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• (1105)

[English]

The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)): Good morning. I call this meeting to order. Welcome to meeting number 89 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

Let me go through my introductory comments.

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

We're continuing to meet on clause-by-clause of Bill C-53, an act respecting the recognition of certain Métis governments in Alberta, Ontario and Saskatchewan.

We only have members online today. The members online know how this works. I'm not going to go through all of the interpretation and muting and things.

I'd like to welcome back our officials who are joining us on a lovely Monday morning. Thank you for being here.

For clause-by-clause, I think everybody knows how it goes now. With regard to the point that was raised last week, I'll make sure I give an opportunity for people to weigh in, if they want to weigh in on any given clause.

Where we left off was with debate on clause 8 and amendment CPC-3.2.

I'll ask, from the Conservatives, whether a member would like to move CPC-3.2.

Mr. Zimmer.

Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC): Mr. Chair, I'd actually like to make a notice of motion for the following:

That the Standing Committee on Indigenous and Northern Affairs report to the House that it:

- a. recognizes that the newly elected premier of the Northwest Territories, R.J. Simpson, does not support the carbon tax and wants a complete exemption for the territory;
- b. recognizes that the Liberal government's carbon tax has disproportionately impacted northern and indigenous communities;
- c. agrees with the newly elected premier of the Northwest Territories that higher costs are not the solution;
- d. recognizes that the territories, first nations, Inuit and Métis should be equally exempt from the carbon tax.

I'd like to put that on notice.

The Northwest Territories, as most in this room know, went through an election several weeks ago. They go through a process where they select the premier from the current allotment of MLAs, so he was just made premier this Thursday.

One of his first comments to the public, in an interview on CBC, was about his request for an exemption from the carbon tax for the Northwest Territories. This is from the premier directly:

"I mean, ideally, a complete exemption for the territory is what we would hope for," said R.J. Simpson....

"The costs are [really] high—higher costs are not the solution up here."

The Chair: Mr. Zimmer, I'm sorry, but I've been reminded that, when you're giving notice of a motion, we can't debate it. We get the notice made, and then I have a list to speak to it.

Mr. Bob Zimmer: I just wanted to give some preamble for why I'm making the motion, so I'll get it done pretty quick here.

Most know that the Northwest Territories has set up their own carbon tax regime. They were given an option by the Prime Minister to either do it his way or to do it their own way, so they chose to go their own way. The reason was that they wanted to be able to provide their residents and citizens with rebates for the carbon tax. The Northwest Territories has some of the coldest temperatures in our country and they wanted some flexibility.

Sadly, this April, the Prime Minister said that they can't rebate their citizens and that wasn't what they had in mind when they said you have to come up with your own carbon tax, so there was a mandate that they had to get rid of those rebates.

Here we are again. We see the Prime Minister exempt certain areas of the country's home heating oil from being carbon-taxed, and this left out the Northwest Territories. To top it off, at the time that the Prime Minister made this announcement, they were going through a territorial election.

Here we are with an area that is the most impacted by the carbon tax, and it is still mandated that they have to have a carbon tax. Again, with regard to the first comments from this new premier, I'll use his own words:

"Here in the Northwest Territories, the cost of living is high. The cost of fuel, home heating, power—they've always been high. [If] high costs is what is going to get people to use green energy and green technology, we would have been doing that years ago," he said Sunday.

But a lack of infrastructure, connection to southern power grids and other factors make it hard to implement those technologies....

He made a comment about heat pumps. Often, when the question comes up about the carbon tax, the Liberal answer in the House of Commons is always, heat pumps, heat pumps, heat pumps. It's even to give people free heat pumps. Heat pumps are very expensive. In the premier's own words, "Heat pumps don't work up here in this climate".

I was recently—

• (1110)

The Chair: Mr. Zimmer, I'm sorry. I am going to cut you off here.

When you give a notice of motion, it's to put the motion on notice. The time to debate it will be in 48 hours, so during our next meeting, it will be in order for debate. I know that people had their hands up to also speak to it, but that's also not appropriate at this time.

We have the notice of motion now. It's there. The clock has started ticking to get it in order for debate, but at this point, I'm going to—

Mr. Bob Zimmer: Thank you, Mr. Chair.

I'll leave it there. We'll talk about it on Wednesday.

Thank you.

The Chair: That's perfect. That's greatly appreciated, Mr. Zimmer.

(On clause 8)

The Chair: I do have the question of CPC-3.2 and whether the member wants to move it. That one is Mr. Viersen's amendment, so I'll ask that question first.

Mr. Vidal has a point of order.

Mr. Gary Vidal (Desnethé—Missinippi—Churchill River, CPC): Mr. Chair, I'd like to speak to some general things around clause 8 before we get to the amendments, if that's all right. I have some questions around the clause itself before we get into the amendments.

The Chair: Can we get into...? Is it for the officials?

Mr. Gary Vidal: I'm sorry. I think it's actually appropriate to have a conversation before the amendments, because there's some language in the clause that I want to have clarified by the officials before we get into proposing amendments around it.

The Chair: We're on clause 8, so yes, please—

Mr. Gary Vidal: Is that fair?

The Chair: Yes, I'll give the floor to you, Mr. Vidal, and then we'll go back to Mr. Viersen to see if he wants to move his amendment.

Mr. Gary Vidal: Thank you, Mr. Chair.

I do have a couple questions for the officials today around clause 8 that I think are very legitimate. I want to start by reading the part that I want to flesh out a little bit. The clause itself starts:

The Government of Canada recognizes that a Métis government set out in column 1 of the schedule is an Indigenous governing body that is authorized to act

on behalf of the Métis collectivity set out in column 2 opposite that Métis government

If you go to the schedule, it's pretty obvious what that means. The question I have is around the use or definition of the term "Indigenous governing body". There's no definition of "Indigenous governing body" in this piece of legislation.

Over the weekend, I did some digging and some research. To be honest with you, what triggered my digging on this was that I got the notice of the Senate amendments to Bill C-29. One of the amendments that the Senate proposed for Bill C-29—which I believe is going to be on the agenda sometime this week, but those are moving targets as well—is an amendment to include under "governments" the connection to "Indigenous governing bodies". That caused me to look a little further for whether there is an accepted definition of that, what it means and how it expands what we're thinking about in clause 8 here. I went further to try to figure out what these definitions mean.

I went to the Métis National Council website, where it has an "Indigenous Governing Body" definition in reference to Bill C-92. That took me to Bill C-92, and there's a definition added in Bill C-92 that defines that—so there are so many other examples.

I said, "Okay, so where do we get the definition, and what do we accept as that definition for this bill?" I thought, "Okay, let's go back to the agreements," because this legislation is driven by the February agreements with each of the three bodies. Interestingly enough, there is a definition of "Indigenous governing body" in two of those three agreements but not in the third. If we flesh out that definition that Bill...

By the way, these definitions across all these other places are identical. I think they're the same. I want to read one of those definitions. On the Métis National Council website, it says:

An Indigenous Governing Body, is defined in the federal Act, as

"A council, government or other entity that is authorized to act on behalf of an Indigenous group, community, or people that hold rights recognized and affirmed by section 35 of the Constitution Act, 1982 (section 1)."

I'm trying to understand why this term has been added in this clause when the schedule very clearly talks about Métis governments and the collectivities that they represent. Now we're saying that they're also an indigenous governing body, which is a much broader definition, if I read these definitions. It includes other groups. It includes people. It includes communities. It doesn't anywhere in the definition talk about collectivities. It talks about...

Could you clarify for me and this committee the purpose of adding "Indigenous governing body" in clause 8? I did a word search, and that's the only place in the legislation where that term is used. In fact, the word "Indigenous" is only used, I think, five times in the legislation. Two of the times are in the Minister of Crown-Indigenous Relations' title, and two of them are in the title of the United Nations Declaration on the Rights of Indigenous Peoples. The only other place in the legislation where "Indigenous" appears is in clause 8 in "Indigenous governing body".

I would open it up to our experts here to try to explain to me why that term is there. Then, that'll probably lead me to try to flesh this out on my own a little bit, if you don't mind.

• (1115)

Ms. Julia Redmond (Legal Counsel, Department of Justice): To start with the number of references to “Indigenous governing body” in this bill, what is relevant in particular is that this is the operative provision when it comes to recognition. This is the one paragraph that is the most important when it comes to providing that recognition to the Métis governments that are putting forward or are part of this bill.

In terms of the number of references, that's the reason why you're not seeing it throughout. This is also partially a drafting technique. It's used where it's needed, and it's not used where it isn't. It's as simple as that.

As for the term itself, you referenced the definition of “Indigenous governing body” that comes from Bill C-92. That one, as you rightly noted, has a broad scope. It includes things like a council and a band. Here, we're not dealing with a council and we're not dealing with a band. We're dealing specifically with Métis governments.

Essentially, the content of that definition—an explanation of what an indigenous governing body is in this particular context—is spelled out in the provision itself. The important part of that is the notion that a Métis government is authorized to act on behalf of a collectivity. Essentially, it takes that broad definition that's used in very broad contexts—like Bill C-92, which is meant to apply to all manners of indigenous governments—and is applying it, simply, to the circumstances we have in the bill.

Mr. Gary Vidal: You're saying that the definition in Bill C-92 has a different purpose from the one it has here. Is that what I caught?

Maybe I didn't quite...but that's what I heard.

Ms. Julia Redmond: To clarify, Bill C-92 contemplates a broader set of possible indigenous governments than is covered in Bill C-53.

Bill C-53 concerns only Métis governments. We're talking about a particular category. It's a subset of indigenous governments. Because Bill C-92 is broader, the definition of “Indigenous governing body” makes sense in that it would capture a broader set of indigenous governments.

They're trying to do two different things.

Mr. Gary Vidal: Would you make the same argument about what the Senate is proposing on Bill C-29? Should what it's coming back to us with in this definition be included? That would be broader than the intent in this piece of legislation.

Ms. Julia Redmond: With all of these, it just comes down to the scope of the bill.

Here, we're talking about Métis governments, so the operative provision on recognition deals specifically with Métis governments.

Mr. Gary Vidal: I'm sorry. Why add the term, then? It already says “Métis government”. Why add the term? Why add the addition that it's an...?

My sense is that there's no definition in the bill, or there's nothing in the definitions section—I think that's in clause 2 of the bill, which has the definitions that we're going to talk about later—that defines “Indigenous governing body” differently from what I would accept.

In fact, the exact same definition that you talk about in Bill C-92 or Bill C-29, which is intended to have a broader purpose, is the same definition that is in the February 2023 agreements for both MNA and MN-S, although it's not in the agreement for MNO.

Why include the term in the first place?

Where I'm going with this is.... We've heard concerns from people from all three provinces—very much less so in Saskatchewan, I must admit—that they're being included in something without their choice. We talked about the definition of communities, peoples and collectivities. Further down that road, in the agreements, there are definitions of citizenship, for example. Maybe if we use citizenship as a definition in some of these things, we could alleviate some of....

My concern is that, with this broader definition, by adding the words “Indigenous governing body”, we're broadening the definition of Métis government to include groups of people who don't necessarily want to....

There was discussion with Mr. Viersen and some of the witnesses who were here about both the Métis communities and the locals within the provinces. They feel they're being included in this without their consent, knowledge or willingness. Is this why they're feeling that? Is it because of this broader definition?

I don't get how you can argue that it's a narrower definition here, when it's exactly the same term and there is no definition that differentiates that.

Does that make sense? Maybe somewhere along the way, we should add a definition that then clarifies that.

• (1120)

Mr. Michael Schintz (Federal Negotiations Manager, Negotiations - Central, Treaties and Aboriginal Government, Department of Crown-Indigenous Relations and Northern Affairs): Your question makes sense. I want to make sure I get all of the questions, because—

Mr. Gary Vidal: Yes. I should probably shorten the pieces up a bit for you.

Mr. Michael Schintz: One of the points I want to touch on... You referred to the 2023 agreements. If you were to do a word search in that agreement, you would note the only reference to an indigenous governing body is in the section dealing with Bill C-92. That's the singular reference.

In this instance, one of the challenges in the drafting is that there's an accepted definition of an indigenous governing body as our counsel has noted. That definition is somewhat broader, because it contemplates, for example, that there is an indigenous governing body that might represent a band. In this instance, we're not speaking about bands; we're speaking about these Métis governments. To include a definition, one of the challenges would be that there would be a reluctance to want to depart from the accepted definition found in Bill C-92.

What we're looking to suggest with clause 8 here is that these are indigenous governments. They've been authorized to represent rights holders, those who hold section 35 rights. Those are the two key components of the definition of an indigenous governing body as found in Bill C-92. I'm sorry, but I'm not familiar with Bill C-29 offhand.

I'm trying to answer your question, Mr. Vidal. I don't know if that does or doesn't. Please let me know.

Mr. Gary Vidal: Yes. I'm sorry, but I'm not trying to beat something. Why couldn't the terminology just be that it's a Métis government that is authorized to act on behalf of a Métis collectivity? Why do we have to specifically add that terminology? Why are we not just taking that out? If there's no accepted definition, if there's no understanding of what that means, and it's only a definition that applies to Bill C-92 or Bill C-29, or even in the February agreements.... There's a definition in the agreements, and you're saying the only reason it needs to be defined there is that there are references to Bill C-92 in the agreements.

Why are we including this in clause 8? I don't think I've heard an answer to that question.

Mr. Michael Schintz: To be fair, I am trying, Mr. Vidal.

There are a few reasons. One is that this legislation is codeveloped with our partners. This term, in part.... I don't know whether you're taking issue with the fact that these are indigenous governments that represent people who hold section 35 rights. There's a long history in Canada regarding the denial of Métis rights and challenges to the legitimacy, authenticity and authorization of these governments by Canada and other governments in this country.

Really, what I think this term has intended to signal, or make clear and explicit, is that these are indigenous governments. They've been authorized by people who hold section 35 rights. That's also why it makes reference to the schedule, the governments and the collectivities.

I hope you think that's an answer to your question. I'm happy to take a more specific question. I don't know if anyone else at this table wants to add anything.

Mr. Martin Reiher (Senior Assistant Deputy Minister, Treaties and Aboriginal Government, Department of Crown-Indigenous Relations and Northern Affairs): Mr. Chair, I'd like to add that, with respect to the concern that this might be too broad, the term is also characterized by the fact that it says "that is authorized to act on behalf of the Métis collectivity". The indigenous governing body is the concept that allows this provision to say that the Métis government is able to act as the government on behalf of the Métis collectivity. It specifies that it's about the Métis collecti-

ty that is referred to in the schedule. We believe it is actually focused towards the right body.

Mr. Michael Schintz: Could I just add one small point?

Mr. Gary Vidal: Absolutely, go ahead.

Mr. Michael Schintz: I would also note that there are proposed amendments that seek further clarity on the point of representation, namely NDP-4.2.

Mr. Gary Vidal: I get that.

I guess the other thing I would come back to is the clarity around the Métis government. Nobody is disputing the Métis government thing, or I haven't heard anybody disputing that. I'm not. I'm not disputing whether it's a government or whether it has rights. That's what we're doing here. In fact, in the definitions, there is a definition of a Métis government. It defines what it is, and that's why it's in the schedule that way.

If the broadening of the term includes indigenous groups, communities or people, we've had this discussion on community and collectivities. We said, no, it is collectivities, because that's how we recognize section 35 rights holders. I think that was the explanation. However, this term actually includes communities, groups and people, which now drills down to the level of individuals in my opinion.

I think we're broadening Métis government to something beyond what we all here understand this legislation to be. My concern is that we're trying to alleviate the fears of some of the people who are thinking they're caught up in something where we're telling them they're not.

Let's just be clear, so that we're not having a battle 10 years from now on this.

• (1125)

Ms. Julia Redmond: I don't think there's much to add from what has been said before. The federal understanding of this is that the term is being applied in the context particular to this bill, so "Indigenous governing body" here isn't with a broad definition that could capture all these others in a way that you're describing. It's applied here in the context of Métis governments authorized to represent Métis collectivities, all of which are listed in the schedule.

The Chair: There we go....

Mr. Gary Vidal: Then you're saying that the definition of "Indigenous governing body" that we hear across all these other pieces is different from what it is here.

Mr. Michael Schintz: I would say that the testimony has been that the term "Indigenous governing body" has been used in legislation where it is capturing a broader set of indigenous governments than we intend in this bill, which is only with respect to three Métis governments who represent the rights of their collectivities as listed in the schedule.

Mr. Gary Vidal: The line in the clause already says governments.... I'm sorry. Let me make sure. It says, a Métis government set out in column 1 of the schedule that is authorized to act. This whole clause is in essence about recognition and making sure we get the recognition right—the recognition which, with all due respect, you've just said is about the Métis government. However, when we add “Indigenous governing body”, I'm concerned that we broaden that, because in all other contexts that term means more than that.

For example, the Metis Settlements General Council talked about this. Is the MNA authorized to act on behalf of other groups? In the agreements, it's very clear. When I say “the agreements”, I'm talking about the February 23 agreements, and I'm going to use just one of them for now because I only had so many hours on the weekend to look at terms and definitions and whatever.

I'm thinking there's some commonality, but there are definitions of citizenship. There are definitions of.... I've already talked about “Indigenous government”. There are definitions. I'm looking at Saskatchewan in this case. For the “Métis Nation”, there's a very clear definition of who that is. When we think of that in the context of the schedule and column 1 and column 2, that's pretty clear if we go back to the reference of the definitions in the agreement. However, that's not in the legislation. There's no reference in the legislation to the agreements other than in the preamble, where it says:

Whereas the Métis Nation of Alberta, Métis Nation of Ontario and Métis Nation - Saskatchewan have signed self-government recognition and implementation agreements with the Government of Canada on February 23 and 24, 2023, and those agreements contemplate the parties negotiating self-government treaties;

There's no reference in this legislation, in my word search capabilities, to the agreements that were signed in February other than that.

• (1130)

Mr. Michael Schintz: There's a very specific reason for that, which is that this legislation does not implement or give legal force and effect to those agreements. The agreements set a framework for what the—

Mr. Gary Vidal: They stand on their own. Is that your point?

Mr. Michael Schintz: Yes. They're contracts that set a framework for what those treaties will look like, which will be.... This is the framework to give force and effect to those treaties in the future.

Mr. Gary Vidal: Yet this is the legislation that is contemplated in those agreements.

I'm sorry. We're just not rolling forward, in the actual legislation, any of these other specific definitions, and I think we could add clarity to ease the minds of some of the people concerned. We could add clarity if we answered some of these questions. I think we could ease the concerns of some of the people who have expressed their opinions to us over the course of—what?—the last couple of months as we've debated this and as we've had people sitting where you're sitting and talking about this.

That's where I'm coming from. Let's get this as right as possible so that we're not dealing with other litigation and court cases down the road someday from people who will say, “You could have done it when you did this, but you didn't.”

That's where I'm trying to come from here. It's to say, “Hey, let's get this right.” Let's get this right on the front end, so to speak.

Mr. Michael Schintz: I certainly understand. I don't have the power from this chair to propose amendments.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Do you want to suggest some?

Mr. Michael Schintz: I understand what you're saying. I noted that I think there are some amendments tabled before the committee that are upcoming and seek to add some of that clarity. I take your point, Mr. Vidal, and I have noted that.

The definition typically used for “Indigenous governing body” is somewhat broader than simply contemplating Métis governments.

I don't have much to add beyond what we've said thus far.

Mr. Gary Vidal: I'm going to come back to the question. I don't think I got an answer, earlier. Why is it here, then? I think this stands alone on its own without that term added. What's the purpose of it being here? Why did we add it in? Can somebody give...?

I don't think the other amendments we're contemplating later deal with this. They deal with communities versus collectivities. They do not deal with this term in the recognition clause.

Mr. Michael Schintz: You're quite right. I'm not intending, nor am I here, to mislead.

I've sought to answer this.

As an official who was part of the codevelopment process with our partners to arrive at the mutually supported text of this bill, I think there was a very specific interest in noting that these governments, which had their rights denied in the past—including by the Government of Canada until the Daniels decision in 2016, which made clear to Canada that Métis are a federal responsibility.... There's been a long history of denial of the rights and authenticity of these governments as indigenous governments.

I think it's been our testimony collectively here today that the use of that term does not do more than recognize that these Métis governments represent rights holders. I'm all for added clarity, but I don't think the risk you're concerned about and that you've laid out here today is created by the usage of the term in this provision.

Mr. Gary Vidal: I would have to ask a process question of the chair and the clerk.

In your opinion.... We haven't proposed an amendment to take it out of this clause, at this point. If we were to do that, would there be something lost?

Mr. Michael Schintz: I can say, confidently, that our partners would feel something is lost. Whether or not the effect of the clause would change.... I'll defer to my counsel in a moment, but I personally don't think it would. I also think that's a reason not to remove it, Mr. Vidal.

Ms. Julia Redmond: I would add that one of the other functions of that term is, essentially, to reflect what is now more commonly used to describe indigenous governments. That's not to say it imports every part of that definition, as we've described it. It's broader. It's meant to capture a broader set of indigenous governments. Here, it's being applied in context. It essentially applies a term we see being used more often in statutes now, and which is commonly understood, to mean what it says here.

• (1135)

Mr. Gary Vidal: I'm sorry. That just causes me to ask this question then: In a broader sense across the legislative process, or in legislation in general, when that term is used, is there...? When it's not defined differently, is the...? I've looked over a number of pieces, but I haven't looked across the legislative context of the entire Government of Canada, to be honest with you. Is there an accepted understanding across the government of that definition? You're saying that, in the context here, it means this, but in the context of how it's used uniformly across legislation in general, is that different? Is it the same?

If it's different, we should clarify that in the definitions here.

Ms. Julia Redmond: I think this goes back to the answer we've already given.

In contexts where the term "Indigenous governing body" is used in a bill that applies to all ranges of indigenous governments—these could include bands, councils or the different forms of indigenous governments we see across Canada—a definition can capture that range.

Here, that term is being applied in context. We're not talking about all types of indigenous governments. We're just talking about these Métis governments, which are a type of indigenous government. There's no need to capture that breadth of other possibilities, because it's simply not relevant to the bill.

To your question, yes, there's an understanding of what this means here. It's spelled out in that paragraph. They're authorized to act on behalf of the collectivity. That's what it means to be an indigenous governing body.

Mr. Gary Vidal: Mr. Chair, you might need the advice of the clerk, because I don't know this.

Before we are finished with clause 8, we have a couple of other amendments. If I wanted to draft a potential amendment, can you just clarify for me what the process would be?

The Chair: It would need to be in writing and submitted—

Mr. Gary Vidal: In writing... Right.

The Chair: Then we would work to see if it's in the appropriate place.

I've been advised, there is the possibility of a line conflict. Looking at CPC-3.2, that would have to be considered in deciding if the amendment would be accepted or not.

Mr. Gary Vidal: The process would simply be to make sure that we get it in writing and get it translated, but we have to do that before we move on to a new clause. If I needed to, I would need to just maybe have a minute to do that and to just clarify that there's not an issue with something else.

The Chair: Yes. The advice would be to work through the legislative counsel to make sure the wording is correct, and then, at the will of the committee, we could stand clause 8 while we're waiting for that to come in.

Mr. Gary Vidal: It wouldn't have to happen before we get to—

The Chair: No. We can stand clause 8 and continue on with the review of the legislation. Then, when you get your amendment, we can come back to clause 8.

Mr. Gary Vidal: Would that be a process that would satisfy all?

The Chair: Yes.

Mr. Gary Vidal: Okay.

I think I'm going to let it rest there for now, because I think there's that option. I think there's also an option because we do clause 2 at the end, which is the definitions, so we could come back and revisit this under the definitions at the end as well. I think that would be an option. Is that correct?

The Chair: Just to clarify, it's not at the very end, but it's—

Mr. Gary Vidal: It's later.

The Chair: —just before the very end. Yes.

Mr. Gary Vidal: We haven't done clause 2 yet. We skipped that and moved it—

The Chair: That's correct. Yes.

Mr. Gary Vidal: I'm going to let my argument stand at this point.

The Chair: All right.

I have Mr. Schmale next on my speaking list.

I'm sorry. We're still on clause 8 and not on the amendment.

Mr. Jamie Schmale: Right. Thank you, Chair.

The Chair: Okay. Go ahead.

Mr. Jamie Schmale: Thank you, Chair.

Thank you to the officials.

As we figure this whole thing out, I appreciate the answers.

Hearing what was just said, just so everyone knows, whether watching or listening at home or in this room, the goal through the testimony is to hear the pros of this bill, as well as some of the concerns we've received from different groups. When we hear a critique or criticism, and you can see this in our amendments, we're trying to alleviate some of those concerns so that we could have maybe a broader acceptance of this piece of legislation that seems to be raising a bit of conflict, if you will.

What my friend and colleague just mentioned was this definition. Perhaps it comes later on when we actually define it, if that's possible. You touched on it a bit, and I just want to drill down a little more into that.

Could the wording be specific of Métis governments? I recognize they are an indigenous government, but I think that's what the settlements were really concerned about, saying it has the potential, I guess, for the Métis Nation of Alberta to require that settlement members be part of MNA, even if they may want to. Maybe they don't want to, but there was that potential flag raised that it could impact the settlements.

I wonder if we might be best to potentially get a definition or even change the wording to specifically mention.... If you want to use "Indigenous governing body", I get that. Maybe we should take the time to define that.

Again, I go back to when we were implementing the UN declaration. One issue we saw was that "free, prior and informed consent" was not defined. I still maintain that if we had taken the time to drill down in this committee to define that, or if we had even brought in experts, such as yourselves, to help further define that language, we might have avoided some of the issues we've run into now. I think there's a question in there. I'm pretty sure there was.

Could we either further define it or switch the language to "Métis governing body" or something to that effect?

• (1140)

Ms. Julia Redmond: At the risk of repeating myself from before, this provision already does recognize that the Métis governments listed in the schedule represent the Métis collectivity listed in the same schedule. That notion that you raised of "can we bring in the idea of a Métis government" is included in here.

It's written that:

The Government of Canada recognizes that a Métis government set out in column 1 of the schedule is an Indigenous governing body

On the federal understanding of it, it doesn't broaden the term "Indigenous governing body". It does make reference to the specific category of indigenous governing body as in the Métis governments covered by this bill. Unless my colleagues have anything else, I have nothing to add.

The Chair: Could you repeat that Ms. Redmond?

Ms. Julia Redmond: Sure.

What I was trying to describe is that the concept of a Métis government is already within this paragraph. If there's a concern about "Indigenous governing body" somehow being read to be too broad, the text of this is laid out in such a way that it doesn't broaden it. It applies what can be a broad term to a specific context. It says a Métis government listed here is an indigenous governing body.

Mr. Michael Schintz: The one point I wanted to add.... I do know I am supposed to address the chair. It just feels awkward.

The one point I wanted to add, Mr. Chair—

The Chair: We are fairly flexible here, as long as things are going respectfully.

Please have the conversation.

Mr. Michael Schintz: That's noted. Thank you.

Not to continue to point to NDP-4.2, but I think the concern that you and Mr. Vidal are raising is that there are indigenous govern-

ments who have given testimony before this committee who have made clear their position that they have not authorized the MNA, for example, to act on their behalf. I think that's the same concern that you're touching on with this use of "Indigenous governing body". It's been our collective testimony that the concern is not founded in the operation of that clause. The clause does not go so far as to suggest that these governments act on behalf of those who have not authorized them, but I do think the issue is precisely what NDP-4.2 is also trying to address.

Whether a definition of "Indigenous governing body" would be helpful, I leave to the committee to determine. I do think you're touching on the same issue that MP Irlout has tried to resolve with her proposal of NDP-4.2.

• (1145)

Mr. Jamie Schmale: Okay.

Let me do a bit more research here. I think Mr. Viersen is up. Then I'll probably come back if he doesn't clear up what I need clarifying.

The Chair: Okay.

Mr. Viersen, you're up next on my list.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Thank you, Mr. Chair.

What happens if we just don't go with this clause and we just say, "No, it doesn't carry. Delete it right out?"

Does it totally destroy the whole piece of legislation, or would it leave enough ambiguity that it would still work but it may alleviate...?

Rather than amending it, what if we don't let the clause carry?

Mr. Michael Schintz: Mr. Viersen, the bill does two things.

It recognizes that these governments represent section 35 rights holders. As well, it provides the legislative framework to give force and effect to future self-government treaties.

The first purpose of this bill is accomplished entirely within section 8. The removal of that clause would remove one of the two functions of the bill.

Mr. Arnold Viersen: The crux of the concerns that we've been hearing from other folks who have showed up here, Mr. Chair, has been around the fact that there are Métis people, individuals in this country, who are not excited about the fact that the MNA for example, in Alberta, is being recognized as an indigenous governing body. That is the crux of the bill and the crux of the matter.

Also, around the MNO, there's Celeste, a university professor, who submitted quite a brief on the MNO. Then there was Adele Loosemore as well. Both of them contested whether the MNO was a legitimate indigenous governing body.

You would say that NDP-4.01 references the contesting of that a little bit. You would say that it would be the fix for those issues.

Mr. Michael Schintz: It's important to note that the jurisdiction of these governments will be over their citizens. Citizens need to make the positive choice to register, and they need to be vetted. I don't want to go down the road of describing our earlier testimony on that process.

I think that NDP-4.2 is a way to give further clarity, to show that this committee has heard the concerns that have been raised before it, and that this bill explicitly does not deal with the rights of those who have not authorized these governments to advance their rights.

Mr. Arnold Viersen: I understand that. Both of those briefs that I referenced and then a number of other indigenous governments who showed up here contested whether these Métis governments are actually indigenous governments.

That is the challenge that we are faced with in regard to this bill. We've seen.... This is hard work. It's tough work to try to establish who is a Métis government, who are Métis individuals and who are Métis communities. These are things that are obvious to see, but when they're getting federal government recognition or entering into treaties with the federal government, it becomes a little more, sometimes, quite disputed as to who is a Métis indigenous government.

It was stated here at this committee that signing a treaty with the MNA is kind of like signing a treaty with the AFN. It's an advocacy organization, not necessarily an indigenous governing body.

That's the challenge, I think, Mr. Chair, around how we.... I think there is a legitimate concern that people have raised here, where the federal government has handed out millions of dollars—from my estimates, more than \$75 million—to particular organizations to create them or to establish them as a treaty partner, when that may not have been the case. It's just that they got a whole bunch of money from the federal government, which enabled them to go around collecting members and establishing themselves as a Métis government, but it doesn't necessarily.... The federal government may have been making them out of.... I wouldn't say out of whole cloth, but they were taking what was an advocacy organization and turning it into an indigenous governing body. How do we reconcile that? How do we reference that? That is the crux of it.

I understand that, if we pull this out, we do away with that and that does away with one big chunk of the bill, so maybe that isn't the ideal situation. Perhaps the government should have taken its time a little more or considered the ramifications of handing out millions of dollars to one particular advocacy group, particularly in Alberta, which is the situation that I know best, where we have Métis communities with self governance. To go and then hand out money to the MNA to establish themselves as a government puts up a major competition.

I'll have to think about this a little more as to how we fix this problem.

Thank you, Mr. Chair.

• (1150)

The Chair: Thank you.

Ms. Idlout, you're next on my list.

Ms. Lori Idlout (Nunavut, NDP): *Qujannamiik.*

Uplaakut. Good morning.

I don't get to say “*uplaakut*” to this group very often. We normally meet in the afternoons.

I do appreciate the line of questioning from the Conservatives this morning.

Based on the responses from the table, from the witnesses, I do have some questions that I want to get clarification on. In Canada's history, with Canada's colonial history, what Canada did to get rid of not just our cultures, not just our languages but our governments is still felt today.

I think the fact that we have to use legislation to recognize their self-government is what's frustrating, and that's what we've heard from first nations and Métis throughout this study. The fact is that legislation recognizing an indigenous governing body is still a form of colonialism.

Having said that, I've always tried in this study to make sure that I'm founded in the fact that Métis do inherently have a right to self-government. Through this study, we've learned that there have been a lot of infringements and valid concerns about what this Liberal government has done to get Bill C-53 on the table. Because of that, we've heard that a lot of division has been created, not just between first nations and Métis, but Métis against Métis, which is the most disrespect that I've seen.

It's so unfortunate that we learned through this study that while MNA, the Métis Nation of Alberta, was doing great work to be recognized as a self-governing body, at the same time, the Metis Settlement General Council was being ignored and was not a part of these discussions. To see that division in Alberta between the Métis is a huge injustice, and that's what we're grappling with here today. That's what we, as parliamentarians, are trying to reconcile, because we should not be seen to be trying to diminish the good work of the MNA because of what it will cost to the Metis Settlement General Council.

We do need a lot of clarifications if we're going to support this bill because we do not want to.... I know I do not want to play a part in creating more division among indigenous peoples.

When you were responding to Mr. Vidal about indigenous governing bodies, one of the responses from you was that Bill C-53 was codeveloped with partners. Can you talk more about what that process was and why it is that your partners are so adamant that “Indigenous governing body” be included in clause 8?

That's my first question.

• (1155)

Mr. Michael Schintz: In part, the codevelopment was done through the development of the February 2023 agreement, which set certain criteria that the legislation was intended to fulfill. Included among those criteria was recognition—recognition of their governments and recognition that they represent section 35 rights-holding collectivities.

The term “Indigenous governing body”.... I've been advised that we should not repeat our testimony, but I want to be seen to be answering questions.

In the spirit of that, our partners pointed to a history of the denial of their rights and the rights of their collectivities, and they specifically wanted a reference to an indigenous governing body, as they wanted explicit recognition that they are indigenous governments, because for many years they were ignored and weren't treated as such.

The process of codevelopment itself was a confirmation of their support of the text of the bill before introduction.

I don't know if my team has anything to add.

Mr. Martin Reiher: Thank you, Mr. Schintz.

I would like to add, Mr. Chair, that indeed, as indicated, we have been working with the Métis Nation of Alberta and other Métis governments referred to by this government and have listened to how they want to proceed. We are also at the table in discussions with the Metis Settlements General Council, and this department is not ignoring their wishes. We are working with them. It's just on a different path at the time, but we are pursuing that path.

Thank you.

Ms. Lori Idlout: That flows logically to my next question.

When you were talking about your partners in developing Bill C-53, was the Metis Settlements General Council considered a partner in this codevelopment process?

Mr. Martin Reiher: I will answer that question. When we discuss the self-determination vision of partners, we discuss it with these specific partners. It's only once we have agreed on a path forward that we ask ourselves whether there's a need to engage or consult with third parties.

In the context of the agreements that were entered into in February, these are agreements and not treaties at this time. They just deal with core governance. We didn't feel the need to consult with third parties. Once we enter into treaties, that may impact other potential rights holders we will consult.

With respect to the MSGC, the Metis Settlements General Council, I did send a letter informing them of the agreement in February, if I recall correctly, of this year, and I received correspondence.

● (1200)

Ms. Lori Idlout: Can you give us details about that correspondence? If that correspondence is all that you're using to delineate between the Métis, is that sufficient in your exercise?

Mr. Martin Reiher: The letter I sent to President Lamouche was to inform him of this and provide him information.

Again, this is not an attempt to delineate Métis per se. This legislation and the agreements that we entered into with MNA, MNO and MN-S do not affect the Metis Settlements General Council.

We are pursuing discussions with the MSGC.

Ms. Lori Idlout: When you're talking about core Métis governance in Alberta, and Bill C-53 seeks to recognize the Métis Nation

of Alberta, setting aside that there are separate negotiations, do you think that...?

Also, this bill talks about UNDRIP and when the duty to consult would be triggered. Have you analyzed whether free, prior and informed consent has been triggered, considering that core governance in one territory would be impacted against another?

Mr. Martin Reiher: What we have entered into so far are agreements that are binding on the parties only. In that context, our analysis was that there was no need to consult.

The next step will be to enter into treaties with our partners, MNA, MNO and MN-S. At that point, we will consider again who should be consulted. It's at that point that we will consider whether that potential duty is triggered.

Ms. Lori Idlout: I guess I'm not feeling more informed about what feels like a fast-tracking of one Métis right to self-government as opposed to another in the same territory. It would be so useful to understand how that worked and in what way the Metis Settlements General Council formed part of the decision-making as to what would happen with Bill C-53. I don't know what limitations you have to share that information.

When we need to recognize, unfortunately, through this process that Métis have the right to self-government, I am very concerned with what's going to happen in Alberta, based on the testimony that we heard, because individuals can choose who they want to represent them. What will happen with the citizenship of the Metis Settlements General Council because of what's happening with the recognition of the Métis Nation of Alberta?

● (1205)

Mr. Martin Reiher: I'm happy to provide a few comments about that.

Indeed, individuals have the ability to choose. They cannot be imposed on to be represented by any given group or body. However, they have to meet the criteria and have a connection with a historical Métis community. It's not just a free choice. That's the first point.

The second point is with respect to the Métis settlements of Alberta. There is a clause in the agreement with MNA allowing dual membership. It depends on how these two organizations work together in the future. My understanding is that there's a willingness to work together. They should be able to move forward alongside...depending on their own visions.

Mr. Michael Schintz: I just want to make a few comments, some of which are a rehashing of testimony we've given over the last number of days.

I know there have been concerns about and accusations of a lack of consultation over the February 2023 agreement. That agreement is a contract and it's binding only on the parties. That informed part of our decision about whether or not there was an obligation to consult.

This legislation includes recognition of certain Métis government partners that we've been working with for many years to get to this point. Similarly, our determination was that to recognize, for example, the MNA does not have an adverse impact on other governments, even in Alberta, because we're not abrogating or derogating from the rights of other indigenous groups.

When we negotiate treaties with our partners, we will be required—I spoke about this some days ago—to sit down with indigenous groups that feel their rights will potentially be adversely impacted by the terms of that treaty. They will have that treaty in their hands. We need to assure ourselves that there are not adverse impacts or even unintended adverse impacts on, for example, the Métis settlements.

That's a very involved process at that stage, going through every detail of those treaties and getting to a place where we can confidently recommend as government officials that we've done everything to ensure no adverse impacts on other indigenous partners.

The Chair: Thanks, Ms. Idlout.

Next on my list, I have Mr. Schmale. I think you put a placeholder...

Mr. Jamie Schmale: I think it was Gary and then me.

The Chair: I had Gary after you.

Mr. Jamie Schmale: It's okay if Gary goes first, because his questions are going to lead into what I want to ask about.

I'll let him go first and then I'll scoot in, if that's okay.

The Chair: Okay.

Go ahead, Mr. Vidal.

Mr. Gary Vidal: To come back to where I was, I'm trying to figure out something definition-wise that, in my opinion, if I were going to propose an amendment, might work. As it turns out, I also have the privilege of working on the first nations water legislation and the consultation process. There are rumours that we'll hear that today. In that consultation draft of the water legislation, there's actually a definition that talks about a first nation governing body. That legislation is specific to first nations. They've actually taken a definition specifically to refer to a first nation governing body.

I can't find anything that says "Métis governing body" anywhere. The points we're talking about very clearly and your explanations have been around defining this strictly as a Métis government. My question around that would be that, if we were to change this language from "Indigenous governing body" to "Métis governing body", and then put in a definition like in the proposed water legislation—or in the draft, as I'm not sure it'll be in the final—would there potentially be a compromise there? I'm not sure if that's the right word, but maybe it would be the compromise that leads to clarity that would satisfy the needs of, as you talked about, your partners in codevelopment.

I'm looking for a solution here. I hope you can see that from this perspective. I'm looking for an answer. Rather than draft an amendment that will get shot to heck because it doesn't meet some kind of proper process or whatever and doesn't solve the issue, I'm looking for some guidance and some input, maybe, from the table that

would give me some direction as to how I might propose that, if I were to do that—if that makes sense.

I can't find an actual definition out there. Is there a definition beyond "Indigenous governing body" that is more specific here? I mean, to my understanding, this is kind of emerging stuff, with some newer terms and newer definitions. Is there a way that we can maybe approach this that would be a compromise?

● (1210)

Ms. Julia Redmond: To start, I want to turn to the terms or the content of this bill to answer your question.

We have a definition right now of Métis government that simply refers to the schedule. Then we have at clause 8, which we're discussing right now, a description that makes this reference to "Indigenous governing body" and applies the concept of a Métis government being authorized to act on behalf of a collectivity. As I said before, the content that's there essentially repeats the relevant function of this definition of "Indigenous governing body" referred to elsewhere. It applies the important notion of being authorized to act.

Including a definition for a term like that is not the only way to get that clarity. It's spelled out here in clause 8. It's not to say that a definition couldn't be included, but it would serve the same function as the text that you have before you, which is to apply this idea that a Métis government, which in this case is a category of an indigenous governing body, is authorized to act on behalf of a collectivity in the schedule.

Mr. Martin Reiher: Perhaps I can add to that.

In drafting, we usually include a definition in a bill when a word or an expression is used several times. Here it's just used once. The definition is actually in clause 8 itself.

Mr. Gary Vidal: I'm not a lawyer. Let's be clear about that. I've had to deal with legislation over my lifetime in my accounting profession, but I'm sorry. To say that it's defined here when everywhere I read there are definitions that are different, I have a hard time applying that in a practical and common-sense way where the rubber meets the road.

I'm not a lawyer and I'm not trying to...but with all due respect, I don't get how it's defined there when it's just a term that's put in the middle of a clause. How am I supposed to define it when I go and look it up and good old Google takes me to all kinds of other pieces of legislation of the Government of Canada that define it very clearly? How am I not to assume that it's the same definition when that definition is broadened to include people and other groups and communities? We've had a long debate that this isn't about community, so I'm really struggling with that explanation.

I don't mean to be disrespectful, but I'm really struggling with how I'm not supposed to assume or get to the conclusion that the definition that I read everywhere else is not the one that applies here.

Ms. Julia Redmond: I don't think we have much more to add on this. I can repeat the previous point I've made, which is that the core concept of that definition of "Indigenous governing body" is the notion of being authorized to act on behalf of a collectivity. I think you'll see that spelled out in clause 8. Beyond that, I have nothing to add.

Mr. Gary Vidal: In fairness, without that term there, if I read this, it says, "The Government of Canada recognizes that a Métis government set out in column 1 of the schedule" and then continues:

is authorized to act on behalf of the Métis collectivity set out in column 2 opposite that Métis government and that the Métis collectivity holds the right to self-determination, including the inherent right of self-government recognized and affirmed by section 35 of the Constitution Act

What have I lost?

Ms. Julia Redmond: I think we've spoken already to the idea that including this term for our partners is something that's very important. As I've mentioned before, it applies a term that is more and more often used in other statutes to mean the same thing.

Mr. Gary Vidal: I know Mr. Schmale wants to speak, Chair, but I just want to be clear that I want to be granted the opportunity to draft something that would be acceptable to the partners she refers to. I'll speak to them to make sure that we don't have a legislative issue with the language that you referred to before from the legislative clerk.

I just want to make sure I have the opportunity to do that, and I don't have to do it in the middle of today's meeting. If I have to do that, then I will start drafting now, but I'm not going to be able to obviously get the legislative clerk's approval on that, as we have the discussion today.

I just want to make sure that I have the opportunity to do that. If we can agree to come back to this at the next meeting or something like that, I want to make sure that's on the record, and then I'll pass to Mr. Schmale if he was next on your list.

Thank you.

• (1215)

The Chair: I would say that the question is whether you would want to stand clause 8 at this point and we can move on. I do have one other person on the speaking list, if there are any further questions, but we could stand clause 8 at this point.

Mr. Gary Vidal: I'm happy to have the debate around the other amendments—that might actually provide some clarity—and then stand it at the end of that. I want to make sure that the opportunity's still open at that point.

The Chair: Once we move beyond this discussion and get into the CPC-3.2 amendment, that will create a line conflict potentially, so we'll need to know what we're dealing with.

I think it would be in the committee's interest to either stand clause 8 or deal with whatever amendment is brought forward, and then that will tell us what other subsequent amendments are in line or not.

Mr. Gary Vidal: I'm sorry. Is the reverse not also true then? Just logically if we approve other amendments, then I will know whether my amendment's in conflict with the other ones? Doesn't

the reverse logic apply the same? Common sense would tell me that the reverse would apply.

Ms. Dancella Boyi (Legislative Clerk): Thank you, Mr. Chair.

The issue is a potential line conflict. Since a line can only be amended once in a bill, unless there's unanimous consent later on to revert back and reconsider it, and considering where the potential amendment you may want to make in clause 8 would occur, I would just note that there's a potential line conflict with CPC-3.2.

There may be a consideration to either stand the clause in its entirety—in order to potentially draft an amendment that would cover the lines that are currently covered by CPC-3.2 and other lines following that—or proceed with a subamendment.

If we proceed with CPC-3.2, there is a potential line conflict, which would either require unanimous consent to revert back or a subamendment.

Mr. Gary Vidal: Mr. Chair, can I take a moment to confer with my colleague on his CPC-3.2 to see what his preference would be?

Would you just give us a minute?

The Chair: You can take a minute.

Do you want me to suspend?

Mr. Gary Vidal: Yes, for sure we do. Thank you.

The Chair: Colleagues, we'll suspend for a few minutes.

• (1215)

(Pause)

• (1230)

The Chair: We're back in the meeting now.

Having caught a bit of the conversation, I'm understanding we're trying to find a way to look at clarifying the definition either in the definition section of clause 8 or in clause 2. There are actually a couple of ways forward here. I'm looking to the side to make sure I get this right. One is to ask for unanimous consent to stand clause 8, which would then allow members who would want to make an amendment to work with the legislative people to see what they may want to change.

In the piece with CPC-3.2, there could be a line conflict. To deal with that—

Mr. Jamie Schmale: Mr. Chair, before we get to that, if you don't mind, this might be simpler. We're trying to work with others at the table to try to find that definition to see where we go with what motions and how we work on that.

At this time, I would like to move a motion to adjourn.

The Chair: We'll call a vote.

(Motion agreed to: yeas 6; nays 5 [*See Minutes of Proceedings*])

The Chair: I was going to ask a question about resources. We have been offered resources tonight from 6:30 to 8:30. I put in a request for resources for all day tomorrow from nine to 5:30. I'm requesting resources on Wednesday from noon onward. On Thursday, we're putting in requests for resources, as well as Friday.

As I mentioned, I would like to continue to provide ample opportunity for us to continue considering this debate right up until we go home for Christmas. We've demonstrated that none of us need

sleep, so if you want to go into the wee hours, I'm happy to do that. I've demonstrated I'm good to go between zero and five hours a night. Just watch as we get notices of resources. I will be communicating that to members to continue to allow us the time to have a good discussion on this before we head home to be with our families and others for the holidays.

The meeting is adjourned.

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