cumbersome, it was time-consuming, and it wasn't working for our communities.

Over a period of years, we developed a well thought out and acceptable approach to removing these obstacles put in our way by the Indian Act. We tirelessly pursued discussions with Canada, with the provinces, with MPs of all political parties, and with first nations organizations such as the Assembly of First Nations. We consulted with numerous first nations across the country. The important point here is consultation: listening to and getting acceptance from our first nations people. Our group now includes approximately one-fifth, or 20%, of all first nations in Canada as either signatories to the framework agreement or those waiting to become signatories.

Mr. Clarke has also stated that "The true intent of the Bill C-428 is to create and aid freedom and independence for first nations." If that is indeed the intent, then create options, and make sure those options are real options in the sense that there are resources for independent first nations to be able, realistically, to select them.

Many witnesses have cited the example in Bill C-428 of the new process for enactment of bylaws that impose new burdens and responsibilities on first nations in terms of developing laws and publishing them. But it is not funded—not the development of bylaws, not the publication of bylaws, not the enforcement of bylaws, and not the legal defence of them if they are challenged.

There are optional alternatives to what Bill C-428 proposes. These alternatives exist now, are led by first nations, adhere to the requirement for consultation, are supported by Canada in partnership with first nations, and permit first nations to achieve what Mr. Clarke says he wants them to be able to do.

There is, as one alternative available, full self-government, which is what my community, the Westbank First Nation of British Columbia, opted to pursue and which we achieved. There is also in B.C. a second alternative, the treaty process, which is what the Tsawwassen First Nation of British Columbia has followed to a conclusion. I am happy to note that both my community and Tsawwassen had enacted land codes first. Elsewhere, we see framework agreements for education gaining a foothold in some regions. They are not universally popular, but they are optional.

On the economic front, there are several pieces of legislation that address first nations taxing powers, economic development, harmonizations of laws, and first nations borrowing for community purposes. First nations must choose to take up any of those options; they are not imposed. One significant alternative is a first nations land code under the framework agreement that provides for law-making procedures, publication of laws, conflict-of-interest guidelines, the sale of animals and crops, seizure of goods, and levy of fines, with the moneys going to the first nation.

Mr. Clarke has also stated to the committee, and I quote:

> ...I want to amend the bylaws, to empower first nations to form their own bylaws. ...I'm trying to repeal outdated sections of the Indian Act.
>
> What I'm trying to do is provide a solution for first nations, and I'm asking what their solutions would be.

The framework agreement is a workable and successful option that accomplishes all of what Mr. Clarke is seeking to achieve, and it accomplishes this based on the timing and priorities of the communities themselves and on their own free choice.

● (0855)

Mr. Clarke is a champion of our peoples. If Mr. Clarke would like to champion a cause, may I suggest that he urge Canada to make the framework agreement available to the other four-fifths, or 80%, of first nations who have not yet been given the opportunity to become signatories to the framework agreement.

Mr. Chairman, honourable members, thank you for your kind attention.

I, along with my colleagues, am certainly prepared to answer any questions the committee may have.

The Chair: Thank you, Chief. We appreciate those opening statements and those comments.

I'll turn to Ms. Crowder now for the first seven minutes.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Mr. Chair. Let me know when I'm halfway through my time because I'm going to share it with Mr. Bevington.

Thank you, Chief Louie.

I'll try to paraphrase this. What you're saying is that if we are interested in making significant changes to the Indian Act, a process similar to that done for the First Nations Land Management Act could be followed, in that there was significant consultation, it was driven by first nations, and it was optional. It was an opt-in process.

Is that correct?

Chief Robert Louie: That is correct.

Ms. Jean Crowder: We have heard from other witnesses that if we were to proceed with changes to the Indian Act—Wab Kinew came before us last week and said that what needed to happen was a commitment from government that the terms of reference for a process be developed with first nations, that adequate resources be allocated, and that timeframes be specified.

Would you agree with that?

Chief Robert Louie: I would, yes.

Ms. Jean Crowder: What we have before us is a piece of legislation driven...I think everybody would agree that Mr. Clarke had good intentions when he brought this legislation forward. We've all had conversations and experiences where we see the impact of the Indian Act on first nations. It's a colonialist piece of legislation. It was imposed on first nations way back when, and yet we're now in this place where, despite good intentions, this act is once again being imposed on first nations.

Would you agree with that?

Chief Robert Louie: Yes, I would.

I would add that some of those provisions, as Mr. Clarke has identified, are quite appropriately inappropriate in today's age. There's no question about that.

Ms. Jean Crowder: That's the challenge before us. We would agree that the sections on the residential schools need to be taken out. We would agree that some of those provisions around barter and trade need to be removed.

But it comes back down to the process and that this is being done without free, prior, and informed consent of first nations.

● (0900)

Chief Robert Louie: Yes, that's correct.

Ms. Jean Crowder: I want to touch on FNLMA for one moment. We've had conversations over the years, of course, and it's very good to see that 25 new signatories are being put in place over the next two years. That's good news.

But we have seen in past years where the government has not fully expended the money allocated for FNLMA. Do you anticipate that the funds allocated will be fully expended in the future?

Chief Robert Louie: There's a need for a lot more funding. There's no question about that. The funding is there, yes, it's committed, but it all has to be expended. In the past, we've had some issues in not having all of the expenditure dollars, simply because of delays.

We've had some amendments to the framework agreement and the legislation, which I believe have assisted the process and made it more timely to go through, to develop the land code. We've experienced all of that. Yes, of all of the dollars that are to be committed, there is a more than ample supply and demand to entertain proper expenditures. Those expenditures will provide significant returns to the first nations, to the community at large, to the general public, and to Canada generally.

Ms. Jean Crowder: Thank you, Chief Louie.

The rest of my time will go to Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you.

I agree that the positive thing about what we've done with this bill has been the discussion about the Indian Act. The hope for the future would be that the process—I don't think there's a situation that we can see in Canada where there wouldn't be some legislation in Parliament guiding the relationship between first nations and the Government of Canada.

Do you see a situation where there would be no legislation?

Chief Robert Louie: I don't know if I would agree with no legislation, but I would agree that any legislation that is developed, if it's going to be of significant benefit, should have the direct involvement of first nations. It must be something that first nations want and need. I'm sure there's a lot of room for that to occur.

Mr. Dennis Bevington: Do you think there would be a process in the future where first nations could come forward with the legislation that they would see as appropriate and then have the federal government negotiate with them on what that legislation should be?

In some ways, I think we're getting this backwards. First nations probably understand better than the Government of Canada what they need to make their lives complete. Here we are, trying to good-heartedly change legislation to fit with what first nations need, whereas there has to be some kind of upswelling of understanding from first nations as to what they want. Is that part of Idle No More? People are saying, “Look, we want to take charge of our lives.”

How do you see the process for the future?

Chief Robert Louie: What you suggest would be the ideal scenario. We would love to have the opportunity to develop proposed legislation, have it considered appropriately by government, and then hopefully have it passed as legislation. I think that would be the ideal situation.

Knowing that perhaps that may not be how reality will unfold, I can say that what has been successful in the past is something like the framework agreement. The principles and terms of the framework agreement were pre-negotiated and agreed to by the Government of Canada and by first nations.

That's still a unique process. It's still a process that is stand-alone. It's a process that has worked, and has worked extremely well, because those framework principles and guidelines have been incorporated into legislation, the First Nations Land Management Act.

It has been a joint agreement as to what should be in the legislation. I think that joint agreement has led to what I believe would be a very successful outcome. The outcome I think is reflected here today and by first nations who have implemented land codes.

● (0905)

The Chair: Thank you very much.

We'll turn to Mr. Boughen for the next seven minutes.

Mr. Ray Boughen (Palliser, CPC): Thank you, Mr. Chair, and thanks to the panel for taking time out of your busy day, I'm sure, to meet with us and discuss this matter before us.

The bill mandates that the Minister of Aboriginal Affairs is to work collectively with first nations to report on annual progress that talks about replacing and repealing the Indian Act with a set of laws that more respectfully outlines the relationship between the crown and first nations.

Do you agree that the Indian Act cannot be removed overnight?

Chief Robert Louie: Yes, I would agree. I think that's the reason why there have been very few changes since the first Indian Act was passed in the 1800s.

Mr. Ray Boughen: Would you see the proposed mandate of the Minister of Aboriginal Affairs as an opportunity to develop a consultation process that may repeal and replace the act? The proposal is consultation between the minister and first nations. How do you see that coming together for changes that need to be made in the act?

Chief Robert Louie: I can give you the best example that has worked by eliminating certain sections of the act, I believe 35 sections in total. That I refer to is the first nations land management process, the framework agreement.

For first nations who have opted into that legislation, it has provided for the elimination of the archaic—what we refer to as outdated—and the modernization of really what has to happen. That was taking jurisdiction and control of decision-making for laws, for how we are to deal with reserve lands and resources, and putting it into our perspective as a self-governing process.

So that portion of the Indian Act has in fact changed, but it has taken time to implement. When one goes through that process, it's certainly of benefit to know that it can happen, and it should happen.

To have a holistic, complete change of the Indian Act in its entirety takes very careful consideration. There are still very supported provisions in the existing Indian Act that perhaps should not be tinkered with. I only suggest that to you because they're seen as benefits to first nations.

I think it has to involve true consultation and true support. To have legislation completely changed without that support, without that consultation and direct involvement, I think would be the wrong process.

Mr. Ray Boughen: Chief Bear.

Chief Austin Bear (Director, Prairie Region, First Nations Lands Advisory Board): I think there are also other approaches that have to be considered. The Indian Act applies to first nations across the nation, all 634. But we already have agreements in place.

I'm going to speak particularly about the numbered treaties.

We have long-standing agreements with Canada—in fact, the crown. There are other treaties, pre-Confederation treaties, and there is new treaty-making, at least in British Columbia, if not in other areas.

We have to recognize, at least with the numbered treaties, that there are agreements. We have a treaty with the crown. Rather than amending the Indian Act, which will still apply to first nations all across the country, whether they are numbered treaty, non-treaty, or pre-Confederation.... What we have to examine here, particularly with the numbered treaties, is treaty implementation of those existing agreements.

We have agreements. In the numbered treaties, we don't need any further agreements. We have to implement those 11 treaty agreements. I think we have to look at different approaches, not one approach to once again satisfy all. The Indian Act has never done that; it will never do that. And we're trying to do the same thing again.

● (0910)

Mr. Ray Boughen: I'm interested in your experience in removing your community from the Indian Act. Could you outline for us what led you to follow that course of action?

Chief Robert Louie: Yes. To summarize it as clearly as I can, it goes back quite a number of years, to the process of the lands, reserves, and trusts review of the Indian Act, and the opportunity that led the government of the day to listen to us, as community chiefs, as first nations chiefs, to say what needed to be changed. When we did that, when we consulted with one another and seriously considered it, we noted that it could not happen with amendments to the Indian Act.

What has to happen, in our view, particularly if you're dealing with lands and resources.... It has to be the first nation. The first nation must be empowered with self-governance. The Indian Act doesn't do that. The Indian Act is a process, one of delegated authority. That is what's wrong with the existing Indian Act.

For many first nations, it will take time to develop that capacity. For us, involved in the land management process and in land codes being developed, it was that complete support, unanimous support, that let us know changes had to be made to the Indian Act. It was knowing that we collectively felt we had to have the self-governing inherent rights recognized for us as communities, as leaders of the communities, and as first nations collectively.

That is the process I think that has to work. Making amendments, or changes, to legislation like the Indian Act in itself I don't think is the way to go. It has to reflect full self-governance, and there are all kinds of studies all over North America that back up this statement.

The Chair: We'll turn to Ms. Bennett, for the next seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

Welcome.

I have to begin by apologizing that somehow your testimony is immediately before the hour of clause-by-clause. It's not the way Parliament is supposed to work. We should always have time, I think, to deliberate on wise testimony before we move into the process of deciding.

I also feel that what you've advised us, in terms of listening to the regional chief and explaining the proper way to go forward, makes the bill unacceptable, because it really is a job for first nations to lead the process to replace the Indian Act, with true consultation with all your people. You could then propose legislation that the government could then accept or negotiate, but it should come from first nations.

In the regional chief's testimony she advised that although well intentioned, the government's persistence in this is going to cause problems and have unintended consequences. This bill, because of the lack of consultation, is deeply flawed, and in terms of process it is unacceptable.

We have talked about whether private members legislation should actually have to meet a test of duty to consult or free, prior, and informed consent before it can be tabled, in the same way that we can't table things that cost money under private members legislation. Maybe we need a different test here in Parliament as to what is acceptable, or not acceptable, as private members business.

In the regional chief's testimony, she suggested that seeing that it's quite clear the government is going to pass this bill—they have the arithmetic to put it through—clauses 2, 3, 4, 5, 7, 10, and 13 should all be deleted, or that we should vote down those clauses.

I'm not sure what the government is going to do. They've obviously heard that the wills and estates part is really a mess. We'll see what the government does.

Could you explain the issue of special reserves, and how the ability to create special reserves would be removed, that the provision...? They say these are provisions only of historical importance, but it seems to be an area that has not been well thought through.

Can you explain a little bit more to us about why the regional chief suggested that clause should be removed?

● (0915)

Chief Robert Louie: I'd like to do that, and then ask some of my colleagues to also offer their comments.

Hon. Carolyn Bennett: I might have this incorrect. I'm looking at all the various numbers all over the place, but I now don't have clause 6 in her list to be removed. I know she had concerns.

But could you explain what could happen with this part of the bill?

Chief Robert Louie: If we're talking specifically about the special reserves under section 36 of the Indian Act, I know there are complications with that. There are historic issues that relate to how special reserves have been set up. We know there are court decisions, particularly out of British Columbia, that say a special reserve cannot be created without the consent of the crown. We know there are certain advantages of special reserves. I think the concern we have is that if Bill C-428 were to kill that option, there could be some unintended consequences.

I know that Mr. Henderson is certainly very familiar with the Indian Act and the special reserves, and he could perhaps offer some more enlightening comments.

Mr. Bill Henderson (Legal Advisor to Lands Board, Interim Lands Advisory Board): I don't know that I can add much to what Chief Louie has said, at least not as succinctly.

The special reserves go back to the earliest federal legislation, transferring lands that had been vested in commissioners, in Quebec, and in the maritime provinces. There were institutions like the Anti-Slavery and Aborigines' Protection Society and church institutions like the New England Company that held lands on behalf of Indians.

Over the years, most, if not all, have been converted to a federal title that would conform to the Indian Act. I don't guarantee that all of them have, and I don't guarantee that all of the conversions were smooth. Oka, a principal example, went to the Privy Council in 1912.

In any event, as Chief Louie said, because of the way clause 6 is worded in the bill, we would put in a new section, 36.1. That would continue the application of the Indian Act to special reserves as they exist prior to passage of this, but not after.

As Chief Louise described, the B.C. courts say that you can't have a special reserve, or create one, without the consent of the crown. The implication is that you can create a special reserve if the crown consents, or if perhaps two crowns consent, which may be an option, for economic development or other purposes. That is real, and it's in the act today. This has never been followed up, never been pursued. Still, it's worthy of consideration, worthy of study. Without that study, why kill it?

I think that's the analysis we've done.

The Chair: Thank you, very much.

We'll turn now to Mr. Clarke for the next seven minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair, and my thanks to the witnesses for coming in.

It's been a long haul to come this far, especially getting in at 10 p. m.

When I started this journey to look at the Indian Act...being first nations, and being born under the Indian Act, I think I can speak with first-hand knowledge. I always hear the opposition being critical, but they have never lived under the Indian Act. It's people like me, who were born under the Indian Act, who can speak with some clarity of the differences the Indian Act draws between the non-aboriginal and the aboriginal.

Chief Louie, I look at the Indian Act, and one of the things that currently isn't in it is a process that will compel the government to review the Indian Act on a yearly basis. There's nothing there.

I feel, as a first nations individual, that what the Indian Act really does is maintain the status quo. That's how I feel about the Indian Act: it promotes the status quo. There are countless studies out there, but we always come back to the same thing, the status quo.

With your first nations, Chief Louie, you led the charge. I remember years ago going to Westbank. I remember the trailers. Playing on the reserve as a child, where there was nothing, I remember seeing a person's vision to take that forward.

We hear all the opposition. Some have provided amendments, some haven't, but we're maintaining the status quo. I'm hoping to see amendments to my private member's bill that will improve the lives of first nations overall, through trade and self-governance. A lot of first nations communities don't have the capacity to look at their bylaws or to get ministerial approval. When you were last at the committee, and when we visited your community last year, you spoke about how the chiefs and council have a responsibility to answer to their band members, and you said this is something the Indian Act doesn't specifically provide for.

This bill has certain provisions, like the bylaw section, that are meant to empower grassroots members and to promote transparency. One of these provisions requires bands to publish their bylaws and make them accessible to band members. The intention of the section was to ensure that those affected by bylaws are aware of, and have access to, those bylaws.

It has been raised that requiring the band to provide a copy of the bylaw only to members of the band could be problematic, as bylaws affect all those living in the community, and your community has many non-band members living in it.

What is your thought on a possible amendment requiring a bylaw to be given to any person who requires one, as opposed to only members of the band?

● (0920)

Chief Robert Louie: That's a good question, Mr. Clarke.

We certainly publicize our laws appropriately. We don't use bylaws because we're a lawmaker. Consequently, as a lawmaker, we're not a subsidiary to another process. Our laws are published. Today you can pull up a list of all our laws on the Internet. They are certainly publicized to our members and are made available under due process through first, second, and third readings, a whole process that has the involvement of not only the community but an understanding by those who will be affected that the law is empowered.

The problem that I see with the proposal you seek in this Bill C-428 is that it could become far too cumbersome to take, let's say, a 30-page or a 40-page law—in some cases they're longer—and put it into a newspaper, to say this has to be publicized. We don't believe that would be prudent. There are other ways to do that.

For us, and for all the first nations who have land codes in place, proper publication does take place, and it's something that we see as necessary. So there are means to do that, we believe.

Mr. Rob Clarke: We see how other governments in Canada and first nations are treated differently with regard to bylaws. Do you believe the government should have the power to void a bylaw or to rule it null and void, and should the first nations have to wait a year and a half, two years, three years, or even more, for a bylaw to be passed?

● (0925)

Chief Robert Louie: I agree with you in that sense. I understand. I believe what you're suggesting in that case, where the minister has the authority or the power to disallow those bylaws, is the Indian Act process. Again, that's separate from what I'm trying to suggest to you with regard to law-making and that sort of thing.

But in that instance, I would agree with you. I would also agree with you for things like "...people acting in a fiduciary capacity cannot trade for profit with Indians" unless approved. Those things are archaic, there's no question, and I think there are situations that perhaps need to be changed. So I would agree with you in that instance.

I didn't go clause by clause in somewhat of an orderly or normal process. I think that's been done by our regional chief, Jody Wilson-Raybould. I didn't want to repeat any of the statements she made, because we agree with them.

Mr. Rob Clarke: Do you think there should be a process right now in the Indian Act that would compel the government to review the Indian Act on a yearly basis, in consultation and collaboration with first nations?

Chief Robert Louie: That's assuming there isn't an alternative process that will put first nations in a self-governing state. I think that's really the essence and the focus. If resources are going to occur, I think they'd be more appropriately spent to do that: to empower the first nations with self-governance powers. The problem we see with the Indian Act is that it doesn't empower first nations. First nations are subsidiaries to that, and they have to follow what's set by government. That's the wrong course. The first nations should be recognized as the governments. I think that's where the appropriate focus should be. That's all I can suggest to you. Things like the first nations land management process have been effective because we have been empowered and recognized as the governments. That's where I believe government should focus its attention. I think that's money much better spent.

The Chair: Thank you very much.

We'll turn now to Mr. Genest-Jourdain for five minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Good morning, Chief Louie.

You pointed out that one of the clear weaknesses of the bill we are studying is that it means additional requirements for First Nations, but that it does not seem to come with additional funding with which to implement the regulations. We have seen this same situation before with the First Nations Land Management Act. That did not come with a budget for site management and environmental assessment either.

Could you please shed some more light on that issue for us?

[*English*]

Chief Robert Louie: Perhaps I can answer it in this sense. I believe that appropriate governments, like first nations that have land codes in place, have to be accountable, have to be respectful of the communities they serve, and have to reflect good governance. That requires the creation of good laws. It requires publication of those laws to notify all who may be concerned that this is in fact the law that is applicable.

I think it takes those types of things to ensure that good governance occurs, and it must be supported by dollars. There is a cost to govern, and that cost of governing must be supported by the resources. Money is one part of it. I think assistance, through a resource such as the Lands Advisory Board resource centre, is supportive. Having training and programs available to support that certainly leads to good governance.

Perhaps my colleagues could answer that question further.

● (0930)

Mr. Bill Henderson: I'll try to contribute, because you did also ask about the environmental management under the Framework Agreement and the First Nations Land Management Act. I think that's a good example of the option not being entirely successful, because the history of environmental management under the framework agreement in the initial version of the First Nations Land Management Act had some hurdles to reach some agreements and to get some funding, and it wasn't just as in straight land laws and uncomplicated process. There was no disallowance, but there were contraventions and interventions along the way.

That process just didn't work. It didn't lead to environmental management, so in the latest round of amendments of the First Nations Land Management Act it was taken out. The first nations can pass laws for environmental management and they can establish environmental assessment. Those laws cannot be disallowed, and they don't require prior approval from anyone.

As Chief Louie has indicated, of course, there is always the perennial problem of funding enforcement and supporting those regimes once you've made the laws.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you, gentlemen.

[*English*]

Ms. Jean Crowder: Just really quickly, Chief Louie, it's been suggested that this bill will allow for a process for dismantling the Indian Act, but that's not actually what it says. It says that "... continuing its work in exploring creative options for the development of this new legislation...", and what is required is a report to Parliament on an annual basis, but in fact the report to Parliament could be that nothing has happened.

Part of the criticism around this is that it doesn't set out a process for the consultation with first nations. That's been a concern expressed.

Would you be more supportive if there were an actual process laid out to get to that place of consultation?

Chief Robert Louie: I would, and I understand what Mr. Clarke has formally suggested and why the question was put in that context.

I don't support the consequential amendments of the Indian Act, in general terms, because I simply don't agree with that governance component of it. It doesn't provide that governance component.

Notwithstanding that, the Indian Act still exists and is still applicable to the majority of first nations today. So I believe, and I agree with you, that a true consultative process to say what can happen...and if there is something that is needed to be changed, it should be an option provided to the first nations.

I think those types of suggestions would be very helpful and would certainly move first nations along at a much quicker pace, and I think it would be conducive to all kinds of things, like economic development and benefits for all Canadians, if that were in fact done.

The Chair: Thank you very much.

We'll turn now to Mr. Rathgeber for the next five minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses for your appearance here this morning.

Chief Louie, I was listening carefully to your opening comments and to the answers to the questions from my colleagues. I have a question regarding the amendment to proposed section 86.1 of the Indian Act, the publication provision.

I think you and other witnesses have expressed concern that the requirements are too onerous that a bylaw be published:

> on the Internet site of the band, in the First Nations Gazette and in a newspaper that has general circulation

Would you support an amendment to this legislation that changes the word "and", which is mandatory, to "or", which would allow publication in one of those three to be sufficient? Would that be more acceptable, in your view?

Chief Robert Louie: I think it would certainly be more acceptable. If you have lengthy laws, it should be the Internet, for certain, and not newspaper publication. That would be only one example. If that were the "or" that would be used, I would certainly agree with it.

● (0935)

Mr. Brent Rathgeber: We've also heard evidence that some first nations do not have up-to-date websites. I suspect that option should be made available to allow that condition to be satisfied. Would you agree with that?

Chief Robert Louie: I think so. Yes.

Mr. Brent Rathgeber: Go ahead, Ms. George-Wilson.

Ms. Leah George-Wilson (Director, British Columbia, First Nations Lands Advisory Board): Thank you.

I would like to respectfully point out that there are a number of first nations that don't have Internet, so having a provision that requires them to do something they don't have the capacity to do wouldn't be useful.

Mr. Brent Rathgeber: Right, and that's why I'm suggesting making it optional as opposed to publishing in all three—the website, the *First Nations Gazette*, and a newspaper of general circulation. If you made it one out of three, that might be a more reasonable option. I'm assuming you would agree with that.

Ms. Leah George-Wilson: I understand what you're saying, and I understand the question to Chief Louie. If you made this small change, would he be supportive? He's already said he's not supportive of the changes that have been suggested.

Mr. Brent Rathgeber: No, I'm not soliciting support for the entire legislation. I'm just trying to zero in on the publication bylaw issue, if you understand my question.

Ms. Leah George-Wilson: Yes, I understand your question. Pardon me, but speaking as an individual who's lived under the Indian Act and who hasn't had the benefit of self-government or a treaty, I can tell you that talking about changes to the Indian Act in this way, with the very little consultation that has been done, is difficult.

Mr. Brent Rathgeber: Thank you for that.

With respect to the First Nations Land Management Act, Chief Louie, you said there were 72 signatories.

Chief Robert Louie: Yes.

Mr. Brent Rathgeber: There are 39 prepared agreements and 68 first nations on the waiting list.

Chief Robert Louie: That's correct.

Mr. Brent Rathgeber: One of the suggestions you made in your opening comments was to allow the other four-fifths that are not signatories to the framework agreement to become signatories.

Chief Robert Louie: That's correct.

Mr. Brent Rathgeber: That's assuming they want to be.

Chief Robert Louie: That's correct.

Mr. Brent Rathgeber: You're a big proponent of opt in or opt out.

Chief Robert Louie: That's correct.

Mr. Brent Rathgeber: Do you have any information regarding the first nations that are neither signatories nor on the waiting list? How many of those, either in raw numbers or as a percentage, want to be covered by the Land Management Act?

Chief Robert Louie: We haven't gone out and solicited first nations across Canada. The first nations are coming to us, to government, to say they want to be involved. One out of five first nations are either involved or want to be involved. I know that as chairman of the Lands Advisory Board, I'm receiving continual calls, continual inquiries, and those numbers keep growing. They've grown exponentially over time.

In speaking with first nations that haven't yet considered this option, I believe the time will come when first nations will need to all be self-governing. I don't think it is something that won't happen; I think it must happen.

Mr. Brent Rathgeber: I agree with you that those who manage their own resources have enjoyed prosperity not enjoyed by others.

Why would a first nation not want to be subject to the First Nations Land Management Act? I know you're very much in favour of it.

Chief Robert Louie: That's correct. I suppose you have capacity issues. You have far northern, remote issues. I think those are factors. I know you may not have full councils that are 100% in support of changes. Because of divisions in chiefs and councils in their own governments, there isn't consensus. I believe those are issues as well.

I believe that the intent and the need of first nations is to have a process that empowers them. It's a matter of getting there, and I believe that will happen and must happen in the years to come.

● (0940)

Mr. Brent Rathgeber: Thank you so much.

The Chair: We turn now to Mr. Bevington for the final five minutes.

Mr. Dennis Bevington: There's so much to say and so much to do.

My history was in municipal government in the Northwest Territories. I was a mayor. I was president of the Northwest Territories Association of Communities. I remember when the Government of the Northwest Territories wanted to change municipal ordinances. I remember the process, and the respectful process they had to engage in to do that.

I sit here at this table and I wonder what is going on. We were creatures of the territorial government. Municipal governments are creatures of territorial government; they don't have constitutional status in this country. Yet the process was four or five years long. There was enormous consultation, with each community being addressed individually. The associations were asked to present in front of the legislative assembly. I did that myself on those issues.

I look at this and I wonder what is going on in this country.

You are governments. You have treaties with Canada. This is a process, a private member's bill brought forward by a well-intentioned individual, where the communities are being affected. You're taking away their...it's as simple as saying the right to legislate intoxicants on reserves. That alone should have gone to every single community for comment, because every single reserve may have a position on that.

I'm flabbergasted, the more I deal with this process. That's why I asked, what is the process? How do we go to treaty implementation? How do we actually come to grips with the relationship? I throw that out to you as the last question on the order paper I think on this particular bill. We're going to begin clause-by-clause after that.

That's where I'm at right now in my mind, so I'd appreciate your comments.

Chief Robert Louie: I think we've indicated quite clearly what we think works: the land management process. If the land management process were opened up to all first nations—at least the opportunity—that relationship would certainly be beneficial to everyone concerned. That's one of governance. That is capacity recognition. I think that's where the focus has to lie. I think that has to be the future. That's where you're going to have consequential things really happen.

Chief Austin Bear: I thank you for raising that concern and issue, Mr. Bevington.

When you mention treaty implementation.... In my comments earlier I was responding to your question: Do we need an Indian Act? Does it have to even exist? My answer to that is no. We don't need an Indian Act, particularly with respect to treaties, as I was trying to relate to the committee, and particularly the numbered treaties. We have an agreement between the nations that signed the numbered treaties. What we needed then and need now, for lack of a better term, is a treaty implementation act that identifies, determines, and binds the legal requirements of both parties to the treaty agreements. That's what I was alluding to.

Mr. Dennis Bevington: Does anyone else have a last comment on this?

The Chair: Ms. George-Wilson.

Ms. Leah George-Wilson: Thank you.

If we have to have an Indian Act, yes, there need to be changes, but not in a piecemeal way. It needs to be in a more fulsome manner, with a process for first nations to have options and to be consulted. If we don't have to have an Indian Act, then we're talking about self-government, and then we're talking about treaties and some kind of agreement between the crown and individual first nations. It doesn't need to be the Indian Act, but it needs to be something.

● (0945)

Chief Austin Bear: I do have one more comment, sir, if I may.

The Chair: Okay, we'll turn to the chief and then we'll finish up.

Chief Austin Bear: Very briefly, we're going down the same road with Parliament and the government in power. I'm going to take you back to just leading up to 1930. The very same thing occurred, where the government, with its will and authority, because of a majority government, or whatever the case was, enacted a natural resource transfer act or agreement that impacted on first nations land, without any consultation in those treaty nations and those treaty areas about how it impacted on the first nations in Manitoba, Alberta, and Saskatchewan. To this very day, our resources, without any compensation or opportunity for benefits from the resources and our treaty lands, have been wiped out by that natural resource transfer agreement.

There was a dreadful error made then by government, and as far as the numbered treaty nations in those three prairie provinces are concerned, I will speak again about making further detriments, by legislation, to the first nations of those treaty areas. I speak from the position of treaty, not from the strengths or weaknesses or impositions or imperfections of the Indian Act. I speak of a higher agreement, and that is the nation-to-nation agreement with respect, at least, to the numbered treaties.

The Chair: Thank you very much, Chiefs. We want to thank you for being here and for bringing testimony.

Ms. George-Wilson, we appreciate your testimony. And, gentlemen, thanks for joining us.

Colleagues, we'll suspend this meeting for the next five minutes to greet our guests, and then we'll proceed with the next portion of our meeting.

Chief Austin Bear: Thank you.

The Chair: The meeting is suspended.

● (0945)

(Pause)

● (0955)

The Chair: We'll call the meeting back to order, recognizing Ms. Crowder.

Ms. Jean Crowder: Thank you.

Mr. Chair, I'd like to move a motion that pursuant to Standing Order 97(1), the committee report to the House a recommendation that Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement, not be further proceeded with. I'm going to give you the following reasons.

Again, I want to recognize Mr. Clarke's work on this, and certainly he has accomplished his objective of having us talk about the Indian Act; however, I think with the number of witnesses who have come forward and expressed grave concerns about various sections of this bill, it requires much more study and consideration of the implications. I am suggesting that we do not proceed with this piece of legislation at this time and that we go back to the drawing board on it.

Thank you, Mr. Chair.

The Chair: Thank you, Ms. Crowder.

Ms. Bennett.

Hon. Carolyn Bennett: I would support the motion, in that I believe we've heard many witnesses to that effect, and there is great concern that this has been done without prior consultation. However well intentioned it was, the unintended consequences, but also the lack of consultation, mean that we ought not to proceed, and we would, again, be prepared to give all-party consent, I believe, to have it withdrawn.

The Chair: We'll move to a vote on the motion. I think we've heard the terms of the vote.

Ms. Jean Crowder: A recorded vote, please.

The Chair: We're being asked for a recorded vote. We will proceed.

(Motion negatived [See *Minutes of Proceedings*])

The Chair: That motion is defeated. We'll begin the process of moving through clause-by-clause consideration.

Pursuant to Standing Order 75(1), the consideration of the preamble and clause 1, the short title, are postponed to the end.

(On clause 2—*Report by Minister*)

The Chair: I recognize that a number of amendments are being proposed. Government amendment G-1, I believe, would be the first that we consider.

Mr. Rob Clarke: Thank you, Mr. Chair.

I've heard the testimony from the witnesses, and I'd like to propose an amendment that would require the minister to report within the first 10 sitting days that Parliament sits in each new calendar year, rather than January 31. Since the House does not resume sitting each year until the last Monday in January, as set out in Standing Order 28 (2)(a), this amendment would ensure that the minister has a period of 10 sitting days at the beginning of each calendar year to fulfill the reporting requirement.

The amendment also makes the correction to the minister's title in the English version, since his legal title, the Minister of Indian Affairs and Northern Development, and the title in the French version, which is *le ministre des Affaires indiennes et du Nord canadien*, are correct.

The proposed amendment would replace “First Nations organizations” with “First Nations”. This would respond to committee testimony where witnesses stated that discussions must occur with first nations as the treaty rights holders, and not their political organizations.

The Chair: Thank you, Mr. Clarke.

Before we proceed, I have some details with regard to this vote. I want you to note that if amendment G-1 is adopted, amendment G-6 will also be adopted, as it is consequential. Also, if G-1 is adopted, the question cannot be put on amendment NDP-1, as they both amend the same lines. The question on amendment NDP-5 also cannot be put.

Ms. Crowder.

Ms. Jean Crowder: Thank you, Mr. Chair.

I didn't realize that amendment NDP-1 wouldn't be allowed to be moved if this one were adopted, so I'm going to speak where I wasn't intending to, since I will be surprised if this motion doesn't pass.

We will not be able to support this amendment. This does not deal with the issues around consultation with first nations to establish appropriate terms of reference, identify the resources required, set timelines for the process, and so on.

Again, this is a very vague clause. There is nothing that would hold the government to account for what it's proposing. Also, it is again being done without the involvement of first nations, who would be directly impacted, so we cannot support this amendment.

● (1000)

The Chair: Thank you, Ms. Crowder.

I'm not seeing any additional speakers on amendment G-1. We'll move to a vote.

(Amendment agreed to)

(Clause 2 as amended agreed to)

(Clauses 3 to 6 inclusive agreed to)

(Clause 7 negatived)

(Clause 8 agreed to)

(On clause 9)

The Chair: On clause 9, I recognize there are some amendments, specifically amendment G-2. Would somebody move amendment G-2?

Mr. Clarke.

Mr. Rob Clarke: Mr. Chair, as noted in the response, the government's amendment number 2 clarifies the manner in which bylaws enacted under the Indian Act will come into force and provides first nations with discretion to provide an alternate coming into force date, something that is currently not available under section 81 and section 85.1 of the Indian Act.

The Chair: Mr. Clarke, have you finished?

Mr. Rob Clarke: The proposed amendment would repeal subsection 85.1(3). This would maintain the first nations' bylaw-making authorities to regulate intoxicants on first nations reserves, ensuring that all 259 bylaws currently in force remain in force. The amendment would repeal only subsection 85.1(3), which requires that copies of bylaws enacted under section 85.1 be sent to the minister within four days of their enactment. Removing the requirement for bylaws to be forwarded to the minister is consistent with clause 8 of the bill, which eliminates the requirement for copies of bylaws enacted under section 81 to be forwarded to the minister within four days.

The Chair: We've heard the amendment.

Ms. Crowder.

Ms. Jean Crowder: Nobody listening to this will understand what section 85 X, Y, or, Z is. I am just making clear that this now allows nations to develop bylaws with regard to intoxicants in place and simply removes the section dealing with the fact that

> (3) A copy of every by-law made under this section shall be sent by mail to the Minister by the chief or a member of the council of the band.

So it simply removes the clause dealing with sending it to the minister.

In that case we will support the amendment.

(Amendment agreed to)

(Clause 9 as amended agreed to)

(On clause 10)

The Chair: Amendment G-3 amends clause 10.

● (1005)

Mr. Rob Clarke: Thank you, Mr. Chair.

The proposed amendment would require first nations to publish bylaws in only one medium as they consider appropriate. This will provide first nations with the ability to choose which method of publication—for example, first nations website, *First Nations Gazette*, or newspaper—is most suitable for the community. The requirement to publish in all three mediums may place a financial burden on first nations.

The proposed amendment would ensure that publication requirements for first nations bylaws are similar to those for other levels of government and would guarantee unhindered access to first nations bylaws by anyone who may be subject to their application, enforcement, and adjudication. The issues of notification and accessibility to bylaws and their importance have been raised several times by the Standing Joint Committee for the Scrutiny of Regulations. Guaranteed accessibility is of crucial importance, not only to those who are subject to enforcement and eventual adjudication under the bylaws, but also to first nations' successful prosecution of alleged offenders.

This amendment provides for an explicit level of procedural fairness to those individuals who are subject to the application of the bylaws. As well, continued access to the bylaws while they remain in force is important to law enforcement representatives who may be responsible for enforcing them. It provides access to all individuals who are subject to enforcement and provides legal counsel and adjudications with access to the purposes of prosecuting or defending an alleged bylaw violation and/or deciding whether an individual contravened the provisions of a bylaw. Bylaws apply to any person on a reserve, not just to band members.

The proposed amendment would also clarify the manner in which a bylaw would be enacted under the Indian Act and when it would come into force. It would provide first nations with the discretion to provide an alternate coming into force date, something that is currently not available under sections 81 and 85.1 of the Indian Act.

Finally, the amendment maintains the existing numbering in the Indian Act. Since the new text replaces existing section 86, a new section 86.1 is not needed.

The Chair: Thank you.

Ms. Crowder, I just want to note that if amendment G-3 is adopted, the questions cannot be put on amendments NDP-2 and NDP-3, as they also amend the same lines.

Ms. Jean Crowder: Thank you, Mr. Chair.

Again, I understand that Mr. Clarke is attempting to listen to the concerns that have been raised by a number of witnesses. However, this still doesn't deal with the fact that—in my understanding of how this is read—if a first nation does not have an Internet site, that first nation will now be forced to publish in a newspaper because it says, "an Internet site, in the *First Nations Gazette* or in a newspaper".

If there's no Internet site, they'll have to resort to the newspapers. That's going to place an undue financial burden on first nations, and because this is a private member's bill, the member is not able to indicate that resources must be supplied to first nations in terms of capacity-building. So based on that, we will not be able to support that amendment.

The Chair: Not seeing any additional speakers to the amendment, all those in favour of G-3?

(Amendment agreed to)

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

(On clause 12)

The Chair: I recognize that the government has an amendment. They may want to move amendment G-4.

Mr. Clarke.

Mr. Rob Clarke: Thank you, Mr. Chair.

The proposed amendment to section 103 would allow intoxicants to be seized by a police officer, a peace officer, a superintendent, or a person authorized by the minister when he or she believes on reasonable grounds that the bylaw was contravened or an offence was committed. Without this amendment, explicit legislative authority to seize intoxicants would be missing.

This amendment is required because an amendment proposed to clause 9 would maintain authority for first nations to make bylaws regulating intoxicants. As a result, the power to seize intoxicants must also remain. The amendment also corrects the misspelling of "subsection" in reference to subsection 81(1).

● (1010)

The Chair: Thank you.

(Amendment agreed to)

(Clause 12 as amended agreed to)

(On clause 13)

The Chair: The NDP has a proposed amendment.

Ms. Jean Crowder: Thank you, Mr. Chair.

Currently, this clause says:

> Every fine imposed...by the council of a band...belongs to Her Majesty for the benefit of that band.

We're proposing that it be amended to say:

> (3) Any monetary amount collected as a result of the imposition of a fine under a by-law made by the council of a band under this Act is the property of the band.

Again, if people are talking about an intention of having first nations have more control, I'm not sure why the money has to flow through the crown in order for the first nations to have direct access to the fines that are levied by them. I recognize that one of our previous witnesses indicated that it may have implications in other sections, but we haven't heard anything specific on that.

Thank you, Mr. Chair.

The Chair: Thank you.

We're considering NDP-4 right now.

I have a note on NDP-4. If NDP-4 is adopted, the question cannot be put on government amendment G-5, as they both amend the same lines, so I don't know if that addresses maybe the question that was going to be asked.

Ms. Crowder, go ahead.

Ms. Jean Crowder: Can I ask a question of clarification?

I recognize that the government has put forward a similar amendment, and I don't have subsections (1) and (2) that do not apply, so I'm wondering if the government could provide some additional information about those subsections.

The Chair: Mr. Clarke, go ahead.

Mr. Rob Clarke: I could maybe clarify a little bit more.

This amendment empowers first nations to collect the fine moneys upon successful prosecution, directly from the courts. As a result, first nations will no longer need to ask the minister to disburse collected fine moneys back to the community. Subsections 104(1) and 104(2) no longer apply.

If adopted, clause 13 amends section 104 of the Indian Act to read as follows....

The Chair: Ms. Crowder, go ahead.

Ms. Jean Crowder: Mr. Chair, the problem is that it says "belongs to the band and subsections (1)". I wonder if that should read, "subsections 104(1) and (2)".

That's not what my copy of the amendment says. My copy of the amendment says—

Mr. Rob Clarke: It says subsections 104(1) and (2) no longer apply—

Ms. Jean Crowder: It says:

> (3) If a fine is imposed under a by-law made by the council of a band under this Act, it belongs to the band and subsections (1) and (2) do not apply.

My question is, should that say subsections 104(1) and 104(2)? No? I'm not a lawyer.

An hon. member: It does.

Ms. Jean Crowder: Oh, okay, my apologies. I didn't read it in context.

So given that clarification by the government, I understand that since I've already moved my motion, I would require unanimous consent to withdraw my motion.

I'm requesting unanimous consent to withdraw my motion.

The Chair: Seeing unanimous consent, that motion is withdrawn.

Recognizing that there is another amendment, and I think it's already been debated...would somebody like to move government amendment G-5?

Mr. Rob Clarke: Yes.

The Chair: That has now been moved. Is there any debate on government amendment G-5?

(Amendment agreed to [*See Minutes of Proceedings*]

(Clause 13 as amended agreed to)

(Clauses 14 to 19 inclusive agreed to)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

● (1015)

The Chair: We'll consider the preamble now. We have amendment NDP-5 that seeks to make amendments.

First, do you seek to...?

Ms. Jean Crowder: Thank you, Mr. Chair.

I'm moving that the preamble be amended by inserting

> legislation in consultation with the First Nations with regard to establishing appropriate terms of reference, identifying the resources required and setting timelines for the process;

Again, we've heard from a number of witnesses that changes to the Indian Act respectfully need to be done in consultation with the peoples who are going to be impacted by it. I would suggest that it would be important that for any changes to the Indian Act, terms of reference do need to be developed in conjunction with first nations. Consultation, as many have pointed out, isn't just about listening; it's about acting upon what you've heard. So we're proposing that amendment to the preamble.

The Chair: I have the difficult task of saying that this is out of order. The question cannot be put because amendment G-1 has already carried and because there haven't been additional amendments to the bill to warrant the changes to the preamble, recognizing that amendment G-6 has already carried as a result of the passage of G-1.

Shall the preamble as amended pass?

Some hon. members: Agreed.

The Chair: Shall the title pass?

Some hon. members: Agreed.

The Chair: Shall the bill as amended pass?

Ms. Jean Crowder: A recorded vote, please.

The Chair: We will move to a recorded vote on the bill as amended.

We are voting on the bill in its entirety—

Mr. Greg Rickford: I understand, Mr. Chair. Thank you.

Before we do that, could I have two minutes? Is that normal?

The Chair: It is not normal. We have called a vote on....

Ms. Jean Crowder: We're in middle of clauses. There's no amendment on the floor.

An hon. member: Can I speak to the motion?

The Chair: The truth is that people can speak to the motion if it's the desire to speak to the motion, which is the consideration of the bill as it has been amended.

Ms. Crowder.

Ms. Jean Crowder: What you're saying is that it's actually a motion about whether the bill shall carry.

The Chair: Yes.

Ms. Jean Crowder: So yes, of course you can speak.

The Chair: Is there a desire to speak to the motion?

Mr. Greg Rickford: No.

The Chair: Okay.

A recorded vote has been requested. Shall the bill as amended pass?

(Bill C-428 agreed to: yeas 6; nays 5)

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of this bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you, colleagues. We have completed that task.

Ms. Crowder.

● (1020)

Ms. Jean Crowder: Have we notified the committee about our plans for next week?

The Chair: Let me consult momentarily.

Colleagues, I do want to inform you that the subcommittee has made some decisions related to the next meetings. We do have plans to consider the land use study that we have been working on. You have had distributed to your offices copies of the issues and options paper compiled by our analysts. Ask your staff to see that and be ready to discuss that at the upcoming meetings.

The subcommittee is continuing to work out the schedule for the upcoming meetings, depending on a number of different factors, so we'll continue to work with them.

Mr. Rob Clarke: A point of order.

Forgive me, but under clause 7 there was an incidental amendment that was not recognized. I wonder if we removed it.

The Chair: I didn't see it. It has been carried. The bill has been considered and completed.

The clause was defeated, so it's impossible to amend a clause that has been defeated. I didn't see anybody seeking to move an amendment.

Mr. Rob Clarke: The question I have here is to Indians off reserve. Under subclause 4(3), which identifies sections of the Indian Act that do not apply to Indians living off reserve, including references to sections concerning wills and estates.... As a result of the defeat of clause 7, which leaves the wills and estates sections 42 to 48 of the Indian Act intact, subclause 4(3) should refer to all wills and estates sections of the Indian Act, namely sections 42 and 52.

I'm just hoping to correct that.

Ms. Jean Crowder: Was that an amendment in the package?

It wasn't an amendment in the package.

Mr. Rob Clarke: It was an amendment in the package.

Ms. Jean Crowder: Do you know which number it was? I don't see it in our package

The Chair: I think there is a desire to make an amendment to clause 4, and possibly clause 5, but I'll have our legislative clerk—

Mr. Rob Clarke: It's e004-002-19c.

The Chair: Do you know what it was in terms of the—

Mr. Rob Clarke: It's that Bill C-428 in clause 4 be amended by replacing line 19 on page 2—

The Chair: Which clause was it amending?

Mr. Rob Clarke: It was clause 4.

The Chair: It seems to me that if somehow this wasn't submitted or was missed in the process—we'll seek to find that out—it probably has to be amended at report stage in the House, at this point in time.

There is nothing that can be done at this point in committee. It probably has to be done at report stage in the House.

Colleagues, not seeing any additional discussion with regard to future business or any other matter, we will adjourn.

The committee meeting is adjourned.