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# Standing Committee on Indigenous and Northern Affairs

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Chair: Mr. John Aldag





## Standing Committee on Indigenous and Northern Affairs

Tuesday, December 12, 2023

• (1540)

[English]

**The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)):** Good afternoon, colleagues and witnesses.

Thank you to our witnesses for coming back for our meeting this afternoon.

We are now on meeting number 91 of the House of Commons Standing Committee on Indigenous and Northern Affairs. I recognize that we are meeting on the unceded territory of the Algonquin Anishinabe peoples.

Pursuant to the House order of reference adopted on June 21, 2023, and pursuant to the motion adopted by the committee on Thursday, October 26, the committee is meeting to proceed with the clause-by-clause of Bill C-53, an act respecting the recognition of certain Métis governments in Alberta, Ontario and Saskatchewan.

We left off this morning on clause 8.

We have a great audience joining us today and, just as a reminder, now that we're in session, there's no photography and there is no recording. That applies to members and, of course, officials. If you want to capture the moment, you'll have to do it afterwards.

We're on clause 8. We left off with me asking if the member wanted to move amendment CPC-3.2. We had a general discussion on clause 8. I had nobody else on the speaking list, so now I'll move to CPC-3.2—

**An hon. member:** No. That's not true.

**Mr. Gary Vidal (Desnethé—Missinipi—Churchill River, CPC):** I think we want to carry on the conversation on clause 8, because we've been working on that all day.

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Gary still had the floor, I thought.

**The Chair:** We adjourned. I don't carry the list forward.

If we had been suspended, we would carry it forward, but the motion was to adjourn, so we now start on clause 8.

**Mr. Gary Vidal:** Yes. That's what I want to talk about, clause 8.

(On clause 8)

**The Chair:** Okay, let's resume clause 8.

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

I just want to update the committee. We've been working at this most of yesterday and all day today to try to get to a compromise

on clause 8 that we think would meet the needs of all those who have an interest here.

We've been working with some of the partners here in the room. I've been working with Ms. Idlout. I hope she's going to make it. We've actually gone back and forth with—I don't want to butcher anybody's title—the legislative counsel, I believe, on a draft. Is that the right title? They've sent us a couple of drafts, which I have not sent to the clerk yet because we've been looking for the one we think would be accepted by everybody.

We did have another option sent to us by one of the partners here, literally in the middle of question period today. We've sent that one off to the legislative counsel as well to see if we can find a compromise that meets the needs of everybody to bring clarity.

The issue we've been talking about is the clarity.... We've heard so many concerns over the course of the eight weeks from people who felt they were being drawn into something that wasn't by their choice. We're just trying to make sure they are respected and that, at the same time, the Métis governments we're trying to give recognition to in this legislation are respected and honoured in the context of what they are trying to accomplish. That's why we've had conversations with them as part of the drafting of all these things.

As far as a way to proceed goes, unfortunately I've hit a wall in the context of not having the amendment that I think might be the compromise. I know that Ms. Idlout and her team are looking at it. Our team is looking at it, and we've sent it off to the legislative counsel to do the drafting of the proposed amendment. I'm trying to figure out the way forward.

In all fairness to everybody, we've gone back and forth on this all day. It's not like we have not tried. We started with an option this morning. We've had a couple of other ones that have gone back and forth throughout the day, and the compromise is one that was developed after two o'clock this afternoon. It's not like we haven't been trying to find the spot we talked about this morning in saying that we hoped we could get there by 3:30 today.

I'm honestly trying to find the path forward here that solves that. I don't have the proposed amendment in my hand from the legislative counsel that I can offer to the table at this point. I guess I would defer to other comments on this, just to see what our way forward is based on being at this point in our journey.

Maybe other people want to speak to that. That's just an update on the work we tried to do today to get to a compromise and to get to a place that we believe satisfies the needs and concerns of all those we've heard from over the last several weeks.

• (1545)

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

One thing that was talked about—I raised it yesterday—is that procedurally we have two options. If we want to stand clause 8, one option is through unanimous consent. That would drop it to the end of the review but above clause 2. That is one procedural solution. There's also the option of moving a motion to stand clause 8, having a vote on it and then doing that.

**Mr. Gary Vidal:** Can I respond to that?

**The Chair:** Yes, and then we'll go to my speaking list.

Go ahead, please

**Mr. Gary Vidal:** I appreciate that, Mr. Chair; I honestly do. When you offered that yesterday, that was exactly where my head was. That made sense to me. However, in conversations with the experts later, they explained to us that we're not able to go back and that we can't move on to any of these other amendments on clause 8. My concern is that this recognition section is so central to the whole piece of legislation that without understanding where we land on this, it's going to be difficult for me personally to consider some of the other amendments. This part of the legislation, this recognition section, is central to so much else.

When we consider some of the amendments later on the derogation clauses or if we solve some things on this piece.... It just seems that the cart and the horse get out of order on this. I'm struggling with how we make our way through some of those other things without resolving this very central issue first. That would be my response.

I appreciated your comments. I appreciated it when you offered them yesterday. I thought that was a very good answer, but after I understood how this is going to impact these other things, I'm now a bit more hesitant, just based on the work that we did over the last 48 hours on this.

I'll leave it there, Chair. Thanks.

**The Chair:** Thank you.

I will point out that 15 clauses with no amendments have been put forward. There are those ones as well, if the amendments are the concern.

Next on my list I have Mr. Viersen.

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

To the same point from Mr. Vidal, we confirmed yesterday that this is the crux of the whole matter. I would say that the distraction we had this morning hasn't necessarily led to getting the amendment done that we were hoping for. It took us off that for a time, so here we are once again.

The issue around "Indigenous governing body" and what all of that entails is where we're at on this particular amendment. I hope

we can get Ms. Idlout here sooner rather than later so we can have this discussion with her. I noticed that the next amendments are from her as well, so it's going to be a challenge to move forward on this until we have her in the room. I hope we can deal with that soon.

Thanks.

• (1550)

**The Chair:** I have been informed that Ms. Idlout is on her way.

I have a list that I will continue working through.

Next I have Mr. Zimmer.

**Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC):** Thank you, Mr. Chair.

I want to put a motion on notice. I know this isn't the right time. I just wanted to put myself in the queue for when that is appropriate.

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

**Mr. Bob Zimmer:** Really, I'd like the first available opportunity to do so.

**The Chair:** Yes. If we can move off clause 8, there will be a perfect opportunity.

Next on the list I have Mr. Schmale.

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

To your last comment, I agree with Gary here. The issue is this: If we move off clause 8 without a final landing point, some clauses later on could get a little tricky and might not go as smoothly.

I'll give credit to Gary and Arnold. Arnold, through his line of questioning about the definitions, and Gary, through his work with Bill C-29, came to the fact that it's missing the definition. The definition and recognition are key to a lot of this, including when you talk about membership. That's something Arnold brought up very early on. If we think back to the conversations we had with the first nations that were here, even about the settlements, a lot of them were around the membership. If, in this conversation, we can arrive at something....

As he pointed out, Gary had an amendment he was working on, which I hope will be acceptable to the committee. I think he is trying to get that translated, from what I last heard. He's nodding yes. That is correct. Once that gets translated, we could have, potentially, a winning formula.

It is also challenging on our side. The government has thousands of people in the department who can help them. We're working with our limited staff and the resources we have at our disposal trying to address the concerns we heard in testimony while also respecting the spirit of what this piece of legislation is supposed to do and will hopefully do. We're trying to strike that balance. As Gary alluded to, we are doing this with the limited resources we have, but we're also drawing on the expertise and knowledge our partners have, which we are able to take from them and hopefully replicate in this bill in the form of an amendment to clause 8—or rewording, however you want to put it—so it addresses concerns.

I would hope it wasn't the government's intention to divide indigenous communities the way they have—first nations versus Métis and Métis versus other Métis. It's not the coming together many had hoped for. That's unfortunate. I trust the government came forward with good intentions. Unfortunately, the process was not followed through the way it probably should have been. I think through testimony we were able to uncover some of the concerns out there that could have been addressed had proper consultation been done in the first place.

Having said that, I recognize it is a piece of legislation that involves the governing bodies, if you will, of three organizations in order to solidify the job they are already doing—which is an amazing job—and give them the recognition they rightfully deserve. As we go through this process, we'll hopefully come to an agreement that can address a lot of those concerns.

We have the membership, which we're going to address. We have the definitions. We had a long discussion not too long ago about collective, community and individual—what makes up this, what makes up that and how they play together.

• (1555)

Now we are dealing with the next issue, which is “Indigenous governing body”. It isn't defined in this piece of legislation; however, in Bill C-29 and other bills it is. If we are able to not only define it but also define the membership part—in addition to clause 8.1, which I believe is the non-derogation clause—we can hopefully at least ease the concerns that the Métis settlements had, for example, or even some of the first nations had. We are able to do this based on the limited resources we have, and because we were all able to work together across party lines, I think we may have achieved something pretty remarkable here, amending this piece of legislation to the point where it is improved and where we are able to come together.

Had this passed in its current form with the wording the way it was, I think the possibility for court action later on would have been, I would say, quite high, based on the feedback we've had from indigenous leaders. Something we're trying to avoid is the fact that indigenous leaders continually have to take the government to court.

It doesn't matter what stripe we are; I think it's the fundamental issue we're trying to fix. A lot of the concern is about consultation. If we don't get the consultation right or if we don't get the legislation right, we're spending more money than is necessary. We're not caring about or looking after the people these governing bodies are elected—or however it's structured—to be responsible for. It potentially falls through and causes bigger problems down the road.

I keep going back to the fact that Parliament and the committee did not define what free, prior and informed consent was at the time. We as the opposition brought it forward as a potential issue we should have addressed as legislators, rather than having the courts potentially doing it in the future. It may have served us well to have that road map right now.

As we get to this, hopefully we will have that amendment ready to go very soon. That way we can have a discussion on it and hope-

fully a vote on it. Then, as you said, Chair, we can move on from clause 8 and move through this.

I don't know if Ms. Idlout is ready to speak or not. She might have a few concerns she wants to raise. I will cede the floor and potentially come back based on what Ms. Idlout has to say.

**The Chair:** She's on the list.

Next on my list is Mr. Battiste.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** Thank you for those comments, and thank you, Mr. Chair.

Thank you to the guests for being here on this important day as we navigate this legislation.

Métis in the areas of Alberta, Saskatchewan and Ontario have been waiting for recognition from the federal government for generations. We've come very close. We're at the end of this legislation. We have 12 amendments done, a lot of them with collaborative support. However, we haven't moved past this in the last three meetings.

I understand the difficulty the Conservatives have in grasping this. I say the Conservatives because we're talking about indigenous governance. We're talking about indigenous ways of knowing, indigenous knowledge.

As a government, we've sat down with Métis and said, “We're going to codevelop this with you.” A lot of it is about a colonial government trying to understand indigenous ways of knowing. It's like trying to put a square peg in a round hole. It doesn't always mesh. There's the whole area of indigenous constitutional law, whether we're talking about communal or collective rights when we're talking about indigenous governments. These are very complicated things.

I ask the committee not to let perfect be the enemy of the good. This committee has been one of the most collaborative committees I've been a part of. We've done some amazing work together passing all kinds of amazing legislation. Over the past three meetings, for some reason, that has stopped. For some reason, we're unable to find ways to move forward.

Our government has put forward many different ways to do this. Our chair has suggested many ways to do this together, in the hopes of giving probably the best Christmas gift we can give by moving this legislation forward to the House or to the Senate to vote on it so we can get it done and generations of Métis don't have to wait any longer. We have fewer than a dozen amendments left, and government is supporting many of those amendments. We're very close.

The chair has offered some solutions to move past this amendment so that we can make progress on all of the things we agree on—and we do agree on a lot of things. When we're looking at this, there are lots of complicated things out there. That's why this legislation is codeveloped.

The first step of this journey is saying we recognize that Métis have the right to self-determination. We recognize that we don't have all the answers on membership, ratification and election process, but that's for them to decide. That's what UNDRIP says, which we've passed. We didn't define UNDRIP. My father was one of the codevelopers of UNDRIP. When they were looking at this key United Nations document, they couldn't come to a consensus on who indigenous people are, but they said that was okay; it was for indigenous people to decide. They passed it in the United Nations, and we've passed it as law in Canada.

We've hit a stumbling block for the last three meetings. We have plenty of stakeholders here today waiting for what almost seems like a Christmas miracle at this point, which is for us to get through one clause and get to the next things we agree on. The chair has said we should move forward on the things we do agree on and come back to this at the end. I think that's a perfectly acceptable way to move forward.

I really stress that we've had great collaboration at this committee. Let's not change that. Let's make sure we get this done. Let's not let perfect be the enemy of good. Let's get it to the Senate. There are several indigenous senators who I'm sure will have a lot to say about this. Let's get it to that point and let's make some progress on it today.

• (1600)

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

Mr. Viersen is next.

**Mr. Arnold Viersen:** Thank you, Mr. Chair.

To Mr. Battiste's comments, getting this right is very important. That's been the challenge the whole way through with the relationship between indigenous people and Canada. It has always been about what the words mean, what the treaties mean and what our relationship looks like—all of these kinds of things.

As to the ways of knowing he talks about, the reality is that we are dealing with the Constitution Act, 1982. That's right in this section of the bill, affirmed by the section 35 rights of the Constitution Act, 1982. How does that fit into this? Who is part of a Métis government? The Constitution Act talks about Métis peoples, and it states:

treaty rights includes rights that now exist by way of land claims agreements or may be so acquired.

I think this bill fits in the part where it says “or may be so acquired”, although this isn't a land claim. Maybe Mr. Battiste can explain a bit more this not being a land claim and how we get “or may be so acquired”. That's how I read section 35 of the Constitution. That's what we're trying to flesh out here. What does section 35 mean? What is the relationship between Canada and the Métis peoples? What does that relationship look like? That's what this bill is trying to do.

We want to make sure, as we heard at the last meeting, that section 8... There are two sections. We heard that section 8 is the crux of the whole matter. It's kind of the crux of the whole bill. The Government of Canada is recognizing a Métis government, or in this case three Métis governments, because that's what's laid out in section 1 of this bill. We have to get that right.

Is that the right terminology? Does that fit within section 35? How are we going to go forward on this?

Thank you, Mr. Chair.

• (1605)

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

Next we have Ms. Idlout.

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

I first want to apologize for coming in late and missing what I missed from the rest of the table. I ended up in the wrong room.

Welcome to everyone. It's wonderful to see everyone here. You're a very strong reminder that we are doing this to make sure we respect indigenous people's rights.

To respond to Jaime's concerns, the last three meetings I think have been quite pivotal. They have been very important because clause 8 is not just any other clause. It's a very important clause, and I think that's why we're working so hard to make sure we get it right. From my perspective, it's not about making it perfect but about us doing the right thing.

When we first started this study on making sure we do our part as parliamentarians to recognize the Métis right to self-government, it was always uncomfortable for me because that should not be a parliamentarian's job. It's a very colonial process and it's something that unfortunately we're forced to do because of our job.

When we're discussing clause 8, we need to make sure we're respecting as many indigenous people's rights as possible. Since the study began, we've heard such a wide diversity of input from first nations and from Métis.

It's been concerning how this bill came about, how voices were ignored. I have needed to remind myself every time I come into these studies, and in this study in particular, that we're doing our part to ensure the Métis get their right to self-government recognized. That's how important this clause is.

Unfortunately, we have come to a standstill, because we're hearing from.... I've had to do some consultations myself and I'm not satisfied yet with the amount of feedback I am getting. I really need more time to finish my consultations. I am not ready to move beyond clause 8.

I hope sincerely that I have the support of the committee for my motion to adjourn so that I can do some more consultations with the important voices that will be impacted by clause 8.

• (1610)

**The Chair:** Just to clarify, Ms. Idlout, are you making that a motion?

**Ms. Lori Idlout:** Yes, I am moving a motion to adjourn.

(Motion agreed to: yeas 6; nays 5)

**The Chair:** The motion has been moved, so we need to vote on it now.

**Mr. Ben Carr (Winnipeg South Centre, Lib.):** We can't take a minute to—

**The Chair:** There won't be a debate on it. It's non-debatable. We have to go to a vote.

**Mr. Ben Carr:** Okay.

**The Chair:** I will call the vote on the motion to adjourn.

**The Chair:** Before I hit the gavel, I want to let everybody know that we have requested resources for tomorrow. We haven't received a response yet. At this point, the request is for 3:30 to 5:30. We will plan on having our regular meeting on Thursday from 3:30 to 5:30. At this point, we have a request in for Friday, but we haven't heard back. That's where we're at for planning purposes.

With that, folks, we're adjourned.

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