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Chair: Mr. Patrick Weiler



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• (0820)

[English]

The Chair (Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.)): Colleagues, I'm going to call this meeting to order.

Good morning. Welcome to meeting number 132 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

As always, I want to start by acknowledging that we are gathered on the ancestral and unceded territory of the Algonquin Anishinabe people and by expressing gratitude that we're able to do the important work of this committee on lands they've stewarded since time immemorial.

Colleagues, we have a lot of work to do, given the House order that was passed on Tuesday. The second report of our committee was recommitted to our committee with a view to studying the economic and antireconciliatory barriers posed by fraudulent bids and applications for procurement opportunities set aside for indigenous businesses, including those from non-indigenous-owned companies.

We are ordered to order certain ministers, officials and private citizens to appear, while we will also have at least four meetings to invite witnesses to provide testimony to this committee for that purpose. This is all before we break for holidays on December 17, which is less than a month away.

Accordingly, I want all parties to submit their witness lists to the clerk by noon on Friday, November 29, for at least the four meetings we will be having on this topic.

However, as this order appropriately confirms, the first priority of this committee is going to be passing Bill C-61.

You may ask how we are going to do all of this in less than a month. The order has given our committee, and me as chair, additional access to House resources to hold meetings, so there will be additional meetings and they will be longer. I'm currently seeking to secure those resources.

This is going to be an effort, and it's going to take some sacrifice from all of us to get this done. I've tried to accommodate all members of this committee, but going forward, I just want to mention that it is going to take some sacrifice to get this done, because we've had around eight hours of clause-by-clause consideration of this bill so far, and we're less than 30% done.

We've done our due diligence, and I don't want to rush you, but I ask that you try to limit unnecessary interventions. Otherwise, we might get very sick of the premium coffee that we have in our committee room here. Also, I just want to mention that today is going to be audio only, so there will be no clips to be had today either.

Colleagues, let's pass this important piece of legislation to ensure that first nations have clean drinking water for generations to come.

Pursuant to the order of reference of Wednesday, June 5, 2024, the committee resumes consideration of Bill C-61, an act respecting water, source water, drinking water, waste water and related infrastructure on first nations land.

To help us with the clause-by-clause consideration of Bill C-61, I would like to welcome our witnesses back today.

We have Nelson Barbosa, director general, community infrastructure branch, Department of Indigenous Services. We also have Rebecca Blake, acting director, legislation, engagement and regulations, Department of Indigenous Services. From the Department of Justice, we have Douglas Fairbairn, senior counsel.

I want to remind all members that the amendments are confidential and that subamendments are to be shared electronically or on paper in both official languages and sent to the clerk for distribution.

With that, let's get back to where we were on clause-by-clause consideration, starting with NDP-37. I will open the floor back up to Ms. Idlout accordingly.

Ms. Lori Idlout (Nunavut, NDP): [*Member spoke in Inuktitut, interpreted as follows:*]

Good morning. Thank you.

I spoke with my fellow MPs, and I did ask if I can remove some of these amendments. I told them I would be thinking about it. I did find three items that I want to remove. They are NDP-41, NDP-54 and NDP-73.

• (0825)

The Chair: Thank you very much, Ms. Idlout.

I have duly noted those three amendments. We will consider those withdrawn, so we won't go to consideration of those.

However, we are still at NDP-37, so I'd be happy to turn the floor back over to you when you're ready to speak on that as well.

Ms. Lori Idlout: [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you.

Yesterday, the national chief contacted me to ask me to remove their amendments due to the time it is taking to amend Bill C-61. I respect the will of the AFN and I respectfully withdraw those amendments. I will, however, keep the amendments submitted by independent first nations out of respect for their jurisdiction over their lands, territories and resources.

I will be removing these amendments: NDP-37, NDP-42, NDP-43, NDP-46, NDP-48, NDP-49, NDP-57, NDP-58, NDP-61, NDP-63, NDP-66, NDP-75, NDP-79, NDP-2 and NDP-3.

The Chair: Thank you very much, Ms. Idlout.

I'll go through them and list them off again for members in case they missed them. They are NDP-41, NDP-54, NDP-73, NDP-37, NDP-42 and NDP-43.

Mrs. Jenica Atwin (Fredericton, Lib.): Go slower.

The Chair: All right. I'm going to slow down.

They are NDP-41, NDP-54, NDP-73, NDP-37, NDP-42, NDP-43, NDP-46, NDP-48, NDP-49, NDP-57, NDP-58, NDP-61, NDP-63, NDP-66, NDP-75, NDP-79 and, back at the beginning, NDP-2 and NDP-3.

Thank you very much, Ms. Idlout, for sharing that.

With that, I guess the next amendment we have is—

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Chair, before you jump to that, can I ask for a quick point of clarification?

On that House order, just to clarify and get your interpretation, I think it is still our intent to have Randy Boissonnault attend, not the current minister, Ginette Petitpas Taylor. I just want to confirm that.

The Chair: Thanks for raising that point, Mr. Schmale. It says, “the Minister of Employment, Workforce Development and Official Languages”.

Mr. Jamie Schmale: I get that, and I figured this might happen. The minister at the time was Randy Boissonnault.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): I don't think that matters.

Mr. Ben Carr (Winnipeg South Centre, Lib.): You asked for the minister. You'll get the minister.

The Chair: What's that?

• (0830)

Mr. Jaime Battiste: You can call a [*Inaudible—Editor*] witness, if you like.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Mr. Chair, I support what the Conservatives are doing.

I agree with them that it was not directed at Mr. Boissonnault as the minister. The Standing Orders of the House of Commons stipulate that a minister's name cannot be mentioned and that the mem-

ber's title must be given instead. Even though the title has changed, it is the person who was targeted.

I think that goes without saying and that the committee doesn't need to waste time debating it.

The Chair: Thank you, Mr. Lemire.

[*English*]

I'm going to pass it over to Mr. Carr.

Mr. Ben Carr: Respectfully, the time wasted is a result of the fact that opposition members have tasked the committee with the study. If they're going to call it “wasted”, they can look in the mirror, because it's they who have made the decision to send this back.

It names “the Minister”. The minister is Minister Petitpas Taylor.

Nonetheless, to Mr. Lemire's point, why don't we get interpretation from the clerks? I think the Clerk of the House, Mr. Janse, can give us his interpretation.

However, it's moot at the moment because we're not dealing with that right now, are we? Why don't we just get on with Bill C-61, and then we can get an analysis that will tell us whether or not it's Mr. Boissonnault or Minister Petitpas Taylor, and we go from there.

The Chair: We'll have Mr. Schmale and then Mr. Lemire. Then I'll have something to say on this.

Mr. Jamie Schmale: I don't know if I should wait until you've said your piece.

To Mr. Carr's point, I don't think we need opinions from the Clerk of the House. I think the House is pretty clear that it was Randy Boissonnault, considering that he has been at the core of this whole issue by co-owning a company, which has bid on projects or contracts, that's claiming to be wholly indigenous-owned when clearly that's not the case.

Obviously it was Randy Boissonnault that the committee and the House wanted. We would expect that it would be he who has been ordered to appear, given the fact that when the motion was passed, he was in fact the minister named in the motion.

The Chair: Thank you, Mr. Schmale.

[*Translation*]

Next up is Mr. Lemire.

[*English*]

Then I'll have something to say here.

[Translation]

Mr. Sébastien Lemire: Mr. Chair, I would like to know if it's possible for you to make your decision before 10:15 a.m. It will influence whether or not I agree to devote more time to the committee today to study Bill C-61.

I don't want to waste my time, but if that's what people want, I'll play the game.

Mr. Ben Carr: It's not up to a member to decide whether we stay here or not.

The Chair: Thank you, Mr. Lemire.

[English]

Ms. Idlout.

Mr. Carr, I'm passing the mic to Ms. Idlout.

Ms. Lori Idlout: [*Member spoke in Inuktitut, interpreted as follows:*]

What are you saying?

There was some discussion I didn't get.

The Chair: Please don't unless you've been recognized. I want to make sure that Ms. Idlout has the floor.

Ms. Lori Idlout: [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you.

I agree with what Sébastien said. I do want to understand how we will be proceeding. When we are talking about first nations' rights, we need to be moving forward.

I agree with the Conservatives' request because we need to be questioning Mr. Boissonnault. It applies to his business. He took a big chunk of money.

We need to understand if we are going to be over our allotted time, so I want to go with what Sébastien is requesting.

• (0835)

The Chair: Go ahead, Mr. Carr.

Mr. Ben Carr: Just for the record, I hope Ms. Idlout will correct what she just said about Mr. Boissonnault taking a big chunk of money. What contract was awarded?

I think members have to be very careful about skirting the line of what's true and what's not. There are allegations, and I accept that, but to say that Mr. Boissonnault took a big chunk of money, I'd like to understand—perhaps later on, not now—from the member what she is referring to, because that's just simply false. It hasn't been proven anywhere and it's not becoming of members to be creating falsehoods.

There are allegations. The allegations are serious and they need to be looked at, but to suggest that a large chunk of money was taken, which in fact is not proven, I think is something that should be withdrawn from the table.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Carr.

I want to get to the business at hand here—what the motion has ordered us to do and the priority it has ordered us to do it in.

Mr. Schmale, keep it short, please.

Mr. Jamie Schmale: Thank you.

This headline is from Global News, August 22, 2024:

Boissonnault's former company awarded federal contract in potential conflict of interest

Employment Minister Randy Boissonnault's former medical company won a federal contract while he was in office and co-owned the business.

That is, I believe, what Ms. Idlout was referring to, Chair.

At the same time, I'm on side with the Bloc and the NDP. If there are games to be played here and we have Minister Petitpas Taylor attend, I don't think that goes to the spirit of the House order. I don't think it would be very responsible to go against that. I would like to severely stress that we stick to the House order. It's Randy Boissonnault whom the House determined needs to appear, and who is ordered to appear, along with several other witnesses. That's whom we expect to be in that seat. Otherwise, it would be unacceptable to us and, I believe, the other opposition parties.

If we want to continue this, I hope the chair might allow for some clarification that he will, in fact—through his team—be calling Randy Boissonnault.

We would like to know that right now, if possible. Then we can get back to Bill C-61.

The Chair: Colleagues, I'm going to take this back. I need to confer with the clerk. Otherwise, it seems pretty clear to me, from the way it's written, that we're inviting the minister and not the former minister. I need to get some advice on that. I understand what everybody has said in interventions here.

Mr. Jamie Schmale: Do you want to suspend for a couple of minutes?

The Chair: I'd be happy to suspend.

Again, that's my reading of this. That's the advice I've had up to this point. If we're following the order, which we are ordered to do, that's what we will likely do, but I'm going to get some advice from the clerk here.

We will suspend briefly.

• (0835)

(Pause)

• (0850)

The Chair: Colleagues, I'm starting up, and I'm going to say something here.

I've had a chance to confer with the clerk and counsel here. I very much understand what the spirit of this is, to Mr. Schmale's point. It was meant to invite the former minister of Employment, Workforce Development and Official Languages. Obviously, that's changed now.

In any event, because of privilege.... I've just had a chance to review the green book in chapter 20, page 282, to this effect—

A voice: It's page 982.

The Chair: I'm sorry. It's page 982.

It says that a standing committee cannot order a member of the House of Commons or a senator to appear, which is not preventing us from inviting them to appear. I would very much encourage the committee to invite Mr. Boissonnault to appear as part of this committee, because that was what this order is all about. Given the way that it is listed and given the precedents that we've looked into from previous committees looking at this, it is as it is written, and that would be the current minister of Employment, Workforce Development and Official Languages.

The committee can challenge the ruling here, but even if this were to be overruled, we still don't have the ability to order Mr. Boissonnault to appear, because of privilege and the limits of our abilities on committee. That's my ruling on this.

I see there are a couple of hands up.

I will go first to Mr. Battiste, then Mr. Schmale and then Mr. Shields.

Mr. Jaime Battiste: Thank you, Mr. Chair.

In the hope of getting on to the first nations clean water legislation, which I think is the most important thing to indigenous communities right now and the most important thing to first nations leaders right now, on our side we're willing to use the strongest legal language possible that can either compel, order or invite Mr. Boissonnault to attend. We will agree with that. Whatever is the strongest wording possible that we have as a committee, we will agree with.

We're not here trying to stall or protect; we're here to get to the first nations clean water legislation, for which we have additional resources today, and we are agreeable to the strongest language possible from this committee for what the opposition parties are saying.

I'm hoping that with our agreement to the strongest language legally possible for a committee to compel Mr. Boissonnault to come to this committee and answer questions, as was the intent of this... We're more than happy to do that as long as we can get to first nations clean water without continuous delays from talking about the motion that we voted on in the House of Commons.

● (0855)

The Chair: Thank you, Mr. Battiste.

We'll go to Mr. Schmale and then Mr. Zimmer.

Mr. Jamie Schmale: Thank you, Chair.

I think we'll work on something here for that, but in the meantime I'd like to move that we become televised immediately, please. Apparently they said we have only audio.

The Chair: We'll pass your motion or get UC. We'll work on the language and we'll get back to it.

We're going to suspend briefly.

● (0855)

(Pause)

● (0900)

The Chair: We will come to order.

We need agreement here at the committee to move to being televised. I understand the whips, but if we pass a motion in this committee, which I can imagine we'll have unanimous consent to do, we can move into being televised.

Mr. Schmale, would you like to move a motion?

Mr. Jamie Schmale: I would like to move, Chair, that this committee become televised immediately.

The Chair: Thank you, Mr. Schmale.

Seeing thumbs-up around the table, I see that we have unanimous consent.

Colleagues, we need each party to contact their whips to indicate this.

Also, make sure that your whips contact Suzie Cadieux. We're going to suspend briefly while that happens.

● (0900)

(Pause)

● (1010)

The Chair: Order.

As you can probably see, we're online. Video is working. The intervening time has been productive for a lot of conversations among members. Hopefully, that will help with some of the work we have to do.

Before that, we left off with Mr. Schmale, so I'm going to turn the floor back over to him.

Mr. Jamie Schmale: Thank you very much, Mr. Chair.

I appreciate the opportunity to bring this motion back. Again, it's based on the House order and your ruling earlier. Please confirm the issue, Mr. Chair, with a quick nod, if you could. It's that the Minister of Employment has changed. Obviously, our priority is to have Randy Boissonnault, but it's your ruling that Minister Petitpas Taylor will be attending instead. We'll see Minister Petitpas Taylor very soon, then.

In the meantime, per the conversation prior to our taking a quick suspension, the main issue is getting Randy Boissonnault to this committee to answer questions about his co-ownership of this company and the applications made for government contracts while claiming indigenous status when he was not actually indigenous himself.

I'd like to move the motion, and I believe there will be a sub-amendment to that motion.

It is:

That the committee report to the House that the MP for Edmonton Centre appear before the committee for two hours independently by Friday, December 6, 2024, and that the report be tabled by the chair in the House as soon as possible and no later than Monday, November 25, 2024.

The Chair: Thank you very much, Mr. Schmale.

Is that motion going to be circulated?

Mr. Jamie Schmale: The clerk should have it.

The Chair: I understand the motion is being circulated to members, so you should have that momentarily.

Mr. Jaime Battiste: Can you read the motion one more time? I need to be clear about what I'm amending.

Mr. Jamie Schmale: It reads:

That the committee report to the House that the MP for Edmonton Centre appear before the committee for two hours independently by December 6, 2024, and that the report be tabled by the chair in the House as soon as possible and no later than Monday, November 25, 2024.

Mr. Jaime Battiste: Before I amend it, can you take a pause to confirm with your folks?

Mr. Jamie Schmale: I'm reading the comment. That is the latest. The motion that just passed has to be reported to the House.

A voice: It's to be reported to the House.

Mr. Jamie Schmale: That's correct.

I'm sorry. I only have one copy, and it's on my screen.

• (1015)

The Chair: Thank you so much, Mr. Schmale.

Members should have that in their email at this point.

Next, I see that Mr. Battiste has his hand up.

Mr. Jaime Battiste: I think the first nations clean water legislation should take priority.

There have been some conversations, and I think everyone is on board with an amendment: After "December 6", add "or immediately following the completion and reporting back of Bill C-61 to the House."

That's the period. The clerks have told us that we can expect that from the end of line-by-line, when we're done with this in the House and with the amendments and translations, it will take no more than a week. It works with the calendar year we have and the motion as presented in the House, I believe.

That's the amendment. Do we need it in writing, or can we pass it by unanimous consent? After "December 6", it's "or immediately following the completion and reporting back of Bill C-61 to the House."

Mr. Jamie Schmale: Does it start November 25 that the chair...?

Mr. Jaime Battiste: Yes.

Mr. Jamie Schmale: Okay, that's perfect.

The Chair: Thanks for moving that amendment, Mr. Battiste. It looks like there's unanimous agreement in the committee.

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

The Chair: The motion presented by Mr. Schmale is amended.

Is there any debate on the motion as amended? Is there agreement around the table for that to pass?

(Motion as amended agreed to [*See Minutes of Proceedings*])

Some hon. members: Hear, hear!

The Chair: That's great.

With that, let's get back to the task at hand and continue the clause-by-clause consideration of Bill C-61.

(On clause 19)

The Chair: We were about to consider amendment BQ-12.

I will open up the floor.

[*Translation*]

Go ahead, Mr. Lemire.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

I know that NDP-37 was withdrawn, but at the last meeting, during the debate on BQ-11, the committee members seemed to prefer, by consensus, NDP-37. The NDP has just withdrawn the amendment, but I would ask that we vote on it anyway, because I think it could be adopted.

The Chair: Thank you very much, Mr. Lemire.

[*English*]

My understanding is that in order to do that, we will need unanimous consent to go back to that amendment. I want to make sure that there is unanimous consent around the table to go back to consideration of it.

Go ahead, Mr. Melillo.

Mr. Eric Melillo (Kenora, CPC): Just to clarify, they're asking us to go back to BQ-11. Is that correct?

[*Translation*]

Mr. Sébastien Lemire: No, I'm talking about NDP-37.

[*English*]

Mr. Eric Melillo: Okay.

The Chair: It's NDP-37, yes.

Seeing that there is unanimous consent here, we can go back to the consideration of NDP-37.

First we'll start with debate.

Is there any debate on NDP-37?

There is not. We can go to a vote shortly, then.

Monsieur Lemire, we passed a unanimous consent motion to return to considering NDP-37, as it was withdrawn. We have unanimous consent to reconsider it, and we're going to a vote.

Shall NDP-37 carry?

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

[Translation]

The Chair: Mr. Lemire, you have the floor on BQ-12.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

Essentially, the purpose of our amendment is to enable first nations to analyze their data in order to obtain the best possible assurances for their community's infrastructure, which is important. We know that access to any data is very difficult for first nations, be it their medical data, insurance data or other data. It's important for first nations to be able to have data about their own populations.

That's not possible currently. I sincerely believe that this legislation would allow first nations to have better access to data, and therefore better governance. In addition, first nations digital sovereignty would make it possible to develop more affordable insurance products and improve asset management, among other things.

It should also be mentioned that it's not a matter of personal information, but of access to data, which is fundamental.

• (1020)

The Chair: Thank you very much, Mr. Lemire.

We will begin the debate.

Mrs. Atwin, you have the floor.

[English]

Mrs. Jenica Atwin: Thank you, Mr. Chair.

Certainly I see what the amendment is trying to achieve, but we see in the "Principles" section, under paragraph 5(1)(e), that it has additional language that protects privacy. I think that's the consideration here that I would be most concerned about. There are existing provisions in the bill that allow for that protection, so I'm just worried about those privacy implications with the way it's worded.

The Chair: Thank you very much, Ms. Atwin.

[Translation]

Mr. Lemire, you have the floor.

Mr. Sébastien Lemire: If I may, I would like to ask the officials about the scope of the proposed amendment.

I don't think the amendment breaches confidentiality. Community leaders don't need to know people's names and contact information. They need factual information on aspects related to the health of their community so that they can ensure better governance for their people.

[English]

Ms. Rebecca Blake (Acting Director, Legislation, Engagement and Regulations, Department of Indigenous Services): I appreciate the question.

The amendment is worded in a way that is quite broad, so it doesn't necessarily provide for those privacy protections that are already provided in clause 5 of the bill.

I'm just noting that the language in the amendment is broad, so it could be interpreted as including private information.

[Translation]

The Chair: Mr. Lemire, you have the floor again.

Mr. Sébastien Lemire: How could the amendment be clarified to achieve the objective of allowing communities to have access to data in order to make better decisions, while protecting people's privacy?

[English]

Ms. Rebecca Blake: I appreciate the question, again.

Going back to clause 5 on water services principles, I believe it's paragraph 5(1)(e) that provides for that data sharing as well, and then it does have the carve-out for privacy.

That would apply to the entirety of the bill, not just the regulation-making authority. It would provide data sharing additional to what a regulation would provide. Every provision would apply to that.

[Translation]

The Chair: Thank you, Mr. Lemire.

[English]

Next I will go to Ms. Idlout, and then Mr. Shields.

Ms. Lori Idlout: I'm just wondering about OCAP and the applicability of OCAP to Bill C-61. I understand that ownership, control, access and possession are already clear.

I wonder if you could respond to that.

Mr. Douglas Fairbairn (Senior Counsel, Legal Services, Department of Crown-Indigenous Relations and Northern Affairs and Department of Indigenous Services, Department of Justice): [Inaudible—Editor] to put forward, OCAP is something that should be complied with. Certainly I think the government looks to OCAP as guidance, but it has not been adopted by the government.

I think there are considerations here that relate to privacy that would fall outside of this provision as it's put forward right now. OCAP would not directly relate to the provision that's been suggested to be amended.

The Chair: Ms. Idlout, you still have the floor.

Ms. Lori Idlout: I'm just wondering, then, if there is a way to work out a subamendment to incorporate OCAP so that BQ-12 could still be considered as a way to use that instrument.

Mr. Douglas Fairbairn: Right now, there is no requirement that the first nation agree here. One potential approach would be to ensure that the first nation agrees that any information that's going to be provided is agreed upon by the first nation itself.

• (1025)

Ms. Lori Idlout: Thank you.

Should we submit...?

I'm wondering if we should suspend for a few minutes so that I could work on a subamendment.

The Chair: Sure. We can briefly suspend here.

• (1025) _____ (Pause) _____

• (1110)

The Chair: I'm calling the meeting back to order.

When we left off, we were dealing with a subamendment to BQ-12 that was being put together by Ms. Idlout.

I will hand the floor back over to Ms. Idlout.

Ms. Lori Idlout: *Qujannamiik* to everyone working together for first nations so that they can have the water that they deserve.

My subamendment to BQ-12 is to remove the word “those” after “provide” and before “data”, and to add “consistent with paragraph (5)(1)(e) and in compliance with ownership, control, access and possession” after the word “community”.

Qujannamiik.

The Chair: Thank you very much, Ms. Idlout.

Are there other members who would like to weigh in on this?

Go ahead, Monsieur Lemire.

[*Translation*]

Mr. Sébastien Lemire: I just want to say that I support putting this in the original motion.

The Chair: Thank you very much, Mr. Lemire.

[*English*]

I'm not seeing any more interventions, so let's go to a vote.

(Subamendment agreed to; yeas 6; nays 4 [*See Minutes of Proceedings*])

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

(Clause 19 as amended agreed to on division)

The Chair: This takes us to new clause 19.1 and NDP-38.

I will open the floor to Ms. Idlout.

• (1115)

Ms. Lori Idlout: *Qujannamiik.*

Because it's my understanding that we're televised now, I'm going to repeat what I said earlier, before I start on amendment NDP-38.

Regarding the amendment process for Bill C-61, the national chief of the Assembly of First Nations contacted me to ask me to remove their amendments due to the time it is taking to amend Bill C-61. I respect the will of the Assembly of First Nations and respectfully withdraw those amendments. I will, however, keep the amendments submitted by Independent First Nations out of respect for their jurisdiction over their lands, territories and resources.

The NDP amendment numbers that I'm removing are NDP-42, NDP-43, NDP-46, NDP-48, NDP-49, NDP-57, NDP-58, NDP-61, NDP-63, NDP-66, NDP-75, NDP-79, NDP-2 and NDP-3.

Regarding the next amendment, NDP-38 was submitted by the British Columbia Assembly of First Nations.

It reads as follows:

That Bill C-61 be amended by adding after line 32 on page 12 the following new clause:

19.1 If affected First Nation governing bodies were afforded a meaningful opportunity to collaborate in the policy development leading to the making of the regulations, the Governor in Council may make regulations providing for any matter relating to the application of this Act or respecting water services on First Nation lands.

Qujannamiik.

The Chair: Thank you very much, Ms. Idlout.

I open it up for debate.

Go ahead, Mr. Battiste.

Mr. Jaime Battiste: The government sees this as already following UNDRIP, which is in the legislation.

We see this as redundant. It just adds an extra layer of unneeded bureaucracy, so we're going to be voting against it.

The Chair: Thank you, Mr. Battiste.

Mr. Melillo is next.

Mr. Eric Melillo: Thank you, Mr. Chair.

I agree somewhat that this is already covered.

However, I'm curious. I'll ask the officials about the wording “afforded a meaningful opportunity”. I don't want to get bogged down. We've done this a few times in the committee.

How would you view a first nations governing body being “afforded a meaningful opportunity” in practice?

Mr. Nelson Barbosa (Director General, Community Infrastructure Branch, Department of Indigenous Services): Thanks for the question.

As in many conversations I've had at this table, the litmus test would be unclear, but there is clear language throughout the bill that talks about consultation and co-operation. I would see that as part of an analogous term that could be applied here.

Also, I'll point to subclause 5(3), which talks about “free, prior and informed consent” as a guiding light already entrenched.

Mr. Eric Melillo: I don't want to put you on the spot, but I guess that's why you're here. Would you agree with Mr. Battiste's characterization that this would create some redundancy?

Mr. Nelson Barbosa: I don't so much agree, but I would say that subclause 5(3) covers some of the conditions outlined in this proposed amendment.

Mr. Eric Melillo: Thank you.

The Chair: Thank you very much, Mr. Melillo.

I'm not seeing any more debate. Let's move to a vote.

Shall NDP-38 carry?

(Amendment negatived: nays 10; yeas 1)

(On clause 20)

The Chair: That takes us to clause 20 and NDP-39.

I'll open the floor to Ms. Idlout.

I may have something to say about this amendment.

• (1120)

Ms. Lori Idlout: *Qujannamiik.*

NDP-39 was an amendment proposed to us by the File Hills Qu'Appelle Tribal Council. It reads that Bill C-61, in clause 20, be amended by replacing lines 33 and 34 on page 12 with the following:

20 (1) The Minister must consult with First Nation governing bodies, in accordance with the consultation policies of the First Nation governing bodies, and provide adequate consultation funding before making any recom-

Qujannamiik.

The Chair: Thank you very much, Ms. Idlout.

I'm going to give a ruling on this amendment. The amendment attempts to create an obligation for financing that does not currently exist in the bill. *House of Commons Procedure and Practice*, third edition, states on page 772:

Since an amendment may not infringe upon the financial initiative of the Crown, it is inadmissible if it imposes a charge on the public treasury, or if it extends the objects or purposes or relaxes the conditions and qualifications specified in the royal recommendation.

In the opinion of the chair, the amendment proposes a new scheme that imposes a charge on the public treasury. Therefore, I rule the amendment inadmissible.

With that, I will move on. Before we move to CPC-2, I'll mention that CPC-2 seeks to introduce the concept of co-development, which also appears in CPC-3, CPC-4, CPC-6, CPC-9, CPC-10, and CPC-11. This concept of co-development appears in several amendments. I wanted to bring that to the attention of committee members.

With that, I'll open the floor to Mr. Melillo.

Mr. Eric Melillo: Thank you, Mr. Chair.

I'm happy to move CPC-2. I think, as you alluded to, co-development is an important aspect of this amendment. I think it's fairly straightforward. Clause 20 reads:

The Minister must consult and cooperate with First Nation governing bodies before making any recommendation under subsection 19(1).

CPC-2 aims to take it a step further to ensure that any such recommendation must be co-developed with those first nation governing bodies. The aim here is to ensure that first nation rights are being respected, that first nation voices are being heard. Obviously, this is a piece of legislation that the government has touted as co-developed, or close to being co-developed. We have heard conflicting reports on the accuracy of that statement, Mr. Chair, but we hope that introducing co-development in this process will help to rectify some of that and ensure that first nations are being heard on it.

I'll leave it there. Thank you.

The Chair: Thank you very much, Mr. Melillo.

I will open this up to debate if there are any members who would like to say something on this.

First I will go to Ms. Idlout, and then Mr. Battiste.

Ms. Lori Idlout: I do support CPC-2. I'm wondering about strengthening it a little bit, based on our earlier conversations today about free, prior and informed consent, and if it would be worth considering adding text regarding free, prior and informed consent into this as a subamendment.

I'm going to look at the preamble really quickly to see what fits from the existing preamble so that I can make sure that we're not adding more cumbersome notes.

• (1125)

The Chair: Ms. Idlout, if you don't mind, I'm going to turn it over to Mr. Battiste at this point to make an intervention, and we will come back to you afterwards.

Mr. Jaime Battiste: As I read clause 20, it refers only to subsection 19(1), which says, "The Governor in Council may, on the Minister's recommendation, make regulations".

None of this is really binding. It seems that we're adding more bureaucracy to a clause that says the minister may make on regulations. While I definitely support the intent, it seems to me that we've already covered this in UNDRIP and with several terms in the bill that say "consult and cooperate".

This is not a hill I'm willing to die on, because none of this is binding, but could the technicians give us an idea of what the ramifications are of this amendment from the Conservatives?

Ms. Rebecca Blake: "Co-development" is a term similar to other terms that have been discussed at this table that don't necessarily have a clear definition or are situated in other federal law.

I'd also remark that "co-development" does not appear in UNDRIP itself. The terminology used in UNDRIP is really around consultation and co-operation, so for consistency with UNDRIP language, that would be the big consideration around the preference with regard to existing language on consultation and co-operation.

The Chair: Thank you, Mr. Battiste.

Go ahead, Mr. Melillo.

Mr. Eric Melillo: Thank you, Mr. Chair.

I'll be quick, as I believe the NDP may be preparing a subamendment. I know I can't move a subamendment myself, but I would put on the record that I take no issue with it. I think that a subamendment would add strength, so if that's something that they're looking to do, I would encourage it.

In terms of responding to Mr. Battiste, he is right. According to clause 19, the Governor in Council may make a number of regulations, but even though that wording is not binding, the way I read it is that if the Governor in Council were to make such regulations, there must be consultation, co-operation and co-development. I think that's an important thing, even though the regulations may not come to fruition. If they do, I believe that first nations should be a part of that process.

Co-development, of course, is not mentioned in UNDRIP specifically, but the minister has used it quite a bit, and I think that it is in the spirit of this legislation.

I will leave it at that and look to my colleagues for any further comments.

The Chair: Thank you, Mr. Melillo.

I'm going to turn it back over to Ms. Idlout and then Mr. Battiste.

Ms. Lori Idlout: I will apologize if my sentence is not very English.

My suggestion would be to add after "bodies", "pursuant to the United Nations Declaration on the Rights of Indigenous Peoples, article 19", or maybe switch it to "pursuant to article 19 of the United Nations Declaration on the Rights of Indigenous Peoples, free prior and informed consent", if that makes sense.

The Chair: Thank you very much, Ms. Idlout.

I want to give a brief reminder that all subamendments need to be submitted in writing so that we can have those translated as well.

I'm sorry, Ms. Idlout.

• (1130)

Ms. Lori Idlout: I'm okay to not submit the subamendment if it's going to end up requiring more time to get it translated.

The Chair: Thank you, Ms. Idlout.

In that case, Mr. Battiste, would you like to make an intervention?

Mr. Jaime Battiste: No.

The Chair: In that case, not seeing any further debate, let's go to a vote.

Shall CPC-2 carry?

Go ahead, Mr. Clerk.

Ms. Lori Idlout: This amendment seeks to increase first nations engagement in these types of processes, so I support it. Thank you.

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

The Chair: CPC-2 is carried, which brings us to CPC-3.

I'll open the floor back up to Mr. Melillo to move that.

Mr. Eric Melillo: Thank you, Mr. Chair.

Again, as you mentioned, CPC-3 is fairly similar to CPC-2. It's in a different clause or on a different page and seeks to ensure that it's not just consultation and co-operation—which I think are important, of course—but taking it a step further to include co-development.

As I just made the argument for the last clause, I'll end my comments there, and hopefully we can get support to include co-development once again.

The Chair: Thank you, Mr. Melillo.

With that, I'll open it up for debate. Would anybody like to weigh in at this point?

Go ahead, Mr. Battiste.

Mr. Jaime Battiste: I'm wondering if the technicians could tell us what the implications of this are on the bill. Could you give us some reasoning as to how you feel this either improves or takes away from the current legislation?

Ms. Rebecca Blake: I appreciate the question.

As it was previously mentioned, the term "co-development" is not necessarily in the UNDRIP declaration, so there might be some inconsistency in language. In terms of how we move forward on those processes to work with first nations to develop those regulations, it would just be an additional component to ensure that we're moving forward with regulations for safe drinking water on first nation lands.

Mr. Jaime Battiste: Okay.

Shall we pass it on division?

The Chair: Okay. Thanks, Mr. Battiste.

I'm not seeing any further interventions. Let's move to a vote. I don't think we need a recorded vote here.

Shall CPC-3 carry?

(Amendment agreed to on division [*See Minutes of Proceedings*])

(Clause 20 as amended agreed to on division)

(On clause 21)

The Chair: We're on clause 21. That brings us to NDP-40.

Ms. Lori Idlout: What about BQ-13 and BQ-14?

The Chair: BQ-13 and BQ-14 were withdrawn, so we're at NDP-40.

Ms. Lori Idlout: Okay.

The Chair: Ms. Idlout, the floor is yours.

Ms. Lori Idlout: Can I have just two seconds—

The Chair: Sure.

Ms. Lori Idlout: —or one minute?

The Chair: It's one minute. Okay.

We're going to briefly suspend.

• (1130)

(Pause)

• (1140)

The Chair: I call this meeting back to order.

We left off at NDP-40. I'll pass the floor back over to Ms. Idlout.

Ms. Lori Idlout: *Qujannamiik, Iksivautaq.*

While this amendment was submitted by the B.C. Assembly of First Nations, I've noted that the CPC has an amendment similar to this, which I've agreed to follow, so I'm withdrawing this amendment in favour of a Conservative amendment that will clarify things.

Qujannamiik.

The Chair: Thank you very much, Ms. Idlout.

We will then be moving on. G-5 is the next amendment we have.

I'm going to open up the floor to Mrs. Atwin to move that one.

Mrs. Jenica Atwin: I move that Bill C-61, in clause 21, be amended by replacing line 6 on page 13 with the following:

“protection zone” for the purposes of this Act. In making such a regulation, the Minister must consider how a protection zone is to be connected to First Nation lands.

The rationale behind this is removing that word “adjacent”, which I think has caused a lot of consternation with some of our witnesses—actually, many of the witnesses.

This still ensures that a protection zone must be connected to first nation land, but ensures flexibility in how they may be defined with first nations, provinces and territories. It's additional clarity, but it also ensures flexibility.

The Chair: Thank you very much, Mrs. Atwin.

I'll open it to debate.

I see Ms. Idlout has her hand up. I'll turn the floor over to you.

Ms. Lori Idlout: Thank you for clarifying that.

I am still a bit concerned that it creates limitations. I wonder if we can hear from the experts about how making this amendment follows the intent of what Jenica just mentioned.

Mr. Nelson Barbosa: Thanks for the question.

I won't reiterate conversations we've been having at this table for a while now.

We did talk about a protection zone being laws aligned between provinces, territories and first nations, a defined space. We talked about water moving from point A to point B. We've removed the concept of adjacency, although I think there are still provisions to follow.

The “connected to” term relates to... We've talked about watersheds and rivers that flow and move, so it brings, I would say, some permanency to the concept that waters do flow and move. First nations are sometimes impacted by those watersheds, so it's less about being directly beside it; it's more about being part of an ecosystem of water that may impact a first nation.

Ms. Lori Idlout: I guess I'll ask a scenario question.

It's saying “the protection zone is to be connected to the First Nation lands”. We've heard, for example, that part of the NWT's source water is in Alberta. Because we're creating this amendment, then the first nation lands, because of that connection, would be actually able to help make sure those waters in Alberta are protected.

Is that how I understand it?

Mr. Nelson Barbosa: I would say yes. A protection zone, again, is about aligning laws. In the case of northern Alberta and southern NWT, those waters flow across borders, so it would require alignment of laws between three parties in this case—a first nation or first nations, a province and then the Government of NWT.

Ms. Lori Idlout: Thank you.

The Chair: Thank you very much, Ms. Idlout.

Mr. Melillo is next.

Mr. Eric Melillo: Thank you, Mr. Chair.

I appreciate the answers we've had so far and the intention of this amendment.

I do have a few questions about the wording as well. In particular, I think “the Minister must consider” is vague and not necessarily binding.

On “how a protection zone is to be connected to First Nation lands”, which you just spoke about, Mr. Barbosa, when I read this and when I hear it, it sounds to me like it is maybe inadvertently placing some conditions on what a protection zone would be in terms of being connected specifically to first nation lands or perhaps not being connected to first nation lands. The minister has to figure out how that will be connected.

It just seems to me like it is perhaps inadvertently introducing some restrictions on what the protection zone could be.

Do you have any comments on that thought?

• (1145)

Mr. Nelson Barbosa: The very concept of protection zones is to bring laws together. The laws would be to protect waters, so in my mind there must be a connection to water or sources of water to protect those waters and an alignment of laws.

I'm not sure if I totally get the question, but I don't think it's limiting. I think it is talking about the definition of "law" in a space and that a first nation must be implicated in that space in order to define laws in partnership with provinces and territories. I think it strengthens the nuance of the law-making ability that a first nation would have.

Mr. Eric Melillo: In your opinion, would this wording, if it passed, clarify—or perhaps "restrict" is the word—a protection zone as being specifically connected to first nation lands?

Mr. Nelson Barbosa: As you pointed out, it says that the minister must consider how those things apply, so, in my mind, it's clarifying the law-making ability of a first nation in partnership with the provinces and territories.

The Chair: Go ahead, Mr. Battiste.

Mr. Jaime Battiste: I know that there's been some concern expressed by both the Bloc and the Conservatives about protection zones being undefined. We agree that we need to ensure that we don't infringe on provincial jurisdiction, and that's why this extra sentence gives the clarity that the water has to be connected to a first nation, so it's not just all waters associated in the province that are a protection zone. There's actually a connection to that first nations community, whether it's drinking water or fishing.

I see this doing exactly what we've been asked by the Conservatives and the Bloc to consider doing, which is ensuring that when we're doing this, we're not covering all waters associated with that province but rather the ones that are connected to a first nations community.

In terms of drinking water sources, we've had cases of first nations' drinking water being poisoned in Nova Scotia or Alberta. What this hopes to do is give clarity by saying that only waters that are connected to first nations communities can be considered a protection zone.

I think that addresses some of the concerns that the Conservatives and the Bloc have raised. Would you say that's a somewhat reasonable reading of what this statement does?

Mr. Nelson Barbosa: It's a very accurate encapsulation.

The Chair: Thank you, Mr. Battiste.

Go ahead, Mr. Melillo.

Mr. Eric Melillo: Thank you Mr. Chair. I do appreciate the comments from Mr. Battiste and his efforts to try to get to consensus here. I guess I disagree a bit with the specific wording of this in what it.... I don't disagree with the intentions, but I'm not sure if the wording is quite sufficient.

I'd be curious how "connected" would be defined, versus "adjacency". We've gone to lengths to remove "adjacency". What is "connected"? I mean, water flows in many ways for great lengths. At what point would a river that runs through multiple provinces

still be connected to a first nation or perhaps not connected to a first nation?

I think that creates some ambiguity. I don't think it's intended ambiguity on the part of the government, but it just concerns me that it could be the case.

Do you have thoughts on how "connected" would be defined? I hate to say "defined", because we've been fighting about definitions for some time now, but I think it's an important point.

Mr. Nelson Barbosa: Thanks for the question.

Well, first off, it says "must consider", not "defined", so it's a part of the consideration of how the laws apply.

Yes, some rivers are very long. Some of the longest rivers in the world are in this country, and there are also sources of water that are quite small. I think the concept is that there must be—not to define a term with the term—a connection to that water in order for a law to be passed.

In the same way that exists in the provincial and territorial concept, the Province of Ontario cannot pass a law over waters in Alberta, because there's no connection to those lands or to that watershed. I think it's talking about aligning laws over a space that is permeable and connecting those to a first nation.

• (1150)

The Chair: Thank you very much, Mr. Melillo.

[*Translation*]

Mr. Lemire, you have the floor.

Mr. Sébastien Lemire: I just want to point out that we will be voting in favour of the amendment. I thank Mr. Battiste for his sensitivity on this.

We still think it will be important to clarify the concept of adjacent lands, but that will be discussed when we discuss BQ-15 and clause 22.

The Chair: Thank you very much, Mr. Lemire.

[*English*]

Next, we're going to go to Mr. Shields.

Mr. Martin Shields (Bow River, CPC): Thank you, Mr. Chair.

This does get complicated. I know of rivers that originate in the United States that would be connected to the Blackfoot Confederacy. They come through Canada and return to the United States.

In some water agreements, percentages of water are retained in one country, with an international agreement. The water use is retained in Canada. We also have water agreements from B.C. to Manitoba on the amount of water each province can retain from that river flow. We have a number of very complicated agreements and international agreements sitting out there that this would affect when you talk about connections. It's not as simple as you might suggest in this conversation. It's very complicated.

Those agreements on the international water that affect the Blackfoot Confederacy, for example.... On both sides of the border, that agreement is being.... They've spent 10 years renegotiating that particular agreement, because it's very complicated. It's not simple. When we say "connected", it's not simple.

The headwaters of the Saskatchewan rivers come out of B.C. through the western provinces all the way to Hudson Bay. When we say "connect", this is a lot of territory and a lot of....

There are agreements that provinces have on water usage and percentage, and across international borders. When you say "connect", this is a red flag for me. It's a tough issue, not only between provinces but internationally.

The Chair: Thank you, Mr. Shields.

Next is Mr. Zimmer.

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

I would agree with my colleague Mr. Shields.

In a previous committee meeting, I mentioned protection zones and how they would affect certain water bodies. In my riding, as an example, we have the Peace River. It goes from Alberta to B.C. and all the way up into the Northwest Territories, where it exits into the Arctic. Along the way, it affects many things—I used this example too, but I'll state it again—such as natural gas.

The reason we have a natural gas project on the west coast of B.C. is the natural gas from my riding. It only makes its way there because exploration has been done and production has happened, and they needed water to produce that natural gas. If we put a protection zone anywhere near the Peace River, it would affect any potential new development on natural gas.

Natural gas, by the way, is great for the environment in that it reduces emissions around the world, as long as we can get it to the world. Any kind of limitation that we put around that source water—that would be the Peace River or any water coming from the Peace River—would have some pretty dramatic effects, not just in the province of B.C., but in Alberta and, really, globally. That's how a simple piece of legislation can have some pretty severe impacts on any new development.

Lastly, I'd add to this statement that it affects first nations. A lot of first nations along the way have had economic prosperity and opportunity because of natural gas. If we're going to limit that as well.... Again, just a simple phrase—two words in a piece of government legislation—can have some wide and vast negative consequences.

Thank you.

● (1155)

The Chair: Thank you very much, Mr. Zimmer.

I don't see any further hands—

Go ahead, Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chair.

Mr. Chair, I think we really have to be considerate of the impacts that waters, waterways and watersheds have, even though communities may be quite far away from projects, dams or anything of that nature that holds back water or reduces water.

I live in a community called Fort Providence. It's an indigenous community. It's the first community on the Mackenzie River. Two days ago, the Mackenzie River dropped so low that we can no longer pump water into our water plant. It's the first time in our history that we've had water levels drop so low. Our water levels have been dropping since they started holding back water at Site C. Whether that's the actual cause, I can't say for sure, but the timing is certainly coincidental.

When Site C was being built, we did not have one word of input on that project—not one. We were considered not connected. We're too far away. It didn't matter if it was indigenous voices trying to provide input or the Government of Northwest Territories: We had no say.

Now our barges can't come up and down the river and water intakes are being affected, so I think we need to be able to make sure that projects that are on one side of the country don't affect something that's further downstream. We have to look at whole watersheds. We have to look at the whole flow of river systems when we talk about impacts and when we start talking about projects and their effects on others.

Thank you.

The Chair: Thank you very much, Mr. McLeod. It's just alarming and heartbreaking to hear what the impact is right now.

Mr. Shields has his hand up, so I'll go there next.

Mr. Martin Shields: Thank you.

I'm going to refer to B.C. and the Columbia River and the agreement with the United States. This is hydrological. The amount of electricity that's created is a huge source of power within the Columbia River basin. That's another one that's an international treaty with the U.S.: the Columbia River. The amount of hydro power that's created is a piece to that.

There's another side to the dam argument. Recently, environmentalists in discussions and meetings that I've been in have talked about dams that have created a better environmental flow of water at a predicted rate that creates a better environment, predictably, along the river streams. I'm seeing information, then, from environmentalists who used to oppose dams and are now saying that they are a means of a healthier environment along the stream beds. I think there's some information out there that shows both sides of that.

I understand and realize what you're saying and the difficulty it creates. However, I'm just saying that there's some other information out there, as well, on the creation of dams both for power and for stream-flow consistency.

Thank you.

The Chair: Thank you, Mr. Shields.

I have a lot of thoughts on this, as someone who's practised in transboundary water management. Certainly the dams on the Columbia River were done for flood mitigation. However, among other things, damming did prevent the salmon runs from going upstream, so there are some very major ecological impacts. Actually, that treaty is now up for renegotiation, which will be very interesting with the new incoming administration.

In any event, that's neither here nor there.

I'm not seeing any more interventions, so let's go to a vote.

Shall G-5 carry? We're going to have a recorded division.

(Amendment agreed to: yeas 7; nays 4)

The Chair: That takes us to CPC-4.

Go ahead, Mr. Melillo.

• (1200)

Mr. Eric Melillo: Thank you, Mr. Chair.

I'm happy to move CPC-4, which pertains to the discussion about protection zones and the regulations the minister must make.

Again, this is not a new concept, at least from the standpoint of our amendment. It's just ensuring that any such regulation must be co-developed with provinces, territories and first nation governments.

That is the hope of CPC-4. It's aiming to ensure that the protection zones can be defined clearly and not get caught up in any, frankly, legal dispute, whether it be from provinces or first nations, about what the zones may look like.

I will end it there. We're hoping to include co-development, which I believe is in the spirit of this legislation.

The Chair: Thank you very much, Mr. Melillo.

That will open it up to debate.

Go ahead, Mr. Battiste.

Mr. Jaime Battiste: I understand that what we've asked for is consultation and co-operation with provinces that's consistent with this legislation, but this seems to add a layer of bureaucracy of co-developing different agreements with all of the different provinces and territories.

I'm wondering if that's consistent with the legislation that we're looking at now or if it would require extra layers of bureaucracy in asking provinces to co-develop something and if we'd be waiting on provinces to move forward in this area for first nations water.

I'm a little concerned that by having these co-developments with provinces, as opposed to co-operation and consultation, it might take years for that to actually happen, and first nations communities would not have protection zones and first nations water legislation.

Am I understanding this amendment by the Conservatives correctly, and what the implications might be?

Mr. Nelson Barbosa: In previous remarks we spoke about consultation and co-operation being embedded in UNDA. This being absent, it certainly still holds here.

To your point, I don't think there's consensus, even among many first nations, on what the bar is for co-development. I certainly would say that it applies for provinces and territories.

What is being proposed would be co-developing with those three parties of provinces, territories and first nations. That concept of engagement among first nations has been a tricky one and one that you have heard many times from partners coming to this table on this legislation.

Now this is being applied to provinces and territories. I have not heard from provinces and territories what their opinion on co-development is, but I would imagine it is a very high bar and one for which I have not seen a precedent.

Mr. Jaime Battiste: Just to follow up, in order to obtain co-development from provinces and first nations as pertaining to this legislation, that would delay implementation of this by at least months, if not years.

• (1205)

Mr. Nelson Barbosa: It would be hard to put a time on it. Co-development with provinces and territories certainly creates a new layer, for sure. It also may detract parties from even coming together in the first place.

Mr. Jaime Battiste: Okay.

The Chair: Thank you very much, Mr. Battiste.

Next we'll go to Mr. Melillo, Mr. Zimmer and Ms. Idlout.

Mr. Eric Melillo: Thank you, Mr. Chair.

I appreciate the concern raised. I do. I believe, however, that bringing this forward will help protect the process and ensure that it's not caught up in court in legal battles and will actually get to a place where this legislation could hopefully be effective. That is the aim of this amendment, Mr. Chair.

As mentioned, co-development is perhaps a bit of a new term in this concept, but the minister has used it many times in the context of the development of this bill.

You suggest, Mr. Barbosa, that co-development could delay the implementation of this bill. Could I ask if the co-development process for this legislation delayed the implementation of Bill C-61?

Mr. Nelson Barbosa: The department has submitted a brief to this committee on the engagement process leading to the tabling of the bill on December 11 of last year, so I won't speak more about the engagement process, but I would refer members to that.

With regard to the latter question, this section is about the creation of, and consultation on, protection zones. As we've discussed many times, the first concept is what the space is—who the people are in that space, the parties in that space, the laws that protect that protection zone and what the consequences are. It requires all parties to come together and now co-develop an approach.

We've heard concerns from many first nations, as have members of this committee, about the willingness of provinces to come to the table to support aligned laws and to create a co-developed context in which provinces must be co-developers in that process. As I've mentioned before, that may detract potential provinces and territories, and maybe even first nations, from aligning the laws. Ultimately, this legislation is about empowering first nations to create their own laws and protecting Canada's waters. There may be limitations to that with this amendment.

Mr. Eric Melillo: I appreciate that.

I think there are other hands, so I'll stop there.

The Chair: Thank you.

Go ahead, Mr. Zimmer.

Mr. Bob Zimmer: I just want to support my colleague, Eric Melillo. I think what he says is very accurate. This is a pre-emptive bit of good advice, especially as part of the legislation, to keep it out of the courts.

Let's get back to the premise of the bill. This is very much setting itself up to be an impediment to getting water for first nations, as opposed to actually getting water for first nations. This government has been in power for nine years. Are all the boil water advisories gone? No, they're not. The government promised that they'd be gone as of 2021, but here we are.

The government could keep going down the list and just keep eliminating those boil water advisories, but instead of that, it's offering a piece of legislation that potentially will restrict water for first nations and get it caught up in courts across the country because certain provinces have problems with the way this legislation is written.

I would challenge the government just to get water done and, you know, follow up on a promise it made a long time ago instead of tangling up the entire process in the courts.

Thanks.

The Chair: Thank you very much, Mr. Zimmer.

Next we're going to go to Ms. Idlout and then to Mr. Shields and Mrs. Atwin.

Ms. Idlout, the floor is yours.

Ms. Lori Idlout: I support the intent of this amendment, because first nations have been ignored for so long by all levels of government. Having an amendment like this, having provinces and territories co-develop with the first nations' governing bodies.... I understand the intent.

On hearing the concerns brought forward by the Liberals of the potential delay, my own dilemma is that I don't consider it delay. The conversations, the negotiations and the decision-making that

can happen together are not delay to me. Ensuring that first nations' governing bodies are in that process means that we will be listening to what they've been asking for, which is to be heard by levels of government. Ensuring the co-development process can even help strengthen relationships.

I'm very much conflicted—I really am—but I'm leaning towards supporting CPC-4 because it gives first nations' governing bodies another avenue to be part of a development process that will ensure that their rights are being respected. I think I've just persuaded myself that I'm going to support CPC-4.

● (1210)

The Chair: Thank you very much, Ms. Idlout.

Next we'll go to Mr. Shields and then to Ms. Atwin.

Mr. Martin Shields: She made my argument.

The Chair: Thank you, Mr. Shields.

Go ahead, Ms. Atwin.

Mrs. Jenica Atwin: Thanks.

I have a question for our officials. Based on Mr. Zimmer's comments, would including co-development prevent us from being tied up in court, or is it the opposite?

Mr. Nelson Barbosa: Much of our conversation has been around definitions. We've talked about "consultation and co-operation" as being more of an understood term. I believe that securing the co-development of a province or a territory, and how that is done by a federal minister in partnership with first nations, could be highly contentious. It could lead to first nations in many cases acting alone in water management on only their lands, which I think could continue what is a current practice of litigation of first nations against provinces to protect their waters.

My concern is a lack of action, not litigation. I think the litigation will continue, but I think co-development will be such a high bar for provinces and territories that it may.... The entire purpose of this provision is to bring people together, and I think it may push them apart.

Mrs. Jenica Atwin: I'm also considering what happens if you don't have a willing participant. We recently had an election in New Brunswick, for example. We now have a willing participant in those conversations—around title claims, for example—to go back to the negotiating table rather than to litigate. Our previous government was not in favour of that. I worry about the idea that you need to have that partner there to do that co-development.

Those would be my concerns—that there are some political implications about who's willing to have those conversations.

The Chair: Thank you, Mrs. Atwin.

Next I have Mr. Battiste, and then we'll go to Mr. Zimmer.

Mr. Jaime Battiste: While I can definitely agree that if you had provincial governments and first nations and the federal government as willing participants at the table to co-develop something when the intent was to ensure that first nations had clean water and the protection zones under this were covered, in Nova Scotia they poisoned water next to Pictou Landing and in that area for more than 40 years. The province refused to come to the table to talk about it because of the industry that was making money and creating jobs.

Now, if we're asking first nations to come to the table with a province that is putting industry and jobs ahead of clean water for that first nation, what we're doing in this legislation is that instead of having protected zones with consultation and co-operation with provinces, we're giving the provinces the ability to say that they won't co-develop this with first nations.

It seems to me that if we're trying to protect the protection zones that first nations are connected to, we're giving the provinces an ability to say, "No, we didn't co-develop that, so it's not something we're going to move forward on."

If the NDP supports this, I want them to know that we're giving provinces the ability to continue to poison first nations communities' waters and to not come to the table at all. We've seen too many examples, in the history of first nations, of provinces putting jobs and industry ahead of first nations communities. By putting that in there, what we're doing, in a sense, is giving provinces the ability to say that they didn't co-develop that or that they refuse to co-develop it because it might impact jobs in their communities.

For that reason, I cannot accept this amendment. I would strongly encourage my colleagues to have conversations with first nations communities on what is about to transpire.

We're not giving first nations any increased rights with this amendment; we're giving provinces the ability to walk away from first nations protected zones, such as what happened in Pictou Landing, where their connected water was poisoned for decades, if not generations.

To the officials, I'm wondering if my concerns are valid on this.

• (1215)

Mr. Nelson Barbosa: I think I've spoken a lot about my feelings on the bar being very high for provinces and territories.

Again, the entire provision is about creating a space for first nations and provinces and territories to come together to protect sources of water. We've talked about that a lot. There are already provisions in the legislation that talk about ensuring that first nations' voices are heard in that process through consultation and co-operation.

Creating co-development universally—first nations, provinces and territories—will certainly increase the bar for what that process will look like, including for first nations, but it may and could detract provinces and territories from coming into that space.

Ultimately, if one of the foundations of this legislation is to ensure that first nations can protect their waters, we may be undoing that with this amendment.

Mr. Jaime Battiste: Can you say that last part again? We're....

Mr. Nelson Barbosa: We may be undoing one of the fundamental principles of this legislation.

Ms. Lori Idlout: I'm sorry, but can you say that again?

Mr. Nelson Barbosa: I can, yes. We may be undoing, if this legislation....

Again, let's go back to the principles of this legislation. One is self-determination by first nations in protecting their waters on their lands. The second one is closing a regulatory gap, and the third is to create a space to align laws for first nations and for provinces and territories to come together to protect waters together.

By creating such a high bar for provinces and territories and first nations to come together in a co-developed way, we may be detracting or taking away one of the core, fundamental elements of this bill because of the nature of the engagement process, the co-development process.

The Chair: Thank you very much, Mr. Battiste.

We have a long and growing speaking list.

Next we have Mr. Zimmer, then Mr. Longfield, then Ms. Idlout, then Mr. Shields and then Mr. Lemire.

Go ahead, Mr. Zimmer.

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

I have a really simple question for Mr. Barbosa that goes back to this piece of legislation, since it's coming up more in the general comments around the legislation. Is Bill C-61 necessary to provide clean water for first nations?

Mr. Nelson Barbosa: No.

Mr. Bob Zimmer: Thank you.

The Chair: Thank you very much, Mr. Zimmer.

We go to Mr. Longfield next.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Chair. Thanks for having me here as a guest at the committee.

It's a very interesting discussion. I'm reminded of a discussion I had with a NAN elder up in Sioux Lookout, where we were doing boil water advisory work together. He made the comment that "It's the paper mills and the mines, the poking holes in Mother Earth that causes the first problem." This legislation intends to solve that by starting with the first principles of having clean water.

Having bars such that the indigenous people aren't able to negotiate clean water—such as putting the recommendation we're discussing right now on the table, saying that everybody has to be at the table, including the provinces—could not only impede the NAN from successfully gaining clean water, but could also cause the elder to lose people from his band to the employment in the paper mills and the mines, and so people aren't even able to work on clean water solutions.

I think that keeping the frustrations away from the first nations and making sure that we have a clear pathway for them to get to clean water is very important, so I won't be supporting this amendment for that reason.

• (1220)

The Chair: Thank you very much, Mr. Longfield.

Next I go to Ms. Idlout.

Ms. Lori Idlout: I forget what my question was going to be.

The Chair: We can come back.

Ms. Lori Idlout: I am listening very intently to this important discussion and the concerns about setting such a high bar, especially when we have provinces with leadership like that in Alberta, which I think would never proudly meet with the first nations.

I see that CPC-4 looks to amend the current subclause 21(2). Subclause 21(2) is already about:

the Minister must consult and cooperate with First Nation governing bodies, federal ministers and the governments of the provinces and territories.

Therefore, I do appreciate what the current bill already provides for.

Oujannamiik.

The Chair: Thank you very much, Ms. Idlout.

We go to Mr. Shields next.

Mr. Martin Shields: Thank you, Mr. Chair.

I appreciate the discussion, the input and the difference of opinions.

I would look at a couple of examples. The dental plan is a negotiated one. Child care was negotiated with provinces individually; the federal government has been working through that process, and I think they've come to a lot of agreements with provinces individually, rather than with all as one.

Regarding the challenge that some people might feel that co-operation to develop agreements is problematic, I think that the co-operation is essential on this particular issue, as with policing. The federal government is now working with indigenous and provincial governments to establish different policing models across the country. Again, it is a co-operative attempt to deal with the policing issues, which are urgent, and indigenous and provincial representatives are coming to the table with the federal government to develop different policing models.

There are examples of that happening trilaterally across the country, and, as I say, the federal government has been attempting to do that one-on-one in specific programs with provinces across

the country and is establishing agreements on different programs that they're setting up.

I'm a little more optimistic than maybe some people are. Especially on this particular topic, I think there is more consensus about coming to the table to work on an agreement. I'm of the belief that a co-operative agreement is a better agreement than a mandated one or one without a partnership. We've talked about partnerships a lot here on this particular issue, and I think partnerships make for a better agreement and a longer-lasting agreement and are a much better approach than excluding people from them.

I'm a little more optimistic than some people might be on this particular issue.

Thank you, Mr. Chair.

• (1225)

The Chair: Thank you very much, Mr. Shields.

[*Translation*]

Mr. Lemire, the floor is yours.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

I find that co-developing elements of regulations is a matter of principle. Particularly when it comes to environmental issues and protected areas, I think it's fundamental that first nations be part of that co-development.

That's why we're going to support this amendment.

The Chair: Thank you very much, Mr. Lemire.

[*English*]

Mr. Battiste, I'll go to you next.

Mr. Jaime Battiste: I'm 100% in favour of co-development with first nations. The problem is it's the first nations' water, and they have the motivation to want to come to the table because it's their water. It's talking about their fishing rights and it's talking about their access to clean water. We heard from witnesses who were in tears and who talked about the poisoning of the very waters in which their children were swimming in Alberta.

If we're not just asking for co-development from first nations but also for co-development from a province that could walk away and say it's not coming to the table because of jobs, industry or political reasons, as a first nations person, I'll say that this defeats the purpose of what we're trying to accomplish here in protecting the water sources they're connected to.

If there's an amendment we could come to that says that first nations.... I'm happy to have a strong co-development aspect of it, if that's what it takes, but to give the province the ability to not come to the table and say it's not going to come to the table because it doesn't feel this is necessary would allow first nations' water sources to be poisoned like they've been poisoned for the past 100 years. The entire intent of this legislation is to ensure that the first nations who live on reserve and who have been abandoned many times by the provinces for corporate gain.... I would think that this would be at the heart of what this bill is trying to prevent.

I just need to be clear that first nations across Canada and the first nations I've talked to are agreeing is a standard we need to put above co-operation and consultation. I want the provinces to be involved and I want them to have a say, but I don't want them to have a veto over whether they can poison first nations communities' water or not.

The Chair: Thank you, Mr. Battiste.

[Translation]

Mr. Lemire, you have the floor.

Mr. Sébastien Lemire: I understand my colleague's concern about the situation in Alberta, which is relevant, but the territorial aspect is also important. Water is also under the jurisdiction of Quebec and the provinces, so I think that's another reason to vote in favour of this amendment.

The Chair: Thank you very much, Mr. Lemire.

[English]

I'm not seeing any other debate. Why don't we go to....

Go ahead, Ms. Atwin.

Mrs. Jenica Atwin: Thank you, Mr. Chair.

If we can go back a bit, I know that Mr. Zimmer asked whether this bill is required to have clean drinking water. As we know, there are water treatment plants being built. There are design phases and feasibility studies for the ones that remain. What does the bill do? Can you reiterate that for us again?

You went through those three core principles, but I think it's really important that we all understand what we're doing and what this bill actually will afford to indigenous communities. I just would like to hear your response on that.

Mr. Nelson Barbosa: For additional clarification, I think that first nations are the only jurisdictions in Canada that have no regulatory or standards regimes, so while there is clean water in many first nations and there's been tremendous success due to first nations' efforts, more can be done through legislation.

Again, the three things that occur to me are affirmation of self-government for law-making for, on, in or under first nations land for water and waste water. That's paramount objective number one. Paramount objective two is sewing up the only regulatory and standards gaps this country has on the provision of water, which is on first nations lands. The third is to encourage and create a legislative space for provinces, territories and first nations to come together, through consultation and co-operation, to protect waters that flow and affect all Canadians.

• (1230)

The Chair: Go ahead, Ms. Atwin.

Mrs. Jenica Atwin: Supplemental to that, Mr. Battiste mentioned Pictou Landing, for example, in Nova Scotia.

If this bill had been enforced under the form we are working from, would they have had more tools to protect their community from the implications of that kind of industry and how it affected their clean water?

Mr. Nelson Barbosa: There are currently no legislative tools to provide a space to align laws in the water context. Therefore, in the case of Pictou Landing and many others that committee members heard from—in Alberta, Ontario and beyond—had that space been afforded, had there been alignment of laws and a broader protection scheme that considered first nations' needs and the needs of provinces and territories, we could be looking at a vastly different Canada, where waters are safer. That is the intent.

Now, there's no guarantee that this legislation will lead to those things, but it is attempting to entrench in law a space to bring people and parties together with a single intent: safe water.

Mrs. Jenica Atwin: Thank you.

The Chair: I'm not seeing any more debate.

Let's go to a vote, and then after we'll take a brief health break.

We'll do a recorded division.

(Amendment negatived: nays 6; yeas 5 [See Minutes of Proceedings])

The Chair: We're going to take a brief health break, but we'll be back in five minutes.

• (1230) _____ (Pause) _____

• (1245)

The Chair: We left off on amendments on clause 21. The next amendment is CPC-5. This is the new CPC-5. This would have been circulated by email yesterday. For your awareness, the reference number for this is 13427322.

With that, I'll open the floor up to Mr. Melillo for the new CPC-5.

Mr. Eric Melillo: Thank you very much, Mr. Chair.

I appreciate the opportunity to speak to CPC-5 and to move CPC-5.

I think it's an important amendment toward ensuring that first nation rights are protected, as well as understanding what a clear definition of protection zone would be and that the agreement of provinces and territories is absolutely critical to ensuring a smooth process in the development of that.

Pertaining to the protection zone, the amendment would read as follows:

(3) A regulation made under subsection (1) must not come into force unless the Minister has obtained free, prior and informed consent of First Nation governing bodies and the consent of the governments of the provinces and territories.

Mr. Chair, there's been a lot of discussion about this amendment during our various pauses throughout the day. I understand that there also may be a subamendment coming to address some of that language to make it more clear.

I encourage all colleagues around the table to support this amendment. I think it reinforces free, prior and informed consent in UNDRIP, which, of course, is already Canadian law, and will add extra affirmation for provinces and territories to ensure that in regard to any land that may be provincially governed, or any Crown land at this point in time, that could fall into a protection zone, those relevant provinces and territories are at the table to have agreement on what that definition will be.

I'll leave it there for now, Mr. Chair. I appreciate the opportunity to bring this forward.

• (1250)

The Chair: Thank you, Mr. Melillo.

First we're going to go to Mr. Shields and then to Mr. Battiste.

Mr. Martin Shields: Thank you, Mr. Chair.

I'd like to make a subamendment. I would like to take out the word "consent" and put in the word "agreement".

The Chair: Thank you very much, Mr. Shields.

I want to remind you that all the subamendments need to be circulated in writing. Members should have that very shortly.

It seems fairly clear to me, but while we're waiting for that, why don't we start the debate on it?

Mr. Battiste, do you want to make an intervention on that or on the subamendment?

Mr. Jaime Battiste: I like the word "agreement" better than the word "consent", because "agreement" has some sort of practical application. It's saying there is an agreement among the groups involved.

For the purposes of this amendment, I'm really trying to get to wording that the government can support but that also doesn't infringe on provincial jurisdiction. When we're talking about protection zones that first nations are involved with, my concern is over a province not wanting to come to an agreement.

In the same vein as for the last amendment, I would be uncomfortable supporting an amendment whereby a province could continue to say that we don't have agreement. Thereby, there's a veto of protection zones, and communities could still have their waters poisoned.

This is my question to the officials here. If there is no agreement from the provinces, or a province, on what's considered a protection zone in that province, does that mean the whole purpose of protecting first nations' water would then not be in place?

I believe, because of the wording, it's saying that unless an agreement is finalized with a province, there will be no protections for first nations' water. My fear, just like in the last piece, is that if the protection of a first nation's water source is entirely dependent on an agreement of a province, it would mean that there is no protection until the province decides that there should be.

Is that an accurate assessment of this amendment?

Ms. Rebecca Blake: I appreciate the question.

These particular clauses work with other provisions in the bill as well. Clause 21 is really about bringing all parties together to the table to define what a protection zone is—first nations, provinces and territories and multiple federal ministers who are implicated on water.

The second phase of that is really in paragraph 6(1)(b), and that talks about individual first nations or groups of first nations coming together with the provinces and territories where they are located to agree upon an approach to implement and coordinate the laws of all orders of government in that space.

It is a multi-pronged approach that is contemplated. This potential amendment would add an extra step in that approach.

Mr. Jaime Battiste: In stating that, the language around paragraph 6(1)(b) is definitely more comfortable for the federal government, and there is some sort of precedent for this in the past with other legislation that we've made with the province.

How can we ensure that first nations aren't held to the standard of a province agreeing to protect their water, but at the same time ensure that the provincial government has a say in this so that they feel comfortable that we are including them in the conversation?

Ms. Rebecca Blake: I appreciate the question.

It is delicate. There is no intent to infringe on provincial jurisdiction and every intent to respect that provincial jurisdiction.

That existing language around "consult and cooperate" with all parties allows everybody to have an equal seat at the table, working together on what those protection zones look like. Then, for the actual implementation of those protection zones, it's up to a willing buyer and willing seller—so provinces and first nations—to sit together and come to an agreement or another agreed-upon approach. It could be an exchange of letters, for example, among chiefs, premiers and ministers on how they would coordinate laws to implement actions in those protection zones.

• (1255)

Mr. Jaime Battiste: Is there a stipulation in this, when we're talking about protection zones, so that a province or first nation wouldn't be able to rag the puck and delay this? Is there any kind of built-in mechanism to prevent delaying the protection of these protection zones? I feel that within a certain amount of time after the passage of this legislation, there should be an actual date for this to happen.

My concern, if could you speak to it, is that within this amendment there is no inherent time frame for the provinces to consult and co-operate to ensure that a first nation's protected zone is actually going to happen in one's lifetime. As someone who lives in a first nations community, I would really like to see that in my lifetime.

Ms. Rebecca Blake: I appreciate the question, absolutely.

In terms of a timeline, there are subclauses 20(1) and 20(2), which would require the minister to make all best efforts to ensure that those consultations and co-operation with all parties, including provinces and territories, do happen. I do believe it's six months—I don't have it in front of me—to begin that process.

Mr. Jaime Battiste: Does this amendment impact that six-month time frame?

Ms. Rebecca Blake: Not necessarily, as that is subclause 20(2). This, I do believe, is an amendment around proposed subclause 21(3), so it does not directly impact it. It would be an additional step after that timeline.

Mr. Jaime Battiste: Thank you.

The Chair: Thank you, Mr. Battiste.

Next I have Ms. Idlout on the list here.

Ms. Idlout, the floor is yours.

Ms. Lori Idlout: Thank you, Chair.

I'm just wondering about.... Even if the second “consent” word was changed to “agreement”, the impact of this amendment, if it were passed.... We're talking about differentiations right now, with “jurisdiction” in clause 6 and then “agreement” in clause 21.

While I appreciate your feedback about the importance of outlining it in the “Jurisdiction” section, when we're talking about clause 21 and “agreement”.... This is feedback similar to what I've shared about how important it is that first nations are finally given the legal platform to have their voices heard on these kinds of things. This is because, while I appreciate the first “consent”—that the minister has obtained the free, prior and informed consent—of first nations governing bodies, I'm a bit more concerned about the governments of the provinces and territories.

You mentioned earlier, for example, that the agreed-upon approach could be used by way of letters. Would that be a strong enough indication to show that the first nations governing bodies will have the interpretation that these agreements will use their voice and that their first nations laws or their first nations law-making powers will be able to be incorporated in the section on agreements?

I'm sorry. It's not on agreements. What is this section? Am I missing a page? No, I'm not.

I'm sorry. It's the protection zones.

• (1300)

Ms. Rebecca Blake: I appreciate the questions. Maybe some additional clarification from my end would be helpful.

In essence, this section is really around regulation-making to define what a protection zone is and bringing all provinces and all first nations together as part of that process.

On clause 6, the “Jurisdiction” section, it is really up to individual first nations whether they want to exercise that jurisdiction or not. Part of the Government of Canada's intent here is to allow for traditional governance systems in how first nations exercise their jurisdiction. That is why paragraph 6(1)(b) is worded as an agreed-upon approach. It's to leave space for traditional governance and

preferred governance systems of first nations, as long as they're agreeable to all implicated parties.

In that case, it's not necessarily all provinces. If the first nation is located in only one province and has a protection zone in only one province, it would be only that province.

Ms. Lori Idlout: Okay. Thank you.

The Chair: Thank you, Ms. Idlout.

Next I have Mr. Melillo.

Mr. Eric Melillo: Thank you, Mr. Chair.

I do appreciate the discussion on this and the concerns raised.

I think it's important, of course, to note that there are not many places throughout this bill where free, prior and informed consent is mentioned. This amendment aims to include that. I know that NDP-40 was withdrawn in favour of this one to ensure that first nations' consent is included.

In terms of the agreement of the provinces and territories, I appreciate the concerns raised; however, I worry that without that agreement right from the get-go, a scenario may arise, as was described, in which perhaps there's a province that is not willing to agree or co-operate. In such a scenario, I think that without this amendment we're going to see this bill tied up in challenges.

We've talked about the fact that we don't know exactly what a protection zone will be. It may include land that is currently governed by the provinces. We've talked about what “connected” means in terms of rivers and how vast that could be. I think we run a real risk of tying this up in battles and challenges without provincial agreement.

Of course, we talked at length off-line about the word “agreement”, Mr. Chair. Although that is not defined explicitly, I think it gives the government some latitude on how they achieve that agreement, and we've seen many examples of the government being able to make agreements with the provinces and territories on a number of their programs and initiatives that they like to boast about. I won't advertise them for them, but they can if they'd like to.

I think that this is the balance we need to ensure so that first nation rights are respected, that the provinces and territories are respected and that we can put this into action and have a tangible effect, rather than just having it challenged over and over again.

I'll end there, Mr. Chair. Thank you.

The Chair: Thank you very much, Mr. Melillo.

Is there any more debate?

Go ahead, Mr. Battiste.

Mr. Jaime Battiste: Once again, I like the word “agreement” better than the word “consent”, but I do want some sort of protection for first nations communities that protects a water source that's connected to them, whether it's their drinking water or their fishing zones. There should be some kind of protection so that first nations have these things protected within this bill without it being dependent on an agreement with the province.

I'd like to believe that provinces would have a moral obligation to ensure that the water sources of first nations communities are protected, but they may not have any other incentive beside that, especially with competing things like industry, corporate greed and costs that provinces might have to associate with it. I'd hate to have to hold up the entire purpose of this legislation because a province refused to sign on to an agreement that is the essence of this legislation, which is to protect these water sources for first nations communities.

If there was a time frame or if something was inherently built in that provinces would have to do in a timely manner and in good faith to uphold the honour of the Crown, I could possibly support that, but as it's written, it gives the province the ability to say that they don't want to come to an agreement with first nations communities over protected zones that they may be drinking from or fishing from or that they may be reliant on for passage of barges, as Mr. McLeod described about the Mackenzie River.

I would hate to say that when we had the ability to define protected zones in a good way, we left all the power in the hands of the province that has held it for the last few decades, if not generations, and that we failed to reach a consensus on how we can ensure that first nations have those protection zones completed and at the same time give the province the ability to weigh in.

I think that “consult and co-operate” might still be the best wording on that, but I know that this is a contentious part of this bill, and I'd hate to move forward in a way that doesn't have the Bloc or the Conservatives on board with protecting provincial interests. I know that's important for them.

I think that the discussion needs to be on what the correct wording is that allows us all to leave here comfortable that not only are the first nations protected—I am from a first nations community—but also that the provinces have a reasonable say in upholding the honour of the Crown.

• (1305)

The Chair: Thank you very much, Mr. Battiste.

Mr. Melillo has his hand up. I'll turn it over to you.

Mr. Eric Melillo: Thank you, Mr. Chair, as no one else was intervening.

I again appreciate the concerns raised. I reiterate my belief that without provincial and territorial agreement, this bill will become almost unenforceable.

I'd say as well that I take the concerns raised by Mr. Battiste, but I don't believe there are just financial or industry incentives for provinces to want to maintain authority over certain lands or waterways. I mean, many provinces have very robust wildlife manage-

ment strategies in a number of areas like that, areas that are already being protected in their own right.

I do have a very great concern with the federal government being able to define a protection zone without.... Again, we're not getting to the definition of it here in this legislation, nor should we be. We need to ensure we're hearing the voices of first nations and provinces and territories. We have to set this up in a way to be successful and to be collaborative. I do believe that this is the way forward, and I'd encourage my colleagues to vote in favour.

The Chair: Thank you very much, Mr. Melillo.

Ms. Idlout, go ahead.

Ms. Lori Idlout: Could I just ask the experts what the practical effect of this amendment would be if it were to pass?

Ms. Rebecca Blake: I appreciate the question.

Without the consent of all first nations and without the agreement of all provinces and territories, it could make it difficult for first nations and provinces to work together to support the exercise of first nations jurisdiction in protection zones.

The Chair: Thank you very much, Ms. Idlout.

Go ahead, Mr. Battiste.

Mr. Jaime Battiste: The practical effect would mean that these protection zones, which are the entire purpose of one portion of this very important legislation for first nations communities.... It would mean that if this amendment passed, first nations communities might be at the mercy of provinces to have protected zones that protect the water that they drink, the places where they swim and the places where they fish. Is that correct?

• (1310)

Ms. Rebecca Blake: In essence, it could, and it also would be in terms of “all first nations” as well and in terms of that “free, prior and informed consent”, in addition to agreement with all provinces and territories.

Mr. Jaime Battiste: We could see that delay stretching over years, potentially. Is that correct?

Ms. Rebecca Blake: Potentially, yes, we could.

The Chair: Thank you very much, Mr. Battiste.

Ms. Idlout, you have the floor.

Ms. Lori Idlout: I was reminded of a story about the Quebec hydro dam and the James Bay and Northern Quebec Agreement. I think that was the first modern land claims agreement Canada had with a first nation or an indigenous rights-holding group. That first one was truly co-developed, I understand. There were true negotiations whereby the indigenous, Cree and Inuit peoples in that area were able to negotiate an agreement that continues to have impacts on their communities.

Since that agreement, with a lot of the subsequent land claims agreements that happened afterward with other indigenous groups, the federal government learned with each negotiation to water them down. For example, to get the Nunavut Land Claims Agreement, we had to extinguish some of our rights.

I'm wondering about learning from those kinds of lessons. If this amendment were to go through—without talking about delay, but talking about the dialogue and the content of that dialogue—what kind of impact would it have on first nations governing bodies that have not been able to rightfully exercise their rights as first nations governing bodies because they aren't being given the equal platform to be first nations governing bodies?

Ms. Rebecca Blake: I appreciate the question, and I appreciate the storytelling as well.

I'm not as familiar as you are with the agreement and the subsequent negotiations of modern treaties and how they evolved after the James Bay agreement.

To repeat what I've said, in terms of requiring broad consent of all parties on a definition of protection zones prior to entering into agreements or coordinated approaches to coordinate laws with first nations and implicated provinces and territories, there is the potential that coming together to support first nations in exercising their rights could take significantly more time.

The Chair: Thank you very much, Ms. Idlout.

Mr. Battiste is next.

Mr. Jaime Battiste: I know protection zones are going to be contentious, and I don't see us getting to a consensus on them in this committee.

I'm wondering if we can agree to the subamendment for “agreement”, as opposed to “consent” in the provincial part. Have some conversations and park all of the amendments on protection zones to give us some time to reach out to parties and find out what they're comfortable with and how we can ensure that the onus isn't....

Well, the veto rights over protection zones do not rest with the provinces, but it gives them an ample opportunity to collaborate with first nations on their views and to be able to move past protection zones and come back to them at a later point.

At this time, I don't think we have agreement on protection zones. That may jeopardize our passing this when it comes to an actual vote, whether by unanimous consent or... I've had some conversations with Mr. Melillo, and we're not close to the same spot where we need to be on this.

I'm wondering if the Bloc and the NDP would be agreeable to parking the discussion on protection zones. It would give us, the government, an opportunity to reach consensus on how we can best balance first nations communities' need to protect their protection zones with provincial governments wanting to ensure that their jurisdiction is respected.

• (1315)

The Chair: Thank you very much, Mr. Battiste.

I'm just going to comment on this before opening it up to others to make comments.

We could vote on the subamendment now and then stand this clause, such that we would come back to it at the very end. We did the same thing for the definitions. We would go through the rest of

the clauses, then the definitions and then end with this, which would give time for that type of conversation to happen.

With that, I'll open it up for others to make an intervention on that, starting with Mr. Melillo.

Mr. Eric Melillo: Thank you, Mr. Chair.

I do appreciate the way in which Mr. Battiste is trying to collaborate and get to a point where everyone can be happy with this bill. Obviously, this is a very important aspect of the legislation, so I have no issue with taking a bit more time to discuss it.

I would suggest as well, though, that we do dispose of the subamendment at the very least, if there is agreement to include “agreement” rather than “consent” for provinces. I think that's a relatively simple change that we can dispose of.

The Chair: Thank you, Mr. Melillo.

Are there any other thoughts?

Are we ready to vote on the subamendment, then? It looks like there is unanimous consent for CPC-5 to be subamended.

(Subamendment agreed to [*See Minutes of Proceedings*])

The Chair: Next, do we have unanimous consent to stand clause 21, so that we return to it at the end?

(Clause 21 allowed to stand)

(On clause 22)

The Chair: The first amendment in clause 22 is BQ-15.

[*Translation*]

Mr. Sébastien Lemire: Thank you, Mr. Chair.

As I mentioned in the previous clause, this amendment seeks to remove the concept of an area adjacent to first nations lands and simply refer to it as a protected area. It therefore strengthens the coherence of our discussions and clarifies what is to be seen in the potential debates that this will generate in the negotiations surrounding the codevelopment of projects or other projects.

Thank you, Mr. Chair.

The Chair: Thank you very much, Mr. Lemire.

[*English*]

I'll just note that BQ-15 and G-6 are identical.

Is there any debate?

Go ahead, Mr. Melillo.

Mr. Eric Melillo: I just have point of clarification. I apologize if I missed it.

Would this amendment also remove the adjacency as was done previously? Let's see if I'm reading it correctly.

• (1320)

The Chair: Thank you, Mr. Melillo. I think that question can be best answered by our officials here.

Ms. Rebecca Blake: Yes, you are correct.

The Chair: Just so members are aware, if this is adopted, G-6 can't be moved because of a line conflict.

Not seeing any other debate, let's move this to a vote.

(Amendment agreed to on division [*See Minutes of Proceedings*])

The Chair: Go ahead, Mr. Battiste.

Mr. Jaime Battiste: I understand that there are some time constraints around the 1:30 p.m. deadline for some of us. We've had a full and productive day.

We have 10 minutes before that deadline. Do we want to get into introducing something that will probably need further debate and will last more than 10 minutes, or can we call it a day and say, "Well done"?

The Chair: Do you want to move a motion, then?

Mr. Jaime Battiste: Yes. I would move a motion to adjourn.

Some hon. members: Agreed.

The Chair: The meeting is adjourned.

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