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Chair

The Honourable MaryAnn Mihychuk

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• (0835)

[English]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): Good morning, everyone. I'd like to call to order the committee on indigenous and northern affairs, a standing committee of Parliament.

Today we are starting our meeting with discussions on the new organizational plan, recommended years ago, that INAC be divided—and divided we stand. We're looking forward to understanding how this is proceeding.

Before we go there, I want to recognize once again that we're on the unceded territory of the Algonquin people. It's important for all of us to recognize that Canada is finally and bravely looking at the truth, and not only in this committee. I'm hoping that all Canadians start to reflect on our history—the good, bad and ugly—and start to move towards change through the process of truth and reconciliation.

You will have the opportunity to present for up to 10 minutes. After all the presentations, we will go into questioning from members.

We will begin with the Department of Indian Affairs and Northern Development. We have with us Daniel Watson and Jean-Pierre Morin.

Mr. Daniel Watson (Deputy Minister, Department of Indian Affairs and Northern Development): Thank you, Madam Chair. It's a pleasure to be before the committee today. Just as you have acknowledged, we too acknowledge that we're on the unceded traditional territory of the Algonquin people.

[Translation]

I'm pleased to be joined today by the deputy minister of Indigenous Services Canada. We'll both be speaking about Division 25 of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

[English]

The Government of Canada is renewing its relationship with indigenous peoples based on the recognition of rights, respect, co-operation and partnership.

[Translation]

A vital component of this renewed relationship is Canada's commitment to take action to dismantle the colonial structures of the

past. On August 28, 2017, the Prime Minister announced the dissolution of Indigenous and Northern Affairs Canada and the creation of two new departments. These departments are Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada.

• (0840)

[English]

We need to begin building a truly renewed relationship with first nations, Inuit and Métis. Division 25 of Bill C-97, the budget implementation act of 2019, is a key step in the ongoing process of reconciliation. It builds on the recommendation of the Royal Commission on Aboriginal Peoples from 1996:

...the enactment of companion legislation by the Parliament of Canada legislation to create the new laws and institutions needed to implement the renewed relationship. Their combined purpose is to provide the authority and tools for Aboriginal people to structure their own political, social and economic future.

More than 20 years ago, the Royal Commission on Aboriginal Peoples called for this move to improve the delivery of services for indigenous peoples and to accelerate the movement towards self-determination. Quite simply, two departments will better serve the distinct needs of first nations, Inuit and Métis peoples. Furthermore, the creation of two departments follows the direction of the Truth and Reconciliation Commission and article 4 of the United Nations Declaration on the Rights of Indigenous Peoples, ensuring the advancement of self-determination.

Division 25 would enact two statutes to establish the Department of Crown-Indigenous Relations and Northern Affairs and the Department of Indigenous Services. These statutes define the powers, duties and functions of respective ministers, as well as repeal the Department of Indian Affairs and Northern Development Act in order to formally dissolve Indigenous and Northern Affairs Canada.

[Translation]

Crown-Indigenous Relations and Northern Affairs Canada will accelerate the work already begun to renew the relationship between Canada and indigenous peoples. Equally as important, the department will continue to promote the self-reliance, prosperity and well-being of the residents and communities of the north. It will continue to work to create first nations, Inuit, and Métis institutions to build the capacity needed to support the implementation of their vision of self-determination.

The Minister of Crown-Indigenous Relations guides the government's forward-looking and transformative work to create a new relationship with indigenous peoples. The minister has been tasked by the Prime Minister with better whole-of-government coordination, and the acceleration of self-government and self-determination agreements based on new policies, laws and operational practices.

[English]

As the needs of the north and northerners are distinct from those in the south, this bill would provide a basis in statute to establish the position of minister of northern affairs. The minister of northern affairs would guide the government's work in the north, including a new Arctic policy for Canada. In collaboration with the Minister of Crown-Indigenous Relations, the minister of northern affairs would continue to advance work on a shared Arctic leadership model and support northern programming, governing institutions and scientific initiatives.

This proposed legislative initiative is an important step in the process of eliminating colonial structures. It would establish a new legislative basis that will better allow for collaboration and co-operation in assisting indigenous peoples in defining their vision of self-determination.

[Translation]

I want to thank the committee members for their attention.

[English]

The Chair: Thank you very much.

We now move to the Department of Indigenous Services Canada. We have the deputy minister with us again, and we're very pleased to see you.

Mr. Jean-François Tremblay (Deputy Minister, Department of Indigenous Services Canada): You said "again"; it sounds a bit negative.

I'm teasing, sorry.

The Chair: No, no.

That's why we love you.

Mr. Jean-François Tremblay: I'm sorry.

The Chair: We do enjoy having some levity. We're dealing with a lot of very serious issues.

Mr. Jean-François Tremblay: Sorry.

The Chair: Jean-François Tremblay and François Masse are here on behalf of Indigenous Services.

Please go ahead.

Mr. Jean-François Tremblay: Thank you, Madam Chair.

I also want to thank you for the opportunity to address the committee today. I would like to recognize that we are on the traditional territory of the Algonquin people.

[Translation]

I'd like to follow my colleague the deputy minister of Crown-Indigenous Relations and Northern Affairs Canada's remarks by addressing the impact of the bill on my department.

● (0845)

[English]

I will be very short, but I'm just coming back on some elements.

[Translation]

Through Division 25 of Bill C-97, the dissolution of Indigenous Affairs and Northern Development Canada, the federal government is establishing two departments that will be better equipped to work with indigenous partners. This is an important turning point in the relationship between indigenous peoples and Canada.

[English]

The mandate of the Department of Indigenous Services is to work collaboratively with partners to improve access to high-quality services for indigenous people. Its vision is to support and empower indigenous peoples to independently deliver services and address socio-economic conditions in their communities as they move forward on the path of self-determination.

The Minister of Indigenous Services is continuing the important work of improving the quality of services delivered to first nations, Inuit and Métis. This includes ensuring a consistent, high-quality and distinctions-based approach to the delivery of those services. A rigorous results and delivery approach is being adopted, focused on improving outcomes for indigenous people. Over time, one fundamental measure of success would be that the appropriate programs and services be increasingly delivered by indigenous people for indigenous people.

Madam Chair, transformation is about changing how we work, and that's basically what we're trying to do. We are changing how we listen and how we partner in a way that enables us to properly support the rights and self-determination of indigenous peoples.

[Translation]

I want to thank the committee members for their attention.

[English]

We'll be welcoming you questions.

The Chair: We have Justice as well. It's always good to have Justice.

Suzanne Grondin, welcome to our committee. Please start whenever you're ready.

[Translation]

Ms. Suzanne Grondin (Senior Counsel, CIRNAC/ISC Legal Services, Operations and Programs Section, Department of Justice): Thank you, Madam Chair.

I want to thank both deputy ministers for their presentations. I'm joining them today to answer some questions that have more to do with the Department of Justice. These questions are more technical, and they concern the two pieces of legislation that will create the two departments.

[English]

The Chair: Thank you for your comments. MPs will take note.

We begin with the Liberal side and MP Mike Bossio will start us off.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Thank you, Chair.

Thank you all so much for being here this morning. We appreciate your company. You have come here to deliver important information about how we're progressing in the division of these different entities that at one time were INAC and are now three separate entities. We're happy to see that RCAP, after 20-something years, is finally being recognized, particularly the importance of dividing these INAC entities, which was communicated through RCAP in volume 2 of the "Report of the Royal Commission on Aboriginal Peoples". The report recommends that:

The government of Canada present legislation to abolish the Department of Indian Affairs and Northern Development and to replace it by two new departments: a Department of Aboriginal Relations and a Department of Indian and Inuit Services.

Can you speak to your understanding of the underlying reasons for this recommendation from RCAP?

Mr. Jean-François Tremblay: It was my understanding that the important objective at the time was to focus on the relationship, to separate the relationship side from the service side. It was important to make sure we really focused on re-establishing the relationship and the focus on the services would be a separate one.

It was also important to eliminate the old colonial structure that was INAC, which has been seen for years and years as the legislation that is basically implementing the Indian Act from A to Z. That's what the commission was focusing on.

For us, it also means, to be fair, the relationship will never disappear. It is important to continue to have a relationship with first nations, Inuit and Métis. On the delivery side, the objective is to make sure we have the structure in place to deliver the best services. We believe that, over the long term, the services should be delivered by first nations, Inuit and Métis.

If you look at the two departments, some aspects of my department are supposed to disappear over time while the other departments won't disappear. Our goal, as I say to the staff sometimes, is to be a species at risk, looking for its own extinction. At the end of the day, we're trying to implement, on the service side, the most efficient way of delivering those services.

We do believe that people themselves should be delivering those services. It's the same objective on both sides. On the Crown relationship, it ends up with the rights agenda. On our side, it could be the administrative structure that leads at some point to the rights agenda. However, on both sides, we're basically trying to encourage and promote self-determination.

● (0850)

Mr. Mike Bossio: In your capital report it states "The mandate and organization of the Department of Aboriginal Relations and the Department of Indian and Inuit Services can be implemented initially by order in council", which you've done. How long has the order in council been in effect for? What will the legislation do that is not already being done through the order in council?

Mr. Daniel Watson: The order in council came into effect at the end of November 2017. Obviously, the legislation would come into effect, if approved. It formalizes the decisions that were made through the order in council, but more importantly, it's a very clear

signal this is not simply a short-term decision. This would be an act of the Parliament of Canada saying to all indigenous peoples and all Canadians that the business of reconciliation and the business of taking service delivery into account will be done in a very different way than in the past. That is a permanent feature and expectation of the Parliament of Canada. That would add a critical and symbolic value.

In terms of delivery, we will continue doing the type of work we have done over two years now, just over a year and a half, in terms of focusing on the different and distinct pieces of the mandates we each have, but it would be solidified now in legislation.

Mr. Mike Bossio: What have been the outcomes of the splitting of these two departments? I know you have established a number of rights tables in numerous different communities. From the Crown relationship side of things, can you give us a sense of the progress you are making toward self-determination?

Mr. Daniel Watson: From my perspective there are two things, but I would like to add a little bit to my colleague's earlier answer regarding the rationale. It's very hard to go and tell somebody in the morning, "Listen, I'll get back to you in two years about your dog-catching bylaw and let you know if it's okay," and then in the afternoon say, "And we'd like to talk about a bright new future in which we're not part of."

To have that type of a dynamic really doesn't work very well. Certainly, the focus here allows people to deliver the services and the eventual transfer of those services to those communities, which is an enormous task in its own right. At the same time, we're looking at what we've been doing for over 20 years in terms of renegotiating new agreements to see what has worked, what has not worked, and to develop the approaches that are needed for the future. That frees up the ability to have those conversations in a very different way.

Mr. Mike Bossio: Thank you very much.

The Chair: Mrs. Cathy McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair.

Thank you to the officials.

I want to put on the record that this piece of legislation is buried in an omnibus bill. The finance committee so far has heard from over 100 witnesses. They have not had any opportunity to look at this particular aspect of it or bring in witnesses regarding that piece. We asked this committee to have one extra hour so we would have an opportunity to bring some witnesses other than department officials. I want to note that the committee refused to take one extra hour to bring in some organizations that might be impacted by this legislation, to get a sense from them of what's happening and how it's happening.

I want to compare that to Bill S-3, which was a stand-alone piece of legislation. When the officials came to us, they guaranteed that everything was fine. I'm hearing today that everything is fine without the opportunity to have witnesses. We heard through our witnesses that there were flaws. Amendments were needed. We are very uncomfortable with both the process and the fact that there has not been any ability for our committee to give it due scrutiny. Certainly philosophically we believe that the separation of the departments is a good move. The fact that we are not able to do our jobs is, I think, quite shameful.

I know that's not your responsibility. It was the decision of the current government to do what they said they weren't going to do: bury things in omnibus legislation and not allow committees to do the work they were supposed to do. When issues are pointed out down the road I think we can come back to not allowing proper process.

I'm going to start with a quick question. Hopefully you have it right there.

The FTEs for the two departments with health, pre the change, and the FTEs now.... Again, I want a combined total; it should be at your fingertips, including health because we acknowledge the transfer.

● (0855)

Mr. Jean-François Tremblay: The numbers I have at the moment, May 2019, on my side the total is 5,230 employees, which is an increase of 135 FTEs. It's not necessarily related to internal services. It could also be related to a lot of programs and new initiatives. As you know, we have received significant investment in budgets over the last few years.

Mrs. Cathy McLeod: That's 135 from what time, 2015 or 2016?

Mr. Jean-François Tremblay: From the time of the creation of the department two years ago. It's not necessarily 2015.

Mrs. Cathy McLeod: Thank you.

Mr. Daniel Watson: The corresponding number for CIRNAC is 186 FTEs, the difference between today and November 30, 2017, the same time frame my colleague was speaking about. Again, that's not necessarily related to the transformation because as programs come and go, staff come and go with them each budget cycle.

Mrs. Cathy McLeod: So a 186 increase from what baseline?

Mr. Daniel Watson: November 30....

Mrs. Cathy McLeod: That's an increase you said.

Mr. Daniel Watson: That's an increase, yes.

Mrs. Cathy McLeod: What number are we at?

Mr. Daniel Watson: The total is 2,850.

Mrs. Cathy McLeod: Thank you.

I see that the Minister of Crown-Indigenous Relations is responsible for the First Nations Fiscal Management Act. You moved First Nations Financial Transparency Act to Indigenous Services. I note that when they decided not to enforce that act there was a commitment to have a replacement. We have nothing. I know the new relations—10 years for the people who have had good records—but there has been no transparency.

How can you have one department responsible for an act that you refuse to enforce and another that's responsible for the new fiscal relations? How is that going to work?

What is the plan around having all communities sharing and having something on the table?

I still get calls all the time, especially from women living in communities, who are concerned about the lack of transparency from their leadership. Who is going to take responsibility? What is the plan?

Is that act going to be repealed and replaced so that every community has the right to information?

Mr. Jean-François Tremblay: On the fiscal relationship, the work that my department was doing will continue over the next few years. It's not a change from one department to another department in this case.

You're right that the transparency act would be on our side. The answer remains the same, which is that we'll continue to work with first nations on developing a new fiscal relationship and a new structure of accountability that is based not necessarily on us doing all the work on a daily basis, but also a creation of an institution potentially like the Auditor General, which you've heard before.

Mrs. Cathy McLeod: We're three and a half years in. One of the first acts of this government was to end enforcing the transparency act. Three and a half years later, I have community members who were promised something in replacement. I think that it's important to note that those communities where it is an issue don't have anything. I think in spite of new departments and transformation, the basic accountability of leadership to their communities is not there. That's certainly is a concern.

● (0900)

I have a number of further questions. I'll say, in a sort of summary for this round, that philosophically we believe this is a positive step. Not having had the ability to look at the legislation with witnesses that can point out issues, I think the government has entered a very flawed process.

Thank you.

The Chair: Questioning now moves to MP Rachel Blaney.

Ms. Rachel Blaney (North Island—Powell River, NDP): Thank you all for being here today to be with us.

I have a couple of questions. The first question I would like to pose to Mr. Watson and Mr. Tremblay.

In both of your presentations, you talked about colonial structures and trying to move out of those. Basically, from the very foundation of both of your systems, it's a colonial structure.

I'm just curious what the plan is. How are you being accountable to indigenous communities across Canada about your process of decolonization?

Mr. Daniel Watson: Excellent question. Thank you very much for it.

In the first instance, the main responsibility we have is to negotiate agreements and treaties that will actually undo the application of either of our two departments to those communities. I think, in the first instance, that is the biggest thing.

Another part, though, is that the legislation speaks to the importance of us developing our approaches to those things, not alone in our building at Les Terrasses de la Chaudière, but in conjunction with the communities that are going to be affected. I think that's actually a critically important piece of it. If we develop solutions on our own the same way as our ancestors did who were in the original Department of Indian Affairs, we're likely to come up to the same problems and challenges of the past. It's explicit that we need to work with indigenous communities in developing those solutions.

I think that the underlying principal in setting up the department itself is more than simply a symbolic statement. It is actually an expectation of the Parliament of Canada that public servants that are carrying out the work in Canada's name and in the government's name do so in a spirit that aims at reconciliation, understanding that we don't define reconciliation on our own. That needs to be developed with other people and other perspectives in a way that is very different than in the past.

Mr. Jean-François Tremblay: I have a few points on this.

I think the most important point for us is how we are moving to services that would be delivered by first nations, Inuit and Métis. If you look at, for example, the last few years and what we have been trying to do, we now have 85 first nations that are under 10-year grants. That means that 90% of the reporting that was more about what we would ask for from them, from the Treasury Board's requirement perspective, is now eliminated. That means they have the flexibility that they need to decide how they will invest this funding to achieve the outcomes they are looking for.

It is a big shift, and it is something we are trying to increase. Now we are looking at the issues like what the right escalator would be for those first nations to make sure that services are sustainable.

You have what we're trying to do on the health side. There's the First Nation Health Authority in B.C., which inspires us. We are having discussions across the country with first nations in places where they would like to take control of their health services.

We're doing the same on education and the creation of school boards. It's finding ways where we would be getting out of the business. We're not imposing an approach. We're not saying that this is the approach they should follow. However, we are saying that we're open for that kind of business, and there has been a response out there.

Child and family services legislation is a big element for us. We recognize jurisdictions and are asking first nations, Inuit and Métis who want it to claim their jurisdictions. I think that's probably the most important aspect for decolonization in our department.

Also, for us, on the way of moving from programs to services in the culture of the department, we're not there to impose programs from the centre. We're not there to just say that you've asked for something but it doesn't fit with the programs. We're trying to take

the opposite approach, which is to say that it makes sense, and how can we make it work?

It is a new approach.

I am going to Toronto tomorrow. It's all gathering meetings with the chiefs in Ontario. We have gatherings like that in Ontario, too.

There are more and more staff meetings between our employees and first nations, Inuit and Métis where we try to integrate them in our decision-making process. We also, as you know, are working more on co-development, like we did for education and for CFS. It's a totally new approach for us. We're trying to change the way we are dealing with indigenous issues to make sure it's built on partnership, and not necessarily trying to develop programs from the centre.

Recruitment is important: getting more first nations, Inuit and Métis in the department. If you look at my stats, we're probably at 26% to 28% of our employees who self-identify as first nations, Inuit or Métis. In some regions, it's 50%. We're trying to make an effort to have more first nations, Inuit and Métis, especially at the executive level.

Those are the kinds of elements we're trying to pursue to ensure that there is decolonization.

• (0905)

Ms. Rachel Blaney: Another question I have is on looking at how the three departments have been created. A lot of northern and remote indigenous communities have multiple challenges, and now they're having to deal with three departments on certain issues.

I'm wondering if you could speak to how you're dealing with that in an equitable way, I would hope. That's a lot to take on, especially if you are a smaller community and you don't have a lot of capacity.

What is the plan around making sure that the three departments work cohesively together to make sure those services are delivered?

Mr. Jean-François Tremblay: We're in the same building. That helps.

Mr. Daniel Watson: One of the commitments we have is to work seamlessly with each other.

Again, even on the concept of "northern", that varies in many different places. Sometimes people talk about "the territories", and sometimes it includes Labrador, northern Quebec and northern Ontario, as well as other provinces.

CIRNAC has regional offices in each of the three territories, so we work very closely with our colleagues at ISC where there are overlap issues. The same is true south of 60 and in all of the provinces where ISC has regional offices.

Our goal is that there is no wrong door. You can come in and talk to the same public servants you have talked to in the past. If there is any sort of communicating to be done, we'll do that behind the scenes. That's not something you would need to know about if you were outside. You shouldn't be able to see it.

I think that will be the test. It's not that different from where we've been in the past.

The Chair: Thank you.

The questioning now moves to MP Will Amos.

Mr. William Amos (Pontiac, Lib.): Thank you, Madam Chair.

Thank you to our hard-working public servants.

I want to take advantage of the fact that we have a departmental historian here.

[*Translation*]

Mr. Morin, I think you'll agree that Canada wants to move towards reconciliation. However, it wants to make sure that the departments understand how much they've harmed communities in the past, even though their goal was to achieve good results.

[*English*]

I think Canadians are looking for the confidence that it isn't just mouthing the words and shuffling chairs on the deck, but rather that there's a concrete recognition of wrongs done in the past and harms caused, many of those being related to the public service institutions themselves. I think the royal commission went into that deeply.

Mr. Morin, if you would please provide us a bit of a summary of the worst hits, so to speak, I think that kind of material should be on the record, and I know that my Algonquin constituents would appreciate hearing that kind of recognition from a senior civil servant.

Mr. Jean-Pierre Morin (Departmental Historian, Strategic Policy Directorate, Department of Indian Affairs and Northern Development): The Department of Indian Affairs is actually one of the oldest continuous institutions in the history of Canada. It's been around since 1755 in various forms. It has changed and evolved many times, but almost always has had the same core function until relatively recently, which is the integration and assimilation of indigenous peoples into the broader Canadian society.

Over the years, the department, in its many forms, has always maintained this core role of “caring for” in an extremely paternalistic way, from the creation of schools to dictate how indigenous children should be educated to governance structures that are imposed through the Indian Act to limit how communities themselves can actually govern themselves to retain that power within the department itself.

This largely created an institution, a cultural institution, inside the department, where the department always thought it was right, so it acted in what it thought was the best interest, but often this best interest was not what was actually best for the community. It was what was best for the state or for the government at the time.

Over time, we've moved considerably away from these earlier concepts, especially since the 1950s and the 1960s, when we started

to realize—“we” as the department—that the Indian Act was much more harmful than protective. We have been, over time, amending various pieces of legislation and creating new structures to address that, but as the royal commission pointed out, the structure still remains. We are still operating under the exact same structure as was established in 1966 through the Department of Indian Affairs and Northern Development Act.

This is an opportunity to actually break that structure to create new structures and to build on new relationships going forward that have a foundation of the original intent and the original relationships between settlers and indigenous peoples in Canada.

● (0910)

Mr. William Amos: I appreciate that. I think the concept of the “wards of the state” was extremely damaging. I want to bring us into a present-day context and put a case study in front of you, but also in front of our deputies, because there is a present-day impact in my community of Rapid Lake.

The community of Rapid Lake has only recently emerged out of third party management, which was a legal institution imposed upon them. They desperately need a new school. I've been working really hard—including with our parliamentary secretary—with the Department of Indigenous Services to get there, but as we attempt to bring about this kind of infrastructure renewal, which can then lead to community renewal and other infrastructure investments, we run up against other institutions that have a colonial impact, such as Hydro-Québec, for example, or other governments that aren't necessarily changing their way of doing business in the same fashion.

What would you suggest are the challenges related to the intersection between the more renewed, updated or more reconciled federal institutions and the non-federal institutions that haven't gone that far?

Mr. Daniel Watson: That's an excellent question.

Built into the legislation for CIRNAC, for example, is the expectation that we work with provinces, territories and others. I think a good part of the responsibility of the Department of Crown-Indigenous Relations and Northern Affairs is going to be to help other governments to see where this is in their interest.

These are not things that we do simply because they're nice things to do. If we want to see communities advance in Canada, it's very hard to do that without schools. It's very hard to do that without drinking water. It's very hard to do that without housing.

In the federation that we have, working with provinces and territories is a critical part to any of these things succeeding. That will be a big part of our job. In fairness, across the country there will be some provinces that might wonder if they're out ahead of us, and they may sometimes feel as if they're pulling us ahead. In other instances, we will need to work hard with them to get them to engage in projects that we think are in our collective interest.

As the departmental historian has noted, over time the way of thinking about these things has changed. That's been true in the federal government, and I think it's been true in many provincial and territorial governments as well.

Mr. Jean-François Tremblay: I think you're also as good as your outcomes. I think the best thing for us is to show what works on the ground and what the real solutions are.

If you go into a first nations community that is under self-government, you see a difference. If you go to B.C. and you talk with the First Nations Health Authority, you see a system that works better than the system we have in place. If you meet with the Mi'kmaq in the Atlantic, who manage their education system and have been managing the education system for more than 20 years, they have better results. I think that, when you show these results, you show partners that it's the way to work together.

The Chair: Thank you.

The questioning now moves to the five-minute round. We're moving to the Conservative side.

MP Arnold Viersen.

• (0915)

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

Thank you to our guests for being here today.

In the 2018-19 departmental plan for Indigenous Services, for 50% of the targets for the year, their planned outcomes are left blank. For the scheduled date by which to achieve the targets, 55% of those are to be determined, and 61% of the results for 2016-17 are unavailable.

This government has repeatedly stated that there is no relationship more important than that with indigenous peoples. They've made ambitious promises. Why is the plan lacking follow-through or being undermined entirely?

Mr. Jean-François Tremblay: I would need to see the documents. We can report back to you on this.

Mr. Arnold Viersen: Is it the departmental plan?

Mr. Jean-François Tremblay: Yes.

Mr. Arnold Viersen: A whole bunch of lines are left blank.

Mr. Jean-François Tremblay: That's what I need to check, whether it's because of the transition, and we moved from the old DPR from INAC to the two new ones. Maybe that's the reason. That's why I would like to look at it.

I can tell you that the outcomes.... If you go on the website and check what we're doing on housing, what we're doing on water, and what we're doing on the key priorities, including, for example, what I was talking about in regard to the grants, we actually achieved the outcomes and the output we were looking for for most of our priorities, so I'm a bit surprised by that.

Mr. Arnold Viersen: It's interesting that there's no reference, then, to the fact that this line had been moved over to the other department.

Mr. Jean-François Tremblay: I will need to check, but that's one of the issues. There was one DPR, and there are now two departments, which may have created confusion in the reporting. I'm sorry about that. We can come back to you with more information about what it means on our side.

Mr. Arnold Viersen: The other thing is that, for over half of the targets we're looking at, they said the results are yet to be determined from 2016-17. Is there any reference to why that is?

Mr. Jean-François Tremblay: I need to see the documents. I'm not going to speculate.

Mr. Arnold Viersen: Okay.

It's just interesting, I guess, the fact that it's the departmental plan. To divide it up between the two, how that.... It seems that the department doesn't even necessarily have a good idea as to what is going where, essentially.

Mr. Jean-François Tremblay: There have been some transformations, but there are still some elements that need to be clarified.

To be honest, 95% of this was done quite quickly. The biggest element for us was that all the services were transferred to ISC, including the first nations and Inuit health branch that was previously at Health Canada. We talked a lot about the division, but we didn't talk about the fact that we also reunified services by having health on our side, which wasn't there before. So no, sorry, but I would beg to disagree. Most of the big elements of the department were already clear from the get-go.

The implication on the internal services has been more difficult on who's going to go on which side. You end up with children in the custody of both parents, if you will. That's something you need to clarify at some point, what's going to remain to serve the two departments, what will go on his side, and who's going to go on my side. That's more for internal services.

On the program side, the ones who deliver services, manage the relationship on the ground and negotiate treaties and so on was quite clear from the get-go.

Mr. Arnold Viersen: Is there a place we can go that says, this is how it used to be organized and this is how it's currently organized?

Mr. Jean-François Tremblay: We can share with you; if you go on the website, it's there. If you look at the legislation, you see the legislation established the services. We can show you the organigram of the two departments and we can show you exactly where the principal services are.

There was an ADM, for example, in charge of social services. It's on my side. Everything that was on first nations Inuit health is actually on my side. Economic development has been a bit more complex because it does include, also, works on lands, and that's something we're working on. For the rest, treaties and negotiation was on this side, and northern affairs on this side, so it's actually quite clear.

• (0920)

The Chair: Thank you.

Questioning now moves to MP Will Amos.

Mr. William Amos: I'd like to continue in the vein of how this decision of the department actually will produce results on the ground.

I'll start by inquiring. What is it that is so necessary about an order in council? I know member Bossio went to this a little earlier, but it's still not clear to me why we couldn't remain in a state of order in council for an indefinite period. The regulatory body that deals with flood planning, flow management in the Ottawa River, has existed since the early eighties as an order in council, both at the provincial and federal level. Why not the departments?

Mr. Jean-François Tremblay: I was deputy minister of Infrastructure Canada and there was no legislation. It was under another income. You can always ask, should they have legislation or not? That's a good question.

I think in our case, it was necessary to have legislation because there was already legislation. There's one that actually recognized INAC as a department, so we needed to replace INAC by something. The legislation allowed us to do that. The legislation also established more authorities of the two ministers in Parliament, so in front of you. OIC is really executive; it's really more a relationship between the prime minister and the executive and the minister. In this case it gave us some legal authorities that we would not have through an OIC, especially, for example, on management of data and especially regarding who's responsible for legislation that is established. That's something that is there.

We have a legacy. The First Nations Land Management Act, the other legislation that related to first nations, Inuit and Métis, was mentioned. It was important to establish, through legislation, who is responsible for those authorities.

There's no science, machinery. There's a lot of art, to be honest. There are departments that can live with an OIC, but in this case, given the importance of the issue, too.... We're talking about two departments. If you look on my side, and I don't want to diminish anything from the other side because it's as complex.... If you go into the provincial governments, you will not find a department that manages health, social, economic...as well as infrastructure and others. It is actually a very complex area, and getting a legislative base is actually quite useful for us.

Mr. Daniel Watson: I would add to that. I spent a decade of my career working for provincial governments. Two of the biggest departments in any provincial government are health and social services. They consume an inordinate amount of time of that government's thinking. To have all of that activity tied in together with redefining aspects of the way we understand this country and the Crown-indigenous relations is very difficult.

I'll add one last thing, quickly. The Interpretation Act says that an act is always speaking. In the way that the Department of Indian Affairs and Northern Development Act existed previously, the intention was that it would always exist. I think that is symbolically important because one thing that is in the legislation for Indigenous Services Canada is it actually requires it to, over time, transfer the services that it delivers to other bodies. I think that's something that could not have been achieved through an OIC.

Mr. William Amos: Thank you for those comments.

As you are probably aware, my riding of Pontiac has many public servants who work very hard for both of these departments. Many have great job satisfaction, but some will comment to me—quietly—that they have had frustrations in the past with Indigenous and

Northern Affairs Canada being a very hierarchical and top-down civil service institution. They felt their voices couldn't be heard. Many of them were indigenous.

How has the scission of the two departments brought in the voices of those who are not senior public servants? Can you tell Canadians that the department officials at all levels have had their opportunity to really have a say in how this is being transformed?

Mr. Jean-François Tremblay: Transformation is a subject of discussion inside the department. It has been and will be continue to be, on an ongoing basis. As soon as we heard about the OIC, we engaged the staff. We actually had sessions with employees by themselves, and we did engagement sessions.

More than 3,400 employees participated in those sessions, which were chaired and organized by the employees themselves. They developed the recommendations and they continue to work on the transformation, so they have been involved and engaged since the beginning.

● (0925)

The Chair: Thank you.

We now move to MP Kevin Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Madam Chair.

Welcome everyone.

How does the Department of Justice work with these groups? I see you're pretty well connected with both of them. Have you also had an increase in staff? Can you maybe just talk about your role in this whole...?

Ms. Suzanne Grondin: If you will allow me, I will speak about my organization, which is legal services. Now we are serving both departments, but in terms of increasing, no, we did not have an increase in the number of FTEs. For now, I would say, it's not necessary. We are facing the challenges with both ministers with our FTEs right now. It doesn't mean that it won't change in the future, but as of now, we have not had any increases.

Mr. Kevin Waugh: So everything is kind of the same, even though the departments are split. Am I right?

Ms. Suzanne Grondin: I wouldn't say it's the same because we have more people to deal with, but we're still part of the team. We are here to help them when they have legal questions. On those grounds, nothing has changed.

It is a bit more complicated because we have been involved in departmental legislation and other issues that haven't come up before. Basically, though, we're still part of the team and we're working together as we did before.

Mr. Kevin Waugh: What issues are you seeing that are different than before, with two new departments? Is there anything that's changed in your department? Is there anything that you're dealing with now that you didn't deal with when it was under one umbrella?

Ms. Suzanne Grondin: Do you mean in terms of legal issues?

Mr. Kevin Waugh: Yes.

Ms. Suzanne Grondin: That's a good question. Of course, since the government's announcement and then the principals and the relationship, nation-to-nation, it has.... Yes, I would say there are new legal issues. It is also owing to UNDRIP and how we implement UNDRIP. Those are new issues that hadn't come up before or had only come up in the last two years or so.

Mr. Kevin Waugh: Does your department have the capacity to handle that?

Ms. Suzanne Grondin: We have the capacity to support our clients to handle that.

Mr. Kevin Waugh: Good.

Mr. Tremblay, it's interesting.... How is the gradual transfer, I guess, to indigenous organizations going? The word gradual can mean decades in some cases.

Mr. Jean-François Tremblay: Yes. We actually developed a new line of business, where we want to identify and report in the future on the services that are outside of the departments. The question would be how it grows over the years. If you look at the 85 grants we have now, and there's no reason to believe we can't have more in the next few years, that's a significant amount of money and a significant amount of first nations communities that would be managing their services. It doesn't mean we will necessarily disappear completely at that stage; it means our relationship with those first nations will be dramatically different. It's not a relationship about compliance in actual programs but more about relationships—i.e., “How are things are going, and how can I help you?”

So I think it's encouraging. What we're trying to do more and more is identify the next steps, because you're right, it could be a long road. The question is how you celebrate and identify the milestones. As I mentioned, we're working on the health side and on education. The question for us is about the repertoire of next steps we can take on that side, and also working with our colleagues at Crown-Indigenous Relations. One that would be interesting to see, if the legislation passes, which I'm sure it will, is child and family services. That's another one we're looking at. There's a lot of interest in health and social services and a lot of interest in education. We signed a self-government agreement in northern Ontario on education, and it's a really significant one. There's interest in Quebec in health and social programs together. If you look at the map across the country, that plus the grants can achieve significant results, I think, over the next few years.

I would just remind you that in B.C. we don't have a regional office dealing with health issues. We completely transferred it. We closed the shop years ago with the creation of the First Nations Health Authority. So this is something that would be possible to do in the future. It might not be at the provincial level; it could be subregional, depending on what the partners would want.

● (0930)

Mr. Kevin Waugh: I was interested in your comment about education, because we had the Auditor General come here; last year there was a scathing report that we're not reaching our graduation rates. Now you're forming some school boards, as you said earlier, when other jurisdictions, such as Nova Scotia, are getting rid of their school boards. Quebec's talked about getting rid of them. Manitoba's talked about getting rid of them. Yet you're going in the opposite direction. Why would that be?

The Chair: You'll have to wait until the next round of questions.

Mr. Kevin Waugh: There you go.

The Chair: I'm going to suspend for a few minutes, but before I do that.... We did schedule two full hours. I understand from this side that there is still interest to have perhaps a reduced amount of time, but the full hour may not be needed.

I'm looking for a bit of a discussion. Do we wish to terminate?

Cathy.

Mrs. Cathy McLeod: Madam Chair, this speaks again to my original motion where we wanted the officials here for an hour. I think they've been very diligent. We really wanted to have witnesses for the second hour. The fact that we were voted down on that particular issue really is dismaying to me, because it means we did not commit to doing our job. We have time. We could have had witnesses who could have spoken directly to, or might have pointed out a few issues with, the legislation.

It's certainly a dismay to me that my colleagues did not support that particular plan for dealing with this very important piece of legislation.

The Chair: But on the idea of letting these individuals go on to run their departments and get rid of the Indian Act...? Just saying; that would be my opinion.

Rachel.

Ms. Rachel Blaney: I still have questions, Madam Chair, and I don't believe I got my second round. I think I get one more. I didn't get my three minutes.

The Chair: You lost your three minutes because we ran out of time on the clock.

Ms. Rachel Blaney: Yes.

The Chair: I'll look to the government. Can we extend this for another round, perhaps, to allow all members—

Mrs. Cathy McLeod: On a point of order, Madam Chair, I believe this meeting was called for two hours.

The Chair: It was.

Mrs. Cathy McLeod: It wasn't called for an hour. To cut off my NDP colleague before her three minutes.... It was a two-hour meeting that was called, so it's not an agreement to extend. It should have gone to her, and it should have continued until there was a decision that we didn't need to have any more questions.

The Chair: Well, it is scheduled for two hours. We do have MP Blaney on the list for her three-minute question.

I see MP Amos.

Mr. Mike Bossio: No, it's me. I didn't have my round of questions, Chair.

The Chair: Oh, I'm sorry. We didn't get you either, Mike.

Mr. William Amos: My suggestion would simply be that, of course, if members opposite, and member Bossio, would like to continue—unless our side feels the need to continue asking questions—we'd forgo those opportunities. The opposition can continue as they see fit. If, at any point, there's a question on our side that we think needs addressing, based on what has been asked.... Otherwise, we should forgo on our side, so that the important work of the government can proceed.

The Chair: Okay. I think that's a very reasonable way to approach it. The opposition parties have questions.

We will continue.

We now go to MP Mike Bossio, for a five-minute round.

Mr. Mike Bossio: Thank you, Chair.

I'd like to accentuate the results of splitting INAC into these three separate departments. When we look at housing, education, water, Jordan's principle and, as you mentioned, moving health into ISC from Health Canada, these are having discernible differences, and positive impacts in communities.

On the first part, I'd like you to expand on the impacts of these changes you're seeing on the ground—of having that focused effort on the ISC side. On the opposite side of that, it would be greatly appreciated if you could speak to the success we're having in self-determination, through negotiations with a number of communities across the country, as well. This splitting has actually accelerated the delivery of both services and the nation-to-nation relationship.

• (0935)

Mr. Jean-François Tremblay: Yes, clearly there have been way more initiatives and activities as a result of the last few years. Is it all due to having two departments or just one? It's hard to know, but having two ministers—one minister dedicated only to services, and one to rights—has been very useful over the last few years. It means that a minister doesn't have to choose, sometimes in the same day, at which table to sit. It's the same thing for the DMs. It's the same thing for the organization. We can proceed full-throttle, on the services side.

You mentioned a long list of outcomes and activities. On housing, we are aiming to have 16,000 houses repaired or built over five years—with our friends, of course, at CMHC. We have been building significant numbers of schools. We're on time on the famous water issue. More than 85 long-term boil water advisories have been lifted.

You were talking about Jordan's principle. We are now at more than 220,000 demands that have been responded to under Jordan's principle, which is quite significant. We were mentioning child and family services. In a bit more than a year, we co-developed a proposal for legislation that is now in front of you, for jurisdiction under child and family services.

We mentioned grants earlier. There are more than 85 communities. We offered 10-years grants to more than 100 first nations communities this year. I would like to remind you that grants have been discussed in the old INAC, since the 1980s. There was only one community in the country that actually had a grant, and now we have 85. It's a significant change.

When you look at all of this together.... On mental health, we did a lot. We also did a lot in other areas. We can send you more stats if you want, but a lot of that is on our website.

On the last point, we developed, as you know, a new funding formula on education. We're now implementing this formula across the country. The formula was co-developed with first nations.

Significant things have happened. For sure, the fact that we split and created those two departments helped. The fact that we have health on our side also helps. When you address housing issues, such as those at Cat Lake, as you heard this winter, it's really helpful to have health, social services and infrastructure together. I think that, yes, the split clearly offered us tools that we didn't have before.

For first nations communities, it also means future capacity to integrate those services. For example, on the grants side, we were able to include health, which we would not have been able to do if we were the old INAC. A lot of results emerged, probably most of them from the fact that they split the two departments.

Mr. Mike Bossio: Mr. Watson, did you want to add to that?

Mr. Daniel Watson: Sure.

When you're in the business of changing relationships, no matter what the domain is, you're really helping people to see themselves differently and see the impact that they've had on the relationship differently. That is one of the hardest human things to do.

It may seem mundane, but a big part of our job is actually helping people to see things differently and see the impact they've had on that relationship differently. That requires an enormous amount of management focus. My recollection is that my colleague is responsible for delivering a budget that's about the size of the Government of Manitoba's, if I have the numbers correct. To do that on top of trying to help people see themselves differently, see their history differently and see their future differently is an enormous amount of work. We're now freed up to do that last part and to focus on that. That's inside the federal government. It's outside the federal government. It's with indigenous communities. It's helping to see ourselves differently, too. That's takes an enormous amount of management time.

• (0940)

The Chair: The questioning now moves to MP Rachel Blaney.

Ms. Rachel Blaney: Thank you.

I'm going to come back to you Mr. Tremblay.

One of the things you said in your presentation to us is that you're working yourself—and you're telling your department that they're working themselves—out of a job. I'm just wondering if you could speak a little bit about what that looks like. That's an immense amount of change. I agree with you around the health services in B. C. I'm an MP from that area. I certainly appreciate the local ownership of that and how they deal with cross-jurisdiction issues, which has become a lot smoother in B.C. compared to a lot of the other provinces and territories.

I would like to hear how that planning is happening. How are indigenous communities involved in that planning? How do you sort of look at the whole country and the different realities?

I represent over 20 indigenous communities in my riding. A lot of B.C. communities are smaller. Some of the other ones in other provinces are larger. It's a very big process. I'm just curious how that's even beginning to be spoken about.

Mr. Jean-François Tremblay: It always has been in the DNA of the department. I think it's because we didn't have the tools to achieve that. Since the 1980s at least, and even in the 1970s—the historians may disagree with me—there's always been an attempt to attempt to devolve. That's what it was called at the time. The transfer of services, most of the time, was at the community level. Most of the time it was the programs that were transferred. Most of the time resources were not necessarily at the appropriate level. We're now trying to ask what the right combination is among those three elements.

That's why, for example, on school boards, we're not back-tracking. We're actually responding to demands. First nations, Inuit and Métis decide how they want to do that. It's their services in the end. There's no one-size-fits-all approach in this.

What we're trying to do more is identify partners across the country who want to do things differently and would like to take charge of their services. We're not coming to the table precluding with of a sense of what it should be because as soon as we do that, we end up with a program and it will end up with exceptions across the country, to be honest. We're trying more to listen to people.

We have interest, for example, in post-secondary education. We're getting a lot of interest on infrastructure. You may have heard that there are actually first nations in B.C. that are interested in creating a first nations institution on infrastructure. We support them in developing what it may look like. We'll look with them at what it could look like without presuming the result. We're doing it a bit that way. We're moving in that direction.

It doesn't mean that all the staff are going to lose their jobs. It's not the way to see that. For example, we continue to have a relationship with the first nations health authorities. We have a regular relationship. It's more of a partnership relationship. We just don't deliver the services as we did before. We entered into a trilateral agreement on mental health with them and the Province of B.C. last year. It is something that we will continue.

The way we approach it is really to ask all partners what institutions and capacity they need. What kind of services do they want to deliver? It should not be programs, it should be services and making sure that the resources are there.

The work we've been doing on the formula for education is an important one. The work that we're doing under the grants on formulas is an important one. If you agree on a funding formula, the rest becomes more about how they will manage it differently.

It's hard to explain because it's not one-size-fits-all. It's basically opening the door for different approaches.

Madam Chair, thank you. Sorry, I went long.

The Chair: Thank you.

We're now going to restart the process. We're at seven-minute rounds.

We start with MP Ouellette.

Mr. Robert-Falcon Ouellette (Winnipeg Centre, Lib.): [*Member spoke in Cree as follows:*]

Niwakoma cuntik Tansai Nemeaytane Awapantitok.

[*English*]

I just have a few questions actually.

Monsieur Watson, you mentioned you see things differently and you also mentioned they see their future differently, see themselves differently. Who are you referring to “they” exactly?

Mr. Daniel Watson: All of us collectively have to see this. We're different parties that bring different perspectives to it. For far too long, the former Department of Indian Affairs occupied all of the space in deciding what was the right thing in the future historically. As we move forward, when we work with Inuit communities, Métis communities and certainly with first nations we must understand how those communities understand their future. We have to understand what they want the relationship to be in the delivery of services or not or how they want to engage with us in the types of agreements that we would negotiate with them. Understanding those pieces is critical so that we get it right in the way that we did not in the past.

● (0945)

Mr. Robert-Falcon Ouellette: How can they trust you?

Mr. Daniel Watson: We go back to something that my colleague said. It has to be in the outcomes. I think part of the outcomes now we understand and it's set out in this legislation. We begin building those outcomes by actually having the conversation at the outset of where we're headed. I think that's one of the important reasons why in this legislation it says that we are to work with indigenous groups, with Métis, with Inuit, with first nations not at the end to implement an idea that we had come up with ourselves at Les Terrasses de la Chaudière but to actually build together something that we started talking about at the beginning, not at the end.

Mr. Robert-Falcon Ouellette: After 133 years of the Indian affairs department, does that mean your department was wrong for 133 years?

Mr. Daniel Watson: I don't think everything is right and that everything is wrong. But certainly there's a lot of wrong. You just have to go to the court cases to find out how wrong we were in a number of those instances. Certainly I think many of the things that we did we would choose deliberately to never do again.

Mr. Robert-Falcon Ouellette: What type of training programs do you have now to change the culture and the mindset for the employees of INAC? I'm an anthropologist. If you've been doing something for 25 years, you've invested 35 years of your career into a certain way of doing things, it must be quite difficult to say we're going to do things differently.

Mr. Daniel Watson: It is and it isn't. Many of the things that we're talking about today, the people who are employed in the department have been telling us for a long time we should be doing. Having spent much of the early part of my career as a negotiator, you can't sit at the table and hear communities tell you things that make perfect sense about their past, about their hopes, about their aspirations, and not be profoundly affected by the rationality of it.

Then when you go back and find an institution that is perhaps not in that headspace, you start to speak up in your organization. In many instances, we will be doing things that many employees have been suggesting for a long time we should do.

In other instances though, you're right. We will have to continue to work with people to understand things differently because what we're about here is some very profound change. We do have training programs in place for people who arrive in the department. As my colleague mentioned earlier, having indigenous employees, Inuit, Métis and first nations, is a critical part of that. For those who are not

indigenous, to understand and to be clearly told that our expectation is the value that those employees bring is important.

Mr. Robert-Falcon Ouellette: I was just wondering, does everyone now have access to the mandate letter? I was talking to employees and early on when our government first came to office, the mandate letters, even though public, were not to be shared within Indigenous Services by certain lower level managers. That is what I heard from employees.

Mr. Jean-François Tremblay: They're online.

Mr. Robert-Falcon Ouellette: People actually actively discuss them or have discussed them in the department at all levels?

Mr. Daniel Watson: We refer to them regularly in our speaking points, in our mandate letters and in correspondence that staff develop. They're very well known.

Mr. Robert-Falcon Ouellette: That's great. I think that's fantastic.

I was just wondering, what is the overall number of employees today in Indigenous Services Canada and Crown-Indigenous Relations and Northern Affairs Canada? What's the plan into the future? Are we going to see a reduction in numbers as we devolve these services to indigenous peoples or are we going to see an increase in the numbers within what we often refer to as the aboriginal industry?

Mr. Jean-François Tremblay: At ISC, there are 5,230 employees.

Mr. Daniel Watson: As well, there are 2,850 employees at CIRNAC, so there's a total of 8,080 employees.

Mr. Robert-Falcon Ouellette: Do you believe you will be seeing a reduction in numbers in a certain period time, or will you be seeing stable numbers?

Mr. Jean-François Tremblay: It's hard to know over the short term. Over the medium term, for sure, we think we'll see a reduction.

I mentioned the health case in B.C. When we transferred to the First Nations Health Authority, we basically closed the regional offices, which meant a lot of jobs. That is something we are going to have to look at.

If we do the same thing in other regions, the consequences will be the same. If I remember well, we transferred some health services, nursing services, to a tribal council in Saskatchewan. That means the transfer of some positions. We do that. Depending on the size of the transfer, there will always be—

● (0950)

Mr. Robert-Falcon Ouellette: Is that a “yes” to reduction in numbers?

Mr. Jean-François Tremblay: It's a yes.

Mr. Robert-Falcon Ouellette: Are we just expanding the indigenous side and expanding—

Mr. Jean-François Tremblay: You have to take into account also the size of the initiatives at the moment. It's hard to reduce when you create more and more initiatives. We've received a significant amount of money over the last few years, so you always need some people to manage it. If it isn't transferred and you get an increase in funding—

Mr. Robert-Falcon Ouellette: Have those additional investments helped make a difference in building this relationship?

Mr. Jean-François Tremblay: Yes.

Mr. Robert-Falcon Ouellette: Has that been a significant aspect to it?

Mr. Jean-François Tremblay: Yes.

Mr. Robert-Falcon Ouellette: Without it, you wouldn't have been able to have this changing relationship and changing thinking, seeing the future differently, things differently and ourselves differently.

Mr. Jean-François Tremblay: You have to walk the talk. If there is no funding that comes with the change in the relationship, it would make it difficult.

For example, on education, when I talked about the funding formula, if we were negotiating a funding formula with the funding we had four years ago, it would have been harder. However, the fact that there was an injection of funds at the same time makes it more credible and builds up the trust relationship that you mentioned before.

The Chair: Thank you.

Next is MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you, Madam Chair.

Again, I will note that Bill C-97 sounds innocuous enough; and part 4, division 25, sounds as though it's just a little piece. Division 25 is 33 pages.

Therefore, first of all, I would like to make a motion that we invite the Métis National Council, the ITK and the AFN, and I know our time is short, but that we ask them to make comment and to submit their comments to this committee for consideration.

The Chair: There is a motion on the table. Is there any discussion?

Mike.

Mr. Mike Bossio: Is that not already occurring with finance? I thought finance was doing all the consultations. I don't have a problem with them sending a brief to the committee on their views. It would be totally open for any group to do that, regardless of what motion we vote on here. I certainly don't have a problem with inviting them to submit something, but to have them come to testify, I just don't want to delay this bill getting back to the House.

The Chair: Cathy.

Mrs. Cathy McLeod: Madam Chair, I don't believe there is any delay. I believe if we do not send a letter to finance, it's deemed. There is a deadline for a delay from this committee back to finance, but there is nothing that would delay the consideration by the finance committee of our input into the legislation.

The Chair: Is there interest in suspending for five minutes?

No. Okay.

Mr. Mike Bossio: Once again, we don't have a problem at all with them sending in a written submission to the committee, but we're not in favour of having a meeting to have them attend. What's the purpose if it's not going to actually inform the bill itself?

If you're saying it's going to be referred back, it's going to be referred back. As I said, I don't have a problem with there being a written submission, but beyond that, I personally don't think it's necessary.

The Chair: Ms. McLeod, is there a desire to amend your motion?

Mrs. Cathy McLeod: Madam Chair, the finance committee is looking for recommendations from us. It might be as clean as no recommendations, or it might be a recommendation to do x, to perhaps make changes and suggest amendments to the finance committee.

To be frank, the finance committee has a massive bill in front of them. They are not paying detailed attention to this issue. It is our responsibility to do the best job we can in order to make recommendations to finance on this issue. As you know, it will be up to the finance committee to determine whether our recommendations are something they support or do not support.

The Chair: MP Ouellette.

Mr. Robert-Falcon Ouellette: As a member who sat on finance committees for a number of years, I can tell you that the consultations for the pre-budget are often very extensive. In this case, I believe over 2,000 submissions were made. There were hundreds of witnesses and hours and hours. They usually sit all week, often from early in the morning until late at night. National indigenous organizations are often called to testify; in fact, they are always called to testify and offer their witness statements, and their testimony is collected. I believe that goes to the finance department, and the finance minister then has a discussion reviewing that information.

In this case, if we're going to miss a deadline, and this information needs to be in by a certain time, I'm not sure what purpose it would serve. I suspect that the Métis National Council would be in favour of this. We could ask the witnesses here if they've had discussions with the Métis National Council. In those discussions, as well, we could ask about their discussions in the consultations with indigenous peoples and what their feedback was in relation to the split in relation to this budget bill, since we have these witnesses here. As these are civil servants who serve the Canadian public, I believe their testimony would probably also be truthful and very useful to informing us on what direction we should take with the bill.

● (0955)

The Chair: All right.

I believe that concludes our discussion on the motion.

All those in favour of the motion? All those opposed?

Didn't Ms. Fry vote?

Hon. Hedy Fry (Vancouver Centre, Lib.): I abstained.

The Chair: It's a tie, so I will vote in favour of the government. ● (1000)

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

Cathy.

Mrs. Cathy McLeod: Thank you, Madam Chair.

I'd like to note that this committee has now denied having witnesses before us for this important piece of legislation, and we have denied even requesting a submission in order for us to appropriately inform the finance committee, given our best information, on what we should be doing with this section, division 4, section 25, which is 32-plus pages.

Now, I guess, I will have to go to our witnesses and, through their lens, get them to speak on behalf of another organization, which is completely inappropriate, in spite of what Mr. Ouellette said. I note that the Assembly of First Nations was concerned with some of the language in the legislation in terms of it not acknowledging the jurisdictional authorities and the responsibilities of first nations.

Can you comment on the concerns that were expressed?

The Chair: You have 20 seconds.

Mrs. Cathy McLeod: Madam Chair, I have a point of order.

I don't believe that the time spent discussing a motion is time taken from seven minutes.

The Chair: I'll refer that to the clerk.

It is my understanding that it did use up the time, but, what is common practice?

The Clerk of the Committee (Mr. Leif-Erik Aune): It's really the will of the committee. The committee hasn't adopted a routine motion to govern how it uses the time if a member uses their time for a motion, but it's the member's time.

The Chair: That has been the practice up to now, and no other motion will guide us, so respond quickly.

Mr. Jean-François Tremblay: The transformation and the split of the departments didn't start last week. It started almost two years ago now. Since that time, there has been a lot of work and engagement with first nations, Inuit and Métis on what it means to have those two departments. There have also been a lot of sessions managed by Minister Bennett over the last year and a half in terms of looking at and hearing from first nations, Inuit and Métis about the departments. She has met thousands of people and organizations.

We heard concerns sometimes. Most of the concerns—and I don't want to speak on their behalf—are around the distinctions-based approach and making sure that it a distinctions-based approach, making sure that continuity of services is there, making sure that the recognition of UNDRIP is there and that recognition of jurisdiction is there. Those are the concerns that we heard. They are not necessarily specifically related only to the legislation, to be fair. They are concerns that we hear, on a regular basis, on advancing our policy.

The Chair: All right. We allowed an extension of time on that in the recognition that you had a procedural issue.

We're now moving to MP Rachel Blaney.

Ms. Rachel Blaney: Thank you, Madam Chair. I have another couple of questions.

Both of you referred in your presentations to the work you're doing to co-develop; I hope I got that correctly. We're hearing in terms of different pieces of legislation—and, of course, most obviously Bill C-92—that a lot of people and organizations are not feeling that this is the correct way to describe the interaction and that it was certainly not co-development. We have heard that repeatedly.

I am just wondering what your mandate is around co-development. How is that progressing through time?

We know that on Bill C-97 we've heard from the AFN that there are concerns around jurisdiction. We've heard from the Assembly of Manitoba Chiefs that there has not been a meaningful consultation. There seems to be a lot of interest in making sure that consultation is actually defined as something a little more concrete and not interpreted by the government.

I think co-development is the way that the language is moving, but is the actual action behind it happening? How, in both of these departments, are you accountable to indigenous communities across the country in terms of developing the definitions of co-development and consultation?

Mr. Jean-François Tremblay: Co-development is a difficult area of the business, because it involves...and could mean a lot of people at the table. You can look at Bill C-92. We have been co-developing the legislation with the national organizations, but we also did a lot of engagement at the regional level and at the local level over the last year. The objective of this legislation—and it's an important element that we're trying to do as much as possible—is defined less...as little as possible in the legislation.

The real story about Bill C-92 is not just the legislation. It's that actually we say to first nations, Inuit and Métis, "Go ahead and develop your legislation and come to us with it." It's not legislation that tries to impose an approach. It's legislation that just says, "You should be the ones developing this approach." It's a co-development that leads to an approach that is actually their developing of their own legislation by themselves. I think it's important to see the distinction. Case by case, we did a lot of co-development on the education side.

In terms of reporting to indigenous people, as I mentioned before, we have more and more regional discussions and annual gatherings among our staff and first nations, Inuit and Métis—with first nations specifically because of the services on the reserves—where we discuss how the relationship is going.

I invite the national organizations to come to my senior management committee every three or four months—we try to be regular—to discuss how things are going. We attend their meetings with them: their executive committees, their committees on housing, their committees on education. For us, as much as possible, it's to be transparent in the way we do our business and what we are doing, and that's how we achieve co-development. I think we made significant progress, to be fair.

Ms. Rachel Blaney: One of the questions I have, though, is on what you mentioned the last time we chatted: the part about “take charge” and what indigenous communities are ready to take on. I look at some of the communities that I serve and there are multiple challenges, so when we say “take charge”.... Recently, we had a young man commit suicide in one of my communities, and that community has rallied, has pulled in resources and has been trying to do things. We have a lot of young people discussing on social media. I look at another community such as Grassy Narrows, for example, which is dealing with poisoning right now. They have waited a very long time, and people are very ill and dying because of that.

When we talk about co-development, consultation and indigenous people taking charge, we have to put it in that context, so where is the accountability back to those communities, especially to a community like Grassy Narrows, where what they have to deal with is beyond the imagination of the everyday Canadian?

Mr. Jean-François Tremblay: The issue we have at the moment is we treat all first nations communities the same way. You implement programs the way they have been developed, even if you had higher or lower capacity. If we move with grants and more self-determination, the communities that are ready will take that, which means our staff will be able to focus more on the relationship with first nations that have more needs.

Who should help them? A lot of the work we have done with the first nations institutions has been on how they can help us to get first nations out of third party management, for example, not our going there and telling them what to do, but more first nations institutions working with them.

For communities like Grassy Narrows, like Cat Lake and communities in the north in many cases, the question is how do we support them and help them to get the capacity, rather than just going with the compliance with our programs. That's the way we want to see the shift and how we move them towards this stream so they end up with self-determination.

Self-determination doesn't necessarily take a local-only aspect. It could be regional. The work we've done on education in the north, for example, is not just with one community; it's with many. I think it's looking with them at the models that would help them get there and make the decisions they want to make to achieve self-government.

In the past it was a one-size-fits-all approach; the program was the same for everybody, even if you're in a better position, even if you don't necessarily need this money for this specific aspect, because you already addressed this issue. How can you reallocate? We're getting this flexibility and we're giving to the communities that are ready to take it, which will give us a chance to have a plan and work directly with the communities in need.

•(1005)

Mr. Daniel Watson: The lessons about the way we have tried to deliver programs in exactly the same way I think are important in the world of consultation and co-development. If you have a modern or a historic treaty or if you don't have any treaties, the way you engage is different and the capacity to co-develop may be different, depending on what experience you've had in the past.

So coming up with a single definition of how we will do co-development everywhere in the country and follow this definition or be offside I think would repeat some of the past mistakes, but it doesn't mean we are not taking it seriously. It means we have to work out with those individual communities the things we can and cannot do. I have no doubt that we will have very different views over time as to the best and most appropriate way to move forward.

I think the important thing, though, is to have those conversations and to be open on both sides and particularly, obviously, with my responsibilities on the government side, the public service side, to make sure we listen to what we hear, but we still have to make some important calls as to how we engage most effectively.

The Chair: Questioning now moves to MP Mike Bossio.

Mr. Mike Bossio: Thank you, Chair.

Thank you all for your great answers.

We've heard some of the challenges that exist. We were in the middle of a capacity study before we were interrupted by the numerous bills that are now before the committee, but we saw first-hand the challenges that exist just around capacity. Could you expand for us on some of the challenges and the barriers you're seeing to being able to fully implement the intent and the long-term goals of the splitting of the department into three separate units?

Mr. Jean-François Tremblay: Capacity is an issue, of course. It's not necessarily the biggest one. For me it means how do you support first nations, Inuit and Métis in the development of their own public service? For us it is one of the reasons we want to hire more first nations, Inuit and Métis because, ultimately, they will take my job or they will take the departments with it. That's what we want.

The more you have people trained as public servants, the more you have people with a different kind of knowledge who can take responsibility. The beauty of the first nations is.... We took the first nations' health authorities, for example, to see this public service that is a first nations' public service in the majority, managing the health system in a way that is comparable to a province. They are doing fantastic work and working very well with the province and doing a better job than what we were doing.

It's the same thing for the Mi'kmaq in the Atlantic. How do we get there? How do we support the capacity for delivery of services? It is an issue, but I think we also have to trust the first nations communities. They come with solutions.

We often talk about the cases and the places where it's not working. There are a lot of places where it works. A lot of communities develop an innovative approach to addressing their own issues. In many cases the reason they haven't done better is our programs. It's because of our own silos. In many cases it's unlocking that capacity and making sure that people at the local level who want to make a difference can have the tools to make the difference.

That's the challenge, but it comes back to what Daniel said. It means their own employees need to be in service mode, not in the program delivery mode. They have to go to the community and ask how they can I help. That's the better approach.

• (1010)

Mr. Daniel Watson: You mentioned the three departments. We haven't spoken much about the Northern Affairs component of it. Throughout the legislation relating to CIRNAC, there are many references that ensure that those two departments and ministers would work very close together. There's language specific to the Minister of Northern Affairs using the facilities of the Department of Crown-Indigenous Relations, so those things are in there to ensure that some of the visions that might otherwise have been seen really don't develop and that we work as seamlessly as possible on that front.

Mr. Mike Bossio: Are there any other challenges you see out there regarding the implementation of it beyond capacity? You've solved one of them, the long-term stable funding of the 10-year granting process. How do we get it to all indigenous communities on that front?

Mr. Jean-François Tremblay: There's a challenge on how we work with communities with needs. What is a solution for first nations communities that struggle with some capacity issues or other issues? How do you do it in a way and resist...so as not to take a paternalistic approach?

We've seen in the past that an approach dictated from the centre doesn't work well. How do you build institutions and capacity to support those communities? It's unfair to believe that a community of 200 people can achieve everything. They can do a lot, but they also need some support.

That's why some organizations work well at the regional level, because they are able to build up some capacity at the regional level. How do we support communities toward the path to self-determination and resisting...to the program? And the program is an important one. It comes with a challenge, because the tendency sometimes is to say, "You should do it, you should do it. Can you fix education, can you fix that. Can you build this?"

We need to resist that, because most of the time it leads to a long list of programs with a lot of reporting and compliance issues that actually doesn't produce the results we're looking for. We're going to have to resist that, because under stress, we tend to go to what we know and what we know are programs. That's probably the biggest challenge for us.

Mr. Daniel Watson: If I can add to that. The other thing we are aware of are the Indian Act bands. One of the challenges moving forward will be to have the conversation about who are we talking to. In the past, our default position would be Indian Act bands and going forward that is probably not going to be the case. How people organize themselves, how they want to either aggregate or not is going to be an important part of what we need to think through, and we have to allow these communities to also think this through. If you've been separated for 150 years by administrative decisions about what band you're in or not, notwithstanding that your ancestors were collectively rebuilding that understanding, you want to go forward from today and that is going to be a big part of the conversation.

Mr. Mike Bossio: In evolution, not a revolution.

Finally, you talked a lot about the extensive consultations you've had. What are some of the concerns you've heard back from from indigenous communities around this legislation?

Mr. Daniel Watson: The concern has always been by many players, and quite rightly so, will the government live up to what it understands is the proper recognition of the rights that Métis and first nations communities governments have. They will want to make sure that nothing in here takes away from that in any way, shape or form. They will properly hold us to that test not only in what this legislation would be but more importantly, in all the thousands of actions that we will take, should it be passed.

Mr. Mike Bossio: Thank you.

The Chair: Mr. Kevin Waugh.

Mr. Kevin Waugh: I guess I'm one of those that you were talking about, Mr. Tremblay. I still keep going back. I'm going to ask the education question. Who designed the funding formula and what is the funding formula?

Mr. Jean-François Tremblay: The funding formula was designed in collaboration with the AFN and the regional education committee. We tabled it at the regional level. It was intensive work for more than a year, if I remember well.

The formula is based on what the provinces provide, so to make sure there's a comparability with the provinces. In addition to that, there's funding for languages, something like \$1,600 per student. This funding is there for more capacity and special education, and especially for early childhood and kindergarten. That's basically the formula.

The formula is expected to evolve. It's a preliminary formula, so it may change in the future. We're testing it now. It will evolve, depending on the funding from the provinces and depending on the needs on the other side. It is actually significant. It supports us and helps the discussion, because if you agree on the formula, the questions become more about how to maximize the use of this funding to actually achieve the outcomes. We kind of eliminate from the equation one of the key aspects of the discourse and the debate around education, so it's quite helpful.

• (1015)

Mr. Kevin Waugh: Some of our school divisions on reserve have agreements with the municipalities. How does that work? We had a witness here from Saskatoon who said they weren't entitled to any of the grants for languages because their kids are not on reserve. They're being bussed into, in this case, Saskatoon, Stonebridge. All of a sudden, that funding for languages is taken away.

Mr. Jean-François Tremblay: We met the same chief. It is an issue that has been raised, the fact that the funding for language is related to the first nations education system, not the provincial one.

Some people have an agreement with the province—the education system, the schools, are actually provincial schools—but the funding for languages is not going there. It is something that has been raised and will be the subject of discussions over the next few years.

It's a formula; it's not a definitive formula. The dialogue will continue. We're always looking at ways of improving this, but it's clearly something we heard. Our objective was to promote first nations languages in first nations schools, but I recognize it's one of the issues we've been hearing about.

Mr. Kevin Waugh: That same chief said that CMHC funding in the province of Saskatchewan is down 15% this year. Both of you have talked about housing, and here it's down 15%—not only for him, but also others in my province. That is a huge issue—it's maybe the most important issue of all when we talk to communities. It's housing. Here they are down 15%.

Mr. Jean-François Tremblay: Yes, it's CMHC dollars. We don't want to comment necessarily on their budget, but I get the same comments on infrastructure and budget. You have to look at it over the years. Sometimes it depends on the building, on the construction, especially on infrastructure. It happened, for example, with water in our case. With bigger projects, the first few years will get less funding than places where the projects are smaller, because it takes more time. I don't know exactly the situation in Saskatchewan, but it may have been a case where the funding at CMHC has to be looked at over the years and not necessarily in one particular year.

Mr. Kevin Waugh: It's hard to budget, though. You can see where these chiefs are coming from, right?

Mr. Jean-François Tremblay: That's why we're trying to move to 10-year agreements. That's why we're trying to move to situations where they have a sense of what the amount of money will be. We can always debate whether it's enough or not, which is a normal discussion to have, but you have to have predictability in funding to be able to plan.

Mr. Kevin Waugh: How many are on 10-year agreements? Did you say 85?

Mr. Jean-François Tremblay: I think it was 84, 85, the last time I looked.

Mr. Kevin Waugh: Is there any limit to that?

Mr. Jean-François Tremblay: We begin at the beginning of the year, so it would be difficult for them to join during the middle of the year—

Mr. Kevin Waugh: Okay.

Mr. Jean-François Tremblay: —but it would be interesting to see if we're going to have a second wave of first nations going into grants next year. There's no limit. If they qualify, if they demonstrate that they have the capacity, the financial plan in place and the tools, there's no reason for us to say no.

The Chair: Thank you, Mr. Waugh.

Now I'll get to ask a question. My question—and I'm sharing time with MP Ouellette—relates to social assistance, and if there's been discussion about transferring the authority over those funds to make a direct allocation to communities rather than having it come from the federal government.

As a case in point, we have a reserve in Manitoba where individuals with a CMHC mortgage are eligible to receive social assistance. If the band was fortunate enough to build a house on their own and carry the mortgage, those families, if they go through a period of unemployment or financial difficulty, would not be eligible. If the band had the choice, they would probably make a different choice.

Is there interest in moving that kind of bulk funding or direct grant to communities rather than having the federal government decide?

• (1020)

Mr. Jean-François Tremblay: The ones who are under grants can do that.

The Chair: Pardon me?

Mr. Jean-François Tremblay: As far as I remember, the ones who are under grants—and I will check just in case I was wrong—receive core funding that includes social assistance. That means they have the capacity to reallocate or spend in a different way if they want.

The Chair: For those 85 or whatever that you've done....

Mr. Jean-François Tremblay: You're right. We're hearing from chiefs and from communities that would like to use social assistance differently. The grants or self-government, of course, would give them that flexibility.

We have been engaging with first nations on a review of social assistance and how we can provide that capacity, how they can use it for more active measures, if I could say, like provinces have been doing. We've been trying to do so too, with some success to be fair.

However, the ones on the grants are receiving social assistance funding, if my memory is right, which gives them the flexibility.

The Chair: All right. Very good.

I'll go over to my colleague MP Ouellette.

Mr. Robert-Falcon Ouellette: I am wondering about the number of indigenous employees in the last few years. Have you seen an increase, decrease, and what do you see into the future?

Mr. Daniel Watson: As I recall—I don't have the numbers immediately at hand—it's over 20%.

I think you said 26% or 28% in your—

Mr. Jean-François Tremblay: Yes, it's probably 26% to 28%.

Mr. Daniel Watson: Ours is a little bit lower than that, but it's in that realm.

Mr. Robert-Falcon Ouellette: Has it increased or decreased?

Mr. Daniel Watson: It's been roughly similar over the last few years, but it has increased over time.

Mr. Jean-François Tremblay: I think it's increasing on the executive side a bit, which is encouraging. It varies from place to place. What we're trying to do now is to have a targeted approach.

What I mean is that if I look at my regions in Ontario, it's 50%, so it's significant. Other regions are lower, or other sectors are lower. I think the next step for us is to look at the numbers and say, what is the strategy? Why are we doing better in some places than others?

One of the key points is on the executive functions, having more assistant deputy ministers for our first nations, Inuit and Métis, as well as directors general and directors. That is key. We have been targeting that over the last few years with some success.

Mr. Robert-Falcon Ouellette: What's the number of employees in the region versus Ottawa? Have you seen a decrease or an increase over the last few years?

For instance, there's an awful lot of indigenous people in Manitoba, but in past governments, they were more centralizing, bringing things to Ottawa.

Mr. Jean-François Tremblay: The majority of my employees are in regions. Given the division of labour, if you want, between both of us, the majority of my employees are in regions. That is probably—I don't have the exact numbers—close to two-thirds, so that's quite significant.

My expectation is that it's going to grow unless we transfer the services to first nations, Inuit and Métis.

Mr. Robert-Falcon Ouellette: We have the official languages, English and French, with both of your departments.

Are there programs to encourage people to speak indigenous languages?

Mr. Jean-François Tremblay: Unfortunately, there are no programs encouraging people to speak indigenous languages at the office per se. We encourage our indigenous employees who work with indigenous communities to speak their own language. We have that, and we see that.

Mr. Robert-Falcon Ouellette: Is there an incentive program where they receive funds if they speak an indigenous language, or does it count towards promotion, towards executive positions or other positions within the federal civil service?

Mr. Jean-François Tremblay: We have programs where we do a recruitment process that is targeted to indigenous people.

We don't necessarily link—

Mr. Robert-Falcon Ouellette: If, for instance, someone is wanting to go into a position in the federal civil service right now, you have to be BBB or exempt or whatever.

What happens if you speak just English and an indigenous language?

Mr. Jean-François Tremblay: I cannot—

Mr. Robert-Falcon Ouellette: Will you be able to be promoted into that position?

Mr. Jean-François Tremblay: I cannot have an exemption from the official languages policy.

What we have been trying to do and to risk-manage is to hire those people and send them on French training, to make sure that in two years they will meet the requirements. We do our best, but we have legal obligations under the official languages policy.

It's easier in regions. In regions that are not necessarily bilingual, they can move to EX positions, but in headquarters, it's one of the challenges we face. It's the application of official languages.

• (1025)

The Chair: Questioning moves now to MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you.

Ms. Grondin, we asked everyone about their FTEs. You said yours had been stable.

How many people work with you supporting Crown-indigenous relations and Indigenous Services?

Ms. Suzanne Grondin: I would say that there are around 60 legal counsels plus support staff, so around 80 FTEs, including our official office in Vancouver.

Mrs. Cathy McLeod: Are all legal issues with the department filtered through you?

Ms. Suzanne Grondin: Most of them. We also have people in regional offices, so sometimes we have to deal with them because the issue is related more to the region.

Mrs. Cathy McLeod: Are you projecting that the vast majority of your workload will be with Crown-indigenous relations or Indigenous Services?

Ms. Suzanne Grondin: It's hard to say, because during the last year I would say it was a transition period. When we calculate the time that we spend on a file, not everything has been done, so it's hard for me to have an exact response because the numbers are not quite finalized yet.

Mrs. Cathy McLeod: I understand the former attorney general changed some of the philosophy around legal issues. To what degree is that impacting what you do and how you do it?

Ms. Suzanne Grondin: It takes time because for some of them the issues are major. You may be referring to the new directive on litigation. It takes time because we have to change the approach for the files that are already within the system.

Mrs. Cathy McLeod: Is it through your department that you advised in terms of how to deal with the day scholar residential school payout?

Ms. Suzanne Grondin: I'm not sure I understand the question.

Mrs. Cathy McLeod: The government recently determined that they would...residential schools.... They came to an agreement, and it's your department that has been working with...and advising how that particular piece of litigation will be dealt with—the day school scholar.

Ms. Suzanne Grondin: I'm not sure I understand the question.

Mr. Daniel Watson: My department works very closely with the Department of Justice and is advised by council on settling the day schools issue, yes. If you're referring to the one, for example, that was noted in the media as having been at a hearing yesterday, for example, counsel is representing us.

Mrs. Cathy McLeod: Yesterday I noted that Gowling, which I guess has been tasked with this particular issue, determined that there would be no process around the assessment of.... I understand there's an opportunity...\$50,000 to \$200,000 in terms of those who suffered abuse, which is apart from the settlement. What will be the process around proving those particular issues in terms of the settlement?

Mr. Daniel Watson: Given that it's the subject of a hearing at this very moment I'm unable to comment on it at this time.

Mrs. Cathy McLeod: The lawyer for Gowling did indicate that there would be no cross-examination because of the traumatization to the victims.

Mr. Daniel Watson: Again, that's under hearing at this very moment, and I'm unable to comment on it.

Mrs. Cathy McLeod: Thank you.

I'm going to go to Mr. Tremblay now. We had the Daniels decision. That was a couple years ago. Of course, you're responsible for the delivery of services. How has that Daniels decision impacted...? Have you identified the numbers that would be impacted by the Daniels decision? Have you started to put in place any delivery of services pieces to that? Can you give us an update on that?

● (1030)

The Chair: Make it very short—15 seconds.

Mr. Jean-François Tremblay: Daniels stated, if I remember well, that all those indigenous people fell under section 91(24), which is a legislative authority that the federal government legislates for the Indian.... It doesn't mean that programs that are specifically for first nations, Inuit, or Métis will suddenly be for everybody. That's not our interpretation. The question is, how do you support all indigenous people who self-identify as indigenous in closing gaps in social and economic conditions, if there is a social and economic conditions gap? I think it's more an answer for all the departments, not necessarily a response for specific programs for Daniels. We have some programs that are for all indigenous peoples, but most of

the time all programs are more for first nations—as you know, a high percentage, especially on reserve—and after that it's Inuit and Métis. We have only a few programs that are really for all indigenous people. I would invite you to look at.... Recently there was an announcement on infrastructure in urban areas, which likely would have an impact on all indigenous people, even if we would work closely with first nations, Inuit, and Métis. That has been the policy in terms of our programs.

The Chair: Thank you very much for attending and working with us for two hours. It was very generous and informative. We appreciate all your information.

Meegwetch.

The meeting is suspended for a couple of minutes. Then we'll have the new panels come up.

● (1030)

_____ (Pause) _____

● (1035)

The Chair: Welcome, everybody. Thank you very much.

We're running a little bit late as we transition from one bill to another. In this case, we're going to Bill C-92, which attempts to begin to deal with one of Canada's most horrific circumstances: indigenous children being placed in foster homes and being moved and losing their culture. It is estimated that there are more children in care than there were in residential schools. This bill aims to address the negative impacts of that circumstance, so we're very interested in hearing from our panellists. We are on the unceded territory of the Algonquin people here and we continue our discussions.

We have three panels. We have one panel with three witnesses. You have up to 10 minutes each and then we'll go into questions from members of Parliament.

Jocelyn Formsma is the executive director of the National Association of Friendship Centres. Welcome.

● (1040)

Ms. Jocelyn Formsma (Executive Director, National Association of Friendship Centres): Thank you so much for the invitation. We appreciate the opportunity to provide comments this morning.

Wachay misiway. Jocelyn Formsma nitoscheen.

I'm from the Moose Cree First Nation. I'm currently the executive director at the National Association of Friendship Centres.

For the last 15 years or so I've also been an indigenous children's rights advocate and an advocate for indigenous youth engagement and leadership development. I've also been engaged with various aspects of child welfare reform.

I've been a board member of the National Indian Child Welfare Association for the last 12 years. I assisted with their international advocacy work, which resulted in helping to bring about the first set of Indian child welfare act regulations in the 36 years of the act's enactment.

Today I'm going to provide you with an overview of how friendship centres have been engaged in child and family services, our perspectives on the bill, and how we think it might affect indigenous people living in urban settings. I'd also be happy to speak to questions related to experiences with the Indian Child Welfare Act if I'm asked following this presentation.

The work of friendship centres in child and family services is largely unknown and unrecognized. As you know, friendship centres provide a wide range of services, many of which can be considered prevention services such as prenatal supports, parental supports, child supports, programs that help families keep and care for their children and programs that assist parents to get children back if they are apprehended.

We have developed a cultural competency curriculum for foster parents, providing essential cultural programming for children living in care. Foster and adoptive parents often use friendship centre programming to ensure their foster or adopted child or children have access to culture and community.

Friendship centres are the sites of supervised visits, have sometimes been the sites of apprehensions and have also been called upon to provide intervention services on behalf of child and family service agencies or court supports to indigenous children, youth and families. Friendship centres also provide aftercare support services for youth who are leaving care.

In regard to the bill, we do not see the explicit consideration for urban and rural-based indigenous children, youth, families and communities.

The NAFC, as the secretariat for the Urban Aboriginal Knowledge Network—soon to be disbanded due to lack of funding—facilitated community-driven research initiatives that looked at the situation of indigenous children in care and indigenous families involved with the child welfare system, exploring the need for culturally appropriate training for non-indigenous caregivers of indigenous children in care—all from an urban lens.

Many definitions within the act currently are broad enough that arguments could be made for our inclusion, but we fear without explicit inclusion, it also allows for passive exclusion.

We have drafted a brief paper that outlines some of our perspectives and we would like to provide that to the committee for your consideration. It outlines some of the perspectives that we feel are necessary to consider before finalizing the act.

In reviewing Bill C-92, the NAFC has some concerns around the on-the-ground realities of implementing jurisdiction regarding indigenous children who live in urban settings. While the NAFC fully supports and promotes first nations, Inuit and Métis jurisdictions, we know that in reality the resources are often not available or sufficient for indigenous governments to be able to provide the full range of services required in the towns and cities in which their members reside. Friendship centres and other urban indigenous organizations that provide similar services are often unintentionally left to work with indigenous children, youth and families who are not currently receiving services and supports from their respective indigenous governments.

The NAFC would like to be put on record as being interested in, and having unique perspectives to inform, the development of any and all regulations that may come if Bill C-92 is passed. The regulations section of the proposed act makes mention of the inclusion of indigenous governing bodies in the consultation process of developing said regulations. We believe our insights and the insights of friendship centres can help ensure that regulations and policies will be reflective of the needs of indigenous peoples who reside in urban settings.

We have a number of recommendations on Bill C-92.

One regards urban indigenous inclusion. Rural and urban-based indigenous children, youth, families, communities and organizations ought to be mentioned in the drafting and implementation of this act. At present, we feel the broad language of the act does create space for the inclusion of urban indigenous peoples, but we also fear that the broadness may result in exclusion.

In terms of jurisdiction, there needs to be more clarity on the expression and extent of jurisdiction amongst and between different first nations, Métis and Inuit governments; provincial, territorial and federal governments; and the roles of civil society and non-political, yet indigenous-owned and operated, entities such as friendship centres. What we find in the urban spaces is that often these jurisdictions will overlap, and unless there's collaboration and coordination on how those jurisdictions will overlap within the urban spaces, we worry that children are going to be either left out or be subject to the cases that led to the unfortunate situation with Jordan's principle.

● (1045)

Stable funding commitments and mechanisms are needed to ensure that the implementation of this act will be possible for communities. Furthermore, those funding provisions should take into consideration the work that will be required following the passing of this act, which will include education, stakeholder engagement and advocacy, which also could include data collection.

Capacity dollars should be considered as communities will need to work towards building capacity if they are to assume jurisdiction over services and resources to support partnership development and engagement with stakeholders.

Bill C-92 contains no mandate for data collection. As the representative organization of friendship centres, the NAFC knows the value of data and how it can inform and guide effective programming and services, which results in better outcomes for the people that friendship centres serve. Data collection is a tool necessary for the improvement of services and for identifying gaps that need to be addressed. Without a specific mandate to collect data, Bill C-92 may inadvertently promote the current data status quo, which is lack of in-depth national data regarding indigenous child and family welfare. This was an experience that we found in the Indian Child Welfare Act. Although there were provisions for data collection, they weren't adequately funded and supported, which has led to a lack of data despite almost 40 years of the existence of the act.

We thank you again for the opportunity to provide comments and perspectives on this bill; we trust our submissions will inform your work. We look forward to any questions.

The Chair: Thank you so much.

We now move to Pam Palmater, Chair in Indigenous Governance, Department of Politics & Public Administration at Ryerson University.

Welcome to our committee again, Pam.

Dr. Pamela D. Palmater (Chair in Indigenous Governance, Department of Politics & Public Administration, Ryerson University, As an Individual): Hello. Thanks for having me.

Kwe, ni'n teluisi Pam Palmater.

I am from the sovereign Mi'kmaq nation on unceded Mi'kmaq territory. I have been a practising lawyer for 20 years, 10 of which were spent at Justice Canada and Indian Affairs, where I received all the training in the legislative process, statutory interpretation and legislative drafting. I also have my doctorate in law on legislation that impacts indigenous people, so I have a very particular focus here, and it's very legislative, as opposed to policy-based.

I'm here to speak against Bill C-92 as it is currently drafted. I think that without substantive amendments it risks interjurisdictional chaos, legal chaos and chaos on and off reserve. In addition, of course, it won't do anything to address the humanitarian crisis.

I have several core problems with it. One is the same problem I have with Bill C-91 and Bill C-97, which is that they are pan-aboriginal legislation. By being pan-aboriginal, in fact, it discriminates against first nations because it doesn't focus on first nations' specific rights, our unique histories, our unique socio-economic conditions or our specific interests. To my mind, first nation rights should never be limited by the different legal, political and social statuses of other groups.

For example, the Métis do not suffer the same acute socio-economic conditions that first nations do. That's just a fact. We also know that in Canadian law, when you treat everyone formally the same, you end up treating the most disadvantaged unequally. What we're advocating is substantive equality that is first nations-specific, so first nations-specific legislation and not formal equality.

The other concern is that there is no independent recognition or status for first nations laws that make them paramount. They are only

considered to be a federal law, no different from a bylaw under the Indian Act. For anyone who has ever worked with first nations or at Justice Canada or Indian Affairs, it is nearly impossible to get the RCMP or anyone else to enforce Indian Act bylaws.

Right now, under this legislation, instead of being paramount, first nation laws are conditional or subject to the provisions of the Charter; the Canadian Human Rights Act; section 35 of the Constitution Act; all of the limiting Supreme Court of Canada cases; the division of powers under section 91(24); coordination agreements and all of the interpretations that courts would give to those coordination agreements—of which there could be upwards of 634—and failure to abide; pre-existing provincial court definitions of “best interests of the child”, which I have to remind everyone here are court-defined and open to the same amount of racism and abuse that's already been shown in the courts against first nations children; and, of course, clauses 10 to 15 of Bill C-92 itself.

Those are a lot of things that trump first nations laws, and that's a problem. There has to be a discussion that is not only about recognizing first nations jurisdiction in and of itself but also about issues around paramountcy of laws and how these jurisdictions will work together.

My other concern is that it forces first nations to negotiate agreements with federal and provincial government, when provincial governments are the problem. The federal government is the problem in the sense of discriminatory, chronic underfunding. The Canadian Human Rights Tribunal has already talked about that. However, it's the provinces that have allowed these human rights abuses to continue despite the research and despite all of the evidence. The last people many first nations want to work with are the provinces, which commit the abuses. To actually force that is to reinforce this horrendous humanitarian crisis, and that is something that I think many first nations have already testified to being rightly against.

The biggest thing, I guess, is that despite being sold as committing funding to first nations, there's no statutory commitment for funding. It is one thing to acknowledge in a “whereas” clause that there are calls for funding, that in principle maybe we'll talk about funding or we'll figure out ways to talk about it. However, there is no statutory commitment saying the minister will fund first nations for all of the services and actually define what those services are—and leave it flexible enough.

•(1050)

There are no guidelines around how that funding would be provided such as population, demographics, birth rates, actual costs, first nations rights around this, which are very different from Métis and Inuit rights. There's nothing that makes Jordan's principle mandatory in this legislation, and that should, in fact, be a core part of the legislation. It's certainly a core part of the Canadian Human Rights Tribunal. There's no commitment to address the underlying root causes of child apprehension, which for first nations specifically tend to mostly be socio-economic conditions. It's not just good enough to fund aftercare or parental programs if you're not also saying we will also make a commitment to housing, food, water, education and access to health care, which are all the reasons why most of these kids are taken away to begin with.

Another core legislative problem is that the minister retains all of the powers under the act, including the power to make regulations. There's only a requirement to consult with indigenous groups, and we all know how poorly consultation works in practice. We've been subject to hundreds of court cases because the federal government still doesn't understand how to actually consult, accommodate and get consent, because all of those things work together as a package. Now with UNDRIP, the United Nations Declaration on the Rights of Indigenous Peoples, we're talking about free, prior and informed consent. This bill is the opposite of that. It's basically saying we'll talk to you but we get to do all of the regulations, and it's in the regulations where a lot more damage can be done, a lot more control can be had. Or there can be no regulations at all, because we've seen ministers promise, "we're just going to do this act and we'll solve all the problems in regulations" and, hello, no regulations. We're just going on past practice.

The global pan-indigenous consultations also skew what should be in the regulations. What is good for first nations may have nothing to do with Métis, so why would Métis have a voice in what kind of regulations will apply to first nations and vice versa? That's part of the legal problem with the pan-indigenous nature. By empowering one entity, that is, by empowering the minister throughout all of the sections of this legislation, you are in essence disempowering another. Whatever power the minister has, that's something that first nations don't have, and that's a real problem.

I do find it really disturbing that in all of this legislation, knowing how closely related forced and coerced sterilization is to child apprehensions and how they've been linked, there is no provision in here that specifically prohibits the use of forced or coerced sterilizations in any child and family services situation, especially with regard to child care

There are lots of other issue around wording. There should be a discussion about jurisdiction over off-reserve, issues around data collection, but my specific suggested amendments are that if you're going to do legislation for those first nations that consent, it needs to be specific first nations legislation whether you're talking about languages or child and family services. Only first nations are under the Indian Act. First nations have an entirely different set of rights and laws, and you cannot put them all together.

There needs to be, if there is legislation, fully funded opt-out provisions so that first nations that are already engaged with child

and family services don't have to be a part of this legislation, that their choice isn't just status quo or nothing, that a fully funded alternative means if we're not funding you under this process, we will fund you under your own process.

There needs to be targeted and committed funding specifically for first nations that is based on population, inflation, costs and needs. The first nations inherent right to be self-determining over child and family services must be recognized in their own right, not attached to section 35, not attached to UNDRIP, not attached to anything external. The inherent pre-existing right needs to be the foundation of any legislation going forward.

I would also add that if you want to give real effect to this, repeal section 88 of the Indian Act to oust provincial jurisdiction over first nations altogether.

My last recommendations specifically reference UNDRIP and all of the provisions, and specifically reference the United Nations Convention on the Rights of the Child, and say that this bill should not pass as is. It needs at a minimum comprehensive review with first nations experts, including people like Dr. Cindy Blackstock, who has extensive amendments to make, and organizations like the National Association of Friendship Centres.

•(1055)

Thank you.

The Chair: Thank you, Pam. I appreciate your presentation.

Now we're moving to the presentation from Joshua Ferland, who has come without much notice but we really appreciate it. He has an accompanying adult, Patricia Ann Horsley.

Welcome to our committee. You can begin anytime you're ready, Josh.

Mr. Joshua Ferland (As an Individual): Hello, my name is Josh Ferland. I was born in Winnipeg, where I still live. I'm proud to be here today to talk about Bill C-92, and to share my experiences and hopes for the bill. Thank you for having me and allowing me to share my thoughts. I hope that my voice will make a difference for young people.

I was once a child in care. I understand this is the first time the federal government has entered child welfare in such a big way. I am in favour of Bill C-92 because I'm Métis, and this is the first time Métis people will get support and funding from the federal government for child welfare.

Having grown up in care, I believe it's important to have better supports for youth in all stages of their development as well as supports that will help them achieve long-term goals. What I would have preferred over group-home living was to have found a long-term foster home much earlier than I did. They took me in and treated me as their own. They taught me skills and values that serve me well as an adult: the importance of working hard, developing a good work ethic, to be respectful and considerate of all people, the importance of giving back. In spite of why I was there, I'm thankful to my foster family for their love and acceptance.

I'd like to talk about some of the other supports I've had in my life. I'm thankful to the Manitoba Métis Federation, which funds the Metis Child and Family Services Authority, for having a Métis spirit worker. They have helped me as I transitioned out of care. I know from my own experience that there's not a lot of support for young people who age out of care. That's why having funding for programs such as this is so important. The Métis spirit worker told me about job training the MMF was providing. She helped me sign up and get ready, and even drove me to the training site an hour and a half out of the city of Winnipeg. I'll continue to work with Rhiannon Lynch as long as I can. This program ends support to youth after the age of 25.

I believe these types of programs are essential and should be a priority for helping young adults. Through my training, I earned several certifications that led me to a great opportunity. I still had to figure out a few more things before the job became a reality. The job was an hour and a half out of town and I had no way to get there. I don't have a car and there are no buses that go out there. I didn't have a place to stay or any money for rent. There is no startup funding available for youth like me. It's crazy to think how many thousands and thousands of dollars were spent on my 12 years in care. And then, when I finally got to a place where I could start to pay my own way, I just needed a few hundred dollars to start working, but there was no help. I just needed enough to get to my first paycheque. I was so close.

I'm telling you this because sometimes it isn't the big things that kill our dreams—it's the little things. This is something that I would like people to remember as you decide what can happen as a result of this bill.

I was lucky that I had people in my life who were willing to go above and beyond what they had to do. My Métis spirit worker fundraised for me, and collected and donated gift cards. Pat Horsley from the Métis agency, who is here with me today, drove me out to my job and arranged accommodations for me until I got my first paycheque. Pat contacted the MMF and the Metis Community Liaison Department, and they donated a gift card so I could buy food. Even though they don't get provincial funding to help youth after they leave care, the Metis Child and Family Services Authority pitched in so I could get started. I'm so glad they found a way to make it work.

I was so thankful they put me ahead of a system that seems so clunky.

● (1100)

As kids in care, we feel like we hear lots of “no's”, and much of what happens to us is out of our control.

I hope the new bill will give new hope that we can do things differently going forward. It has the potential to have more positive outcomes for our current youth in care.

Thank you for listening. I am honoured to have this opportunity.

The Chair: Thank you, Josh. Those are very important words.

Now we're going to move to questions from the members of Parliament. You can just take your time and be as honest and open as you can.

We're going to start with MP Robert-Falcon Ouellette.

Mr. Robert-Falcon Ouellette: Thank you very much.

[Member spoke in Cree]

[English]

Thank you very much, Josh, Jocelyn and Pamela.

Josh, with the number of children you saw in care, were they all receiving the appropriate services? Do we need to try something different?

● (1105)

Mr. Joshua Ferland: Yes. Support more funding for proper programming, like the Métis spirit program, which helps kids up until they are 25. It also helps them with employment, finding jobs, finding homes to stay in, and stuff like that.

Mr. Robert-Falcon Ouellette: Is 18 a good cut-off age for support?

Mr. Joshua Ferland: I think it should be at least until you're 26.

Mr. Robert-Falcon Ouellette: Why 26?

Mr. Joshua Ferland: I feel like you should help people where they're at, not where people think they should be at.

Mr. Robert-Falcon Ouellette: Okay.

Jocelyn, could you talk a little bit about the cultural competency programming you do in the friendship centres, what that entails for families and how widely available it is across Canada in all the friendship centres?

Ms. Jocelyn Formsma: We have a network of 112 member friendship centres, which also includes our provincial and territorial associations. To say that any one of them does the same thing... Friendship centres provide a wide and vast array of programs and services.

The cultural competency programming was when we did our outreach that came back from the Under One Sky Friendship Centre in New Brunswick.

Also, other friendship centres provide a lot of different types of programming. Some of them provide the I Am a Kind Man program, which is an anti-violence program for men.

I've heard of situations where a friendship centre heard about a family that was at risk of being broken apart and they created a program over a weekend so that they could go and tell the CAS worker that they had a plan and a program for them.

Mr. Robert-Falcon Ouellette: How many non-indigenous foster parents use your programming, then, for the cultural competency to continue to maintain the cultural connection between children?

Ms. Jocelyn Formsma: I would not have any idea of what those numbers are, because—

Mr. Robert-Falcon Ouellette: Is that something that is important?

Ms. Jocelyn Formsma: I think so. Regardless of who has the jurisdiction, I think there are still going to be indigenous children in care. There are still going to be non-indigenous foster parents, and they're still going to drop their kids off at friendship centres to receive cultural programming. We don't have any data that captures any of that, at all.

We've captured some within one of the UAKN research reports. There is one specifically looking at cultural competency training for non-aboriginal.... I have it in here.

Mr. Robert-Falcon Ouellette: It's okay.

Ms. Jocelyn Formsma: I'd have to look it up, but you can look on UAKN.org. You just look in "child services" or "child welfare", and all of the research we have done in that area will come up on that website.

Mr. Robert-Falcon Ouellette: Thank you very much.

I would like to talk about subclause 9(3) in the bill. That's on page 6.

This talks about substantive equality and the idea that children are supposed to receive the same level of services no matter where they are, especially 9(3)(e), which says:

in order to promote substantive equality between Indigenous children and other children, a jurisdictional dispute must not result in a gap in the child and family services that are provided in relation to Indigenous children.

Now, this specifically doesn't mention Jordan's principle, but this bill itself is not just about health care; it's also about a wider range of services.

Pamela, I was wondering, in your estimation—and, obviously, I suspect you will say no—could you, as a lawyer, take the federal government to court if they didn't have or were not funding...? Let's say there was a change in government and the new government decided they did not wish to fund child welfare for whatever reason—and I understand the fear of indigenous peoples related to that. Would you be able to take the federal government to court and say that under this bill, they are supposed to have substantive equality and they're not funding this; there is a major difference between the level of services and this is a human rights case, so they need to fund that? Would you be able to take that to court using that clause?

Dr. Pamela D. Palmater: You can make any kind of argument when you go to court. The thing is, you try to put your best

arguments forward and hope they stick. However, there's a critical difference in legislative drafting between a "whereas" clause and a principle versus a substantive right.

When you say in the whereas "we want to provide funding to first nations", that's very different than if you have a section in here that says "the minister shall provide" equitable funding to first nations or equal funding to first nations. That's part of the problem when you're doing legislative drafting. Any of the core commitments—rights that are judicable, that you can actually take to the bank, take to court and sue on, and have enforced and get injunctions and that kind of thing—have to actually be rights-based, not just in the fluff, because principles are, "well, you know, that was our general idea", but there's nothing that outlines what is the mandatory way in which that would be interpreted.

It would be an argument, but not necessarily a successful one.

●(1110)

Mr. Robert-Falcon Ouellette: There's no federal legislation surrounding CFS, yet the federal government was taken to court by the Child and Family Caring Society and lost on a number of occasions, and eventually the federal government did decide to find Jordan's principle a number of times. Obviously there is a case to be made that it would likely be successful again in this case, because you even have it actually more explicit than any other legislation. It's not just simply a motion in Parliament 10 years ago or 20 years ago under Jordan's principle. This is actual legislation, where it lays out substantive equality.

Dr. Pamela D. Palmater: Fair point. However, you have to keep in mind how many non-compliance orders were issued after that decision by the Canadian Human Rights Tribunal—seven, I think—and they're still in court debating whether this is going to apply to all kids, especially under Jordan's principle.

Right now, the legal issue is the federal government not providing Jordan's principle funding to non-status Indian kids who should in fact be status but for the ongoing discrimination in Bill S-3.

You have multiple acts that are working together to disadvantage, so that would be hard.

Mr. Robert-Falcon Ouellette: Some of those would be considered Métis children, so I think there are a lot of issues going on surrounding status—obviously. You're talking about how this is not distinctions-based but yet we negotiated—the federal government negotiated—with the first nations national organizations and did major consultations with the Métis and the Inuit organizations—

The Chair: Thank you. We've run out of time. It might be picked up by MP Arnold Viersen.

Mr. Arnold Viersen: Yes, carry on.

The Chair: That's co-operation.

Mr. Robert-Falcon Ouellette: Thank you. It's just a really interesting aspect.

I'm kind of confused. You've come and given testimony that—I wrote it down—it's not distinctions-based, yet we had the Inuit who say it's distinctions-based. We had the Métis who say it's distinctions-based and the first nations that feel it's distinctions-based.

Also, then, we talk in the court cases about how we're trying to look at the Métis receiving services as well and whether they shouldn't, and then we now have Bill S-3. This is in flux. From a lot of the testimony we've heard, this is just a first step of where we're trying to go.

We heard lawyers, constitutional lawyers, previous to this. I can list off the names. I wrote down all their testimony here. Is this not just an ability to move in a way forward and trying to come up with a better path forward to give indigenous communities control? Even under clause 22, it says literally.... I'm sorry. It's clause 18 and then there's clause 22, which that says that all indigenous laws take precedence if there's a conflict. If there is an indigenous nation—Treaty No. 1 territory, Treaty No. 4 territory—that decides to pass legislation, then, under subclauses 22(1) and 22(3), their jurisdiction takes precedence over federal or provincial law. It's written right there.

Dr. Pamela D. Palmater: I would love to respond to several things you've said.

The AFN, MNC and ITK had claimed that this was going to be co-drafted, and that's not how Justice Canada actually does legislation. There is no co-drafting of legislation. So then they changed the wording, admitted it wasn't co-drafting and said it was “co-developed”.

Co-developing with an organization is not actually co-developing or taking instruction from actual rights-holding first nations. I have heard the testimony both here and in the pre-study in the Senate. The Assembly of Manitoba Chiefs, which represents 63 first nations, is categorically against Bill C-92. They had protests against it on Friday. There's a coalition of first nations across the country that are doing national days of action against Bill C-92, including first nations from the Chiefs of Ontario and first nations from Alberta. All of this stuff is on the record. There is significant resistance, and there have been experts like Cindy Blackstock and others who have testified that there are big problems with this bill.

It's not how you presented it. You've kind of left out all of the people who are in opposition to it for rightful reasons, and you have to keep in mind that these so-called first nations laws that allegedly have paramountcy are federal laws. They're to be treated like federal laws, not first nations laws in and of themselves, subject to the charter of the Canadian Human Rights Act, section 35, division of powers, coordination agreements and clauses 10 to 15 of the bill.

You can't just read one section in isolation when you interpret legislation. You have to read it all and look at all of the provisions.

• (1115)

Mr. Robert-Falcon Ouellette: Thank you.

Arnold.

Mr. Arnold Viersen: Thanks.

Ms. Formsma, we've had this conversation quite a bit about the urban versus the first nations on reserve in particular. Never mind the Métis settlements and all that kind of stuff.

How do we put the friendship centres? Friendships centres are places where those distinctions disappear. I visited several of them across the country. How do we recognize in this particular bill the important work that friendship centres do, given that we give people standing at hearings and things like that? How would you see a place for the friendship centres?

Ms. Jocelyn Formsma: A few things are already happening and there are some things to think about. Certainly we don't ever want to be viewed as holding up a rightful jurisdiction of government. As best we can, we intend to provide perspectives on how we see this bill rolling out. We have a few ways to look at it.

We certainly wouldn't look at it as urban versus.... It's the same people. We have a lot of people in the urban spaces; a lot of people who go back and forth. But then there's also a large community, especially in some of the larger cities, that are three or four generations in. That is their community. The distinctions don't disappear because when you are in those communities you certainly recognize the distinctions among yourselves. We don't want to say we are Cree, Mi'kmaq, Mohawk, list all the nations we collectively come from when we're in urban spaces.

We've seen some of this roll out as a floater space for friendship centres. They've got the connections with the indigenous peoples, sometimes formal partnerships with first nations or Métis organizations, depending on the friendship centre or the region they're in, sometimes having formal relationships with the mainstream children's aid societies.

In terms of the jurisdictions and the overlap and the rollout, it's hard to put forward a strong position because it comes down to what makes sense for that community and for that child and family. In some spaces the friendship centre is going to be part of that whole network. Then there are some communities in which the friendship centres might not make as much sense as a part of the full thing but provide a component. It's a bit of a non-answer to your question but I'm hoping this perspective from what we're experiencing helps.

Mr. Arnold Viersen: Would any friendship centres that you know of fall under the description of the indigenous governing body in this bill?

Ms. Jocelyn Formsma: That's one of the questions we've had about the definition section because the piece there is—

Mr. Arnold Viersen: Many of the friendship centres I've been to are often partnerships with a local community. They then run particular programs such as child and family services. I can read into this that you're authorized to act on behalf of an indigenous group.

The Chair: Be very quick.

Ms. Jocelyn Formsma: Yes.

There are examples where first nations have authorized friendship centres to act in the band rep role, as in the party in legal.... There are cases where that specific instance would be authorized, but it's very explicit.

In other situations, a friendship centre, social worker, court worker attends court with a family. Does that mean they are authorized by that indigenous person or those people?

• (1120)

Mr. Arnold Viersen: That's fair.

Thanks.

The Chair: That's it for questions.

We'll move to MP Rachel Blaney.

Ms. Rachel Blaney: Thank you all so much for being here today.

One of the questions as we deliberate this legislation is how long do indigenous children in this country have to wait?

I really appreciate the work of Cindy Blackstock. I think it's devastating in this country that we have seen so many non-compliance orders. We need to have ownership of that as a federal government. All the people in the House have to own part of that. It's quite distressing.

I believe we need to have funding in the legislation. At the very least we need to make sure that the resources are there for those communities to do the work they so desperately need to do.

You spoke a little about it, Pam, and I would love to hear from all of you. Does the funding have to be in the legislation?

I have heard many witnesses say, and I agree, it shouldn't be a dollar amount, but there have to be some strong funding principles. We have the Human Rights Tribunal decision that gives us some very good language that I think would be amazing to add to this legislation.

If I could start with you, Pamela, to talk about that, then move on to Jocelyn and Joshua, if there is anything they would like to add.

Dr. Pamela D. Palmater: I agree, too. I agree with Dr. Blackstock's concerns and of course with the Canadian Human Rights Tribunal decision around the need for funding. It can't be a principle; it can't be a "whereas" clause. There has to be a commitment with very specific guidelines about how that funding will be determined, that it will be population-based, needs based on circumstance and those kinds of things. It has to be flexible enough so that it can be negotiated but very directive so that people can't wiggle out of it, and it has to be a judiciable right. It has to be a substantive right in the legislation that we could take to court.

Part of the problem, once again, is that, if you leave it as principles or "whereas" clauses, you're asking the most impoverished people in this country, the most disadvantaged, the most vulnerable, to have enough money to go to court to sue Canada over and over again, and there are millions of dollars in these cases.

The Canadian Human Rights Tribunal is just one avenue, but when you're talking about court, you're literally talking about millions of dollars in experts. People who are working at friendship centres don't have enough money for that. First nations don't have

enough money for that. Single moms and kids trying to address the system don't have enough money for that. To just say, "Well, you know, there's enough that maybe you can make some court arguments", that's not it. I wholeheartedly agree with Cindy Blackstock when she says we have to be beyond first steps. We have to be beyond something's better than nothing. We have to be beyond incremental steps. You either have equality or you don't.

We're going to have to make a radical shift here. You're going to have to put the commitment in writing and make it a judiciable right for everybody, or what's the point of it? It's just another fluff policy piece so that we will have to sue again and spend many years in courts, and kids will lose their lives in foster care. We know it's not just damaging, but people lose their lives. It leads to murdered and missing indigenous women and girls, human trafficking, child porn, people getting caught up in gangs and over-incarceration. Two-thirds of all indigenous people in prison come from the foster care system. All of these problems that we're trying to deal with can be dealt with in a very radical way if we just do what we're supposed to do on this, and that's have a human rights framework and a first nations framework. It's as simple as that.

Ms. Jocelyn Formsa: I'll add the experience from the Indian Child Welfare Act, which was enacted in 1970s and never had funding attached to it. Tribes are left to put together piecemeal funding to run their.... They have the jurisdiction, their tribal courts have jurisdiction, and they've had it since the 1970s. ICWA's a gold standard but with no funding attached. We've seen the same type of thing where it's piecemeal funding they've had to pull from many different sources, also heavily weighted towards removal, the same thing we've already seen, right? The sources of the funding are also not permanent, and they're not guaranteed, so every single year tribes have to scrape from wherever they can to pull together funding for their child welfare services.

There's a model here that was developed by the National Indian Child Welfare Association that shows the wide range of services available from beginning to end. If you're going to provide the full range of child welfare services within your tribe, this is what you need, from basic needs to adoption and guardianship and everything in between. There is no tribe currently that is able to provide this full range of services, even though they already have the jurisdiction. They've had some since the 1970s. What they have to do is partner. They have to scrape funding where ever they can. Some of them do the best they can, but not one of them has been able to provide the full range. I fear that, if we go down that road, we might end up with the same thing: first nations with jurisdiction but without the ability to fulfill the dream of the full range of services they want to provide.

• (1125)

Ms. Rachel Blaney: At the end of the day, it's the children who pay the price, which is the core issue here.

Joshua, just coming back to you, you talked about the importance of funding and how just a little bit would have made all the difference in trying to attain some of your dreams moving forward. It really made me reflect on the fact that, if you go through the foster care system, sometimes you don't have that core family to help you out who all pitch in a little bit of money to get you to that next step. I'm just wondering if you could talk about the importance of funding within this model to support children like you who have that experience of being in foster care.

Mr. Joshua Ferland: I think it would be great to have funding, going forward, to help kids who age out of care and kids who are in care. Provide more funding to help people with programs, or finding employment. Ms. Palmater is right. Kids do end up incarcerated, or they join gangs or do all that kind of stuff. If there's the proper funding to help people find employment, there's no reason for people to do all this. Being incarcerated, missing people and this and that. To me, it makes more sense to have more support out there for kids in care, and more help for young adults, because it's harder out there when you're older than 18, and there isn't the proper support.

The Chair: Thank you, Josh.

We have heard that from others—that the exit from child and family into adulthood is very steep and unsupported. Your words are heard. Hopefully, we'll see some changes.

Now we're going to have a couple minutes for MP Dan Vandal.

Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.): Thank you very much.

First of all, I thank all three delegations for your presentations.

It's great to see you, Josh. It's always nice to see another Manitoba Métis here in Ottawa. You're doing a great job.

My question is for Pamela Palmater. We've been working on this for a while. The issue of paramouncy is incredibly important in this bill. I want to read you subclause 22(3) and have you comment on it:

For greater certainty, if there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services that is in a provincial Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

That seems pretty clear to me, and pretty powerful. I'd like you to comment on how you interpret this.

Dr. Pamela D. Palmater: Sure. You have to look at the section you're reading it from. It's specifically about conflict in relation to provincial laws, in the circumstance where a first nation has already signed a coordination agreement, or after the one year has expired, and there is no coordination agreement.

Mr. Dan Vandal: One year has expired.

Dr. Pamela D. Palmater: That's only for provincial law, and their law trumps only in the status of a federal law. It's not that the first nation.... They're talking about the first nations law, but keep in mind, this act talks about first nations laws as federal laws. It's not just provincial laws we have to worry about. It's also the Canadian Human Rights Act. It's also the charter. It's also section 35, in all the court cases. It's also the division of powers. It's also—

Mr. Dan Vandal: I don't have a lot of time, Pam.

Dr. Pamela D. Palmater: —clauses 10 to 15 in this act itself.

Mr. Dan Vandal: That's not accurate, because subclause 22(1) has precisely the same wording, only the laws of the indigenous group or people will trump federal law, as well. We're not talking about the same thing here.

• (1130)

Dr. Pamela D. Palmater: Okay, but read that very clearly. No federal law other than this act.... In this act, clauses 10 to 15 trump first nations laws. Just there, that's a—

Mr. Dan Vandal: Which is the best interests of the child—

Dr. Pamela D. Palmater: —triumph over first nations laws.

Mr. Dan Vandal: —which is a pretty solid piece, as well.

Dr. Pamela D. Palmater: Oh my goodness, the best interests of the child is one of the reasons first nations kids are apprehended to begin with, and that's the problem. It's allowing—

Mr. Dan Vandal: No, this is—

Dr. Pamela D. Palmater: —the status quo—

Mr. Dan Vandal: —a different best interest of the child.

Dr. Pamela D. Palmater: —to trump first nations laws. There's no definition here.

Mr. Dan Vandal: We're out of time.

The Chair: Thank you.

That was lively and informative. To those who came all the way, we want to say a special thank you for coming to committee on short notice, and providing your views, which are part of the permanent record of Canada. We will take your comments into consideration for potential amendments to the bill, and for future insights.

Meegwetch.

We suspend, and have a new panel joining us.

• (1130)

_____ (Pause) _____

• (1135)

The Chair: Let's call the panel together. I see we're all ready to go.

On behalf of the committee, welcome. We are studying one of the most important issues facing Canada right now, how we treat our indigenous children in a system that looks as though it has let down our families and our nation. We're on the unceded territory of the Algonquin people.

The way the process goes, you'll each have 10 minutes to present, and after that we'll go to questions from members.

We have the Southern Chiefs' Organization and Grand Chief Jerry Daniels.

As well, we have, from the Federation of Sovereign Indigenous Nations, Morley Watson; and from Peter Ballantyne Child and Family Services, which crosses Saskatchewan and Manitoba, Vera Sayese.

Welcome.

Let's start with Grand Chief Jerry Daniels. Thank you for coming.

Grand Chief Jerry Daniels (Southern Chiefs' Organization Inc.): Good morning. Thank you, members of the committee, for allowing me some time to speak on a very important matter that affects our children, our families, our communities and the nation.

My name is Jerry Daniels. I'm the grand chief for the Southern Chiefs' Organization: 34 first nations in southern Manitoba, primarily the Anishinabe and Dakota peoples; 90,000 citizens in total.

[Witness spoke in Ojibwa]

[English]

My relatives, I am happy to come and join you and to speak about a legislative act that I know is being discussed in great detail about how it can impact the quality of life of our children, how it can create opportunity. We're talking about a system that has had very detrimental effects on many of our children and our families, and has caused great harm over a great number of years. Some have even characterized it as a continuation of the residential school era.

First nations have the inherent right to self-determination and self-government. We have laws, customs and have entered into treaty. First nations have our own ways of caring for our children. What I will share with you as well is that I'm actually a member of the people who have gone through the CFS system. As a young person I was in group homes and I struggled as a young person. My family moved around a lot and I ended up there. However, in my experience I was able to meet many elders and many good people who were a part of the system and helped me to become who I am and helped me to establish some values. In fact, the first sweat lodge that I went to was through the CFS system. It was at the Selkirk Healing Centre in Manitoba.

First nations have our own ways of keeping our families and communities strong and intact. However, our laws, institutions and system have been impacted by the Canadian legal system, specifically the CFS Act.

We have been focused on supporting community-driven solutions. Since I've been in office, which is a little over two years, I have tried to focus on what's working in Manitoba. My focus shifted to the Sandy Bay First Nation where we've seen changes in the number of children who were in care. They brought down the number of children by using more practical techniques in working with families. They worked with families and with the extended family and they found other means to ensure the best interests of the child... which didn't result in the apprehension or the break-up of the family. That's where I'd like to focus, and I think that's where the priorities need to be when we think of CFS.

We have a CFS liaison at the Southern Chiefs' Organization. We are actually the primary authority for CFS in southern Manitoba. We

make the board appointments to the southern authority, which is the regulatory body for all of the agencies in southern Manitoba. We have been collaborating with them over the last couple of years very intensely to ensure that the regulations are reflecting community needs and that they're supportive of what needs to happen on the ground.

We have a lot of challenges, but I don't think the challenges are insurmountable. I think we're quite capable of ensuring that families are reunited and that the best interests of the child are established, as well as the cultural values and traditions of our people, which enable our children to have a strong foundation in their identity.

I want to talk about how we really need federal intervention when it comes to CFS. We've had a great deal of trouble working with the province on finding common ground when it comes to the customary care. The Southern Chiefs' Organization supported it. I steer, with the province...and we work with them and we agreed in principle what customary care would be, which is community laws, community direction.

● (1140)

That would drive priorities and regulations and how children would be supported or how we would deal with a situation that isn't in the interests of the child.

It has been our focus over the last couple of years. What we are starting to see is that there is a change from where we had thought it would be—where the customary care would be really done with the community and the family—to now almost like an agency-driven personal care plan, which you can already do through the current legislation.

When I look at the proposed legislation when we're talking about substantive equality and the best interests of the child, I think that these are good things. I don't think that we're ever going to get it totally right. I think that the practicality of any legislation on the ground is subject to the people who are implementing it and subject to the interpretation of those people in the communities and throughout the region.

People in the communities care. They're not there to kidnap our children. They're there to protect our children and to do the best job that they can. I truly believe that. I don't think that people in CFS agencies, the workers, are there to do anything other than that, so if they are given the ability to direct funding towards helping families and ensuring there is a plan and that families are supported, you're going to see better outcomes.

That is why I support Bill C-92. It is really about being able to give first nations the jurisdiction, to not allow interference in that jurisdiction and to support it. Like others who are here and who have just presented at this committee, and like others, I'm sure, who have been here, I have concerns about funding: that it may not be enough for the governance side, that it may not be enough for the service delivery side.

My hope is that the substantive equality provision will reflect that and that it will translate into enough funding so that we get it right. The fact that Manitoba has such a high number of children.... It is ground zero for CFS. We have to be given an opportunity to take direct control of CFS, and it needs to be funded properly. We are prepared to do that. We've been doing that. We've been working with CFS directors. We've been connecting them with our community leadership. We've been including our women and our grandmothers in the process. That is the approach that we're taking, so it's my hope that people continue to work to move the agenda forward, to focus on supporting families and the community. If we can allow for them to take the lead on this, I think you're going to see child and family services, child welfare, delivered much more effectively in the community and supported much more effectively.

It's time for government, really, to get out of the way and to allow for that. They're going to make mistakes the same way government has been making mistakes for the last hundred years, and they're going to continue to make mistakes. However, we learn and we adjust, and we continue to build off knowledge from those situations.

That's our argument. We do not think that Bill C-92 is going to be the end-all for CFS. We think that it's going to be an interim measure. Like any other act that is passed through this Parliament, it's going to have to be changed and adjusted through the experience that's lived on the ground.

That's what I'm here to communicate to you. I hope that this bill is moved forward so that we can get on with supporting the development of laws at a community and regional level, and focus on what substantive equality really means and how that's actually going to look through the comprehensive negotiated agreements that are going to have to take place after the bill is passed. Those are going to include community members. They're going to include people in the community. They're going to include regional bodies.

• (1145)

That is going to be the final agreement in the interim, once again. It's an agreement, but it's still a wait and see, because you have to see the impacts. The quality of life of those people who are ending up in jails, who are ending up on the street, is going to improve, because you're going to have a community-driven strategy. That is the most important part of this bill.

Meegwetch.

• (1150)

The Chair: Thank you.

We move to Morley Watson, First Vice-Chief, Federation of Sovereign Indigenous Nations. You have had a long trip from home, B.C., and thank you for coming out.

Mr. Morley Watson (First Vice-Chief, Federation of Sovereign Indigenous Nations): Thank you, Madam Chair.

Good morning to our senators, members of Parliament, as well as our Assembly of First Nations staff who are with us. I want to thank you for the prayers offered to us this morning. I want to, as you did Madam Chairman, acknowledge the Algonquin nation as we are meeting on its territory.

I am Vice-Chief Morley Watson, and I hold the portfolio of health and social development for the Federation of Sovereign Indigenous Nations.

Bill C-92 contemplates critical and long overdue reconciliation of jurisdiction over first nations children across Canada. It is the top issue for first nations in Saskatchewan as we realize that we have the second highest number of children in care and more than 80% of those children are our children. We have also endured, and continue to endure, one of the most dysfunctional child welfare systems infested with some of the most racist and derogatory attitudes that effectively produces results contrary to the fundamental values and principles of child welfare.

From residential schools to the sixties scoop, to modern-day decisions to apprehend children, when healthier and safer alternatives are available, first nations children are ultimately the victims. Provinces are failing the first nations children and families for which they have been delegated responsibility for protecting and supporting. It is time for our provinces to step aside and support those who actually are passionate about supporting first nations children and families.

Here are why six provisions of Bill C-92 are so important to us.

Number one is clause 18, the affirmation and recognition that is our inherent right to provide for our children, to care for them, and to keep our families together.

Number two is clause 14, that the priority must be on prevention and keeping our family units together.

Number three is that if a child is removed, the priority must be on placement in the family and in our communities.

Number four is that birth alerts must be stopped. The trauma of removing children in hospitals is so traumatic to the mothers and family that it represents everything that has failed about a provincial child welfare system imposed on our people. That is also in clause 14.

Number five is clause 9, that the best interests of the child must be interpreted with understanding of our identity, connection to our families, culture, languages, territories and values.

Number six is that poverty and poor health are not reasons to remove a child from our families and communities.

We know this bill was not co-drafted with first nations. Canada drafted it on its own, but shared a consultation draft with our federation. It was developed with our input into the process and our office met with the current and former minister many times, as well as with officials. We submitted briefs and positions to inform the changes we believed were required. Canada did not accept all of our policy positions, but we urged Canada to include predictable, sustainable needs-based funding provisions.

In Saskatchewan, the 74 first nations of the FSIN, for over 50 years, have built distinct, co-operative institutions to serve our people in our communities, such as the First Nations University of Canada, the Saskatchewan Indian Institute of Technologies and the Saskatchewan Indian Gaming Authority. Other bodies have been created and operated with great impact.

We are rebuilding our nation, supporting our young people to provide them with the education their grandparents were denied. We want to build more supports for our first nations in relation to child welfare. Our demonstrated ability to create jobs for our people and economically enhance opportunities for the people of our region is a key goal and issue. By building capacity, first nations will not be looked upon as an economic burden, as we currently are. We will build our own economies with more opportunity and jobs from this bill, and we will build families at the same time.

• (1155)

The bill needs to reference the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. Bill C-91 has a “purposes” section that references the United Nations declaration, because the protection of human rights and the implementation of the United Nations declaration is the framework for this cultural, language and family-building work that we must do together in Canada.

I thank you for this opportunity to address this important bill for our first nations people in Saskatchewan. We know this work is difficult and it will take many strategies and collective efforts. We urge you to accept the importance of this bill and to make improvements, but not to delay it. The FSIN and many of our other tribal councils and first nations are working to implement their authority and laws for children and families.

We cannot be held back any longer. Our children deserve better than the status quo of today. We hope that this bill will help to influence continued recognition of inherent and treaty rights, title and jurisdiction in future co-developments. We know that the only way to maintain healthy and thriving communities is by supporting our people to raise their children in accordance with our own history, culture, languages, customs and laws.

We know that our children are not subjects or commodities to be owned or to be considered property. They are a gift from the Creator. It is a sacred responsibility to protect and nurture our children. It is inherent to us, as people, to care for our children according to our laws, no matter where they reside.

In all aspects, children are considered—always. This was true even at the time of treaty. Our elders wanted to ensure health and happiness for all of our children, as long as the sun shines, the grass grows and the rivers flow.

Madam Chairman, thank you for this opportunity.

The Chair: Thank you.

Now we're moving to the Peter Ballantyne Child and Family Services.

Vera, any time that you're ready, you can go ahead.

Mr. Morley Watson: Madam Chair, it's okay. Vera is with me to give that technical support, as I am brand new to my portfolio. I have spoken with her, and we've agreed that she will support me in the technical aspects.

The Chair: She'll answer the questions.

Mr. Morley Watson: She'll answer all the tough questions.

The Chair: Okay.

We're going to move on then to the question period.

We begin with MP Dan Vandal.

Mr. Dan Vandal: First of all, thank you all very much for your presentations.

I'm going to begin by reading directly from the bill and asking for comment from both of you.

Clause 22 talks about, in my opinion, the nexus of this bill. The really powerful part is the issue of paramouncy. It gives indigenous nations paramouncy over federal and provincial law.

I want to read directly from the bill:

22 (1) If there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services...that is in a federal Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

Morley Watson, can you perhaps comment on this provision and how you see this?

Mr. Morley Watson: Thank you, my friend, from I believe, Manitoba.

Mr. Dan Vandal: Yes, Saint Boniface—Saint Vital.

Mr. Morley Watson: Thank you so much, Dan. It was a pleasure to meet you at Christmastime.

I guess the big thing is that we say, as nations, we've always been able to govern ourselves. History tells us that. Unfortunately, when you've had governments doing that for you, that's where we say that we have that ability. We've always had that ability. Unfortunately, a lot of times we're not given that opportunity to make those decisions for our people and our communities.

I believe that the times have changed. We've always wanted to accept that. We've always wanted to be given that opportunity.

If given that opportunity, Dan, we've always acted in the best interests of our people, and our children are no less important. We would always act in their best interests and help to make those decisions that are best for them.

I think all we need, my friend, is that opportunity to be able to lead, and fully lead our communities and our people. If granted that, I am sure, given history and given what we know, we would certainly do a tremendous job at leading our people.

• (1200)

Mr. Dan Vandal: Thank you, Morley Watson.

Jerry, do you want to comment on what I just read?

Grand Chief Jerry Daniels: Sure. The ability for a first nation to structure its own laws that will then be recognized by the province and the federal government is something that we've long advocated for. It's a long time coming. We believe that we definitely will be quite capable of ensuring that the strategy or the plan that is implemented within the community or the region is going to reflect the values of the community.

I truly believe that the quicker we get to the transfer of jurisdiction the better off we're going to be. No people or government accepts the imposition of laws by another, and what you see when that happens is resistance. There is a non-co-operation in that sort of arrangement. That doesn't work. It really has to be a community-driven approach. If the laws and jurisdiction of first nations are recognized properly, I think you will see that communities have much more of an interest in their own well-being than people in Ottawa or throughout the country tend to think. We want to ensure that our children and families are given the best possible opportunities. You are definitely going to see that, once they are able to come to a very comprehensive agreement on how child welfare is going to be legislated at the community or first nations level.

Mr. Dan Vandal: Chief Daniels, how many child welfare agencies are in your jurisdiction?

Grand Chief Jerry Daniels: I think we have about 14 in the south.

Mr. Dan Vandal: How many first nations are there?

Grand Chief Jerry Daniels: We have 34.

Mr. Dan Vandal: Talk a little bit about the co-development process. Were you involved in this or the consultation process?

Grand Chief Jerry Daniels: We had conversations. I wouldn't say that we were consulted because I don't think that the threshold in terms of consultation was quite there. I think we had a conversation. I think we've always been proactive in engaging in the discussion around whatever policy is on the agenda that day.

The question that I posed at the time when we had a conversation with the regional office was how are you going to deal with the provincial contribution to CFS, because right now the province has 40% of the funding? They cover 40% of the funding for CFS, so how are the federal regulations going to supersede if the funding is coming from the province? I address this because it comes down to the ability for us to provide for our children. For us to do that, it comes down to funding. That's where my concern was when it came to the federal law.

Mr. Dan Vandal: You have 34 first nations, 14 agencies. I'm assuming that since you are clearly supportive, your constituency first nations are also supportive?

Grand Chief Jerry Daniels: Yes. I'm comfortable in saying that there are enough first nations in southern Manitoba that want to see movement that we can support the bill.

Mr. Dan Vandal: How do you feel as—

The Chair: I'm sorry, you are out of time.

Perhaps MP Kevin Waugh will be asking something similar, but we have to move on.

Mr. Kevin Waugh: Thank you, Madam Chair. Thank you to our guests.

This is a complicated bill. We've had groups in the chair that you are in, Grand Chief, from Manitoba that absolutely despise this bill. And Vice-Chief Morley Watson, it was the same from our province of Saskatchewan

Here we are, we are five hours in each day here and now you are the panel that likes this. It's interesting because the panel before you didn't like it.

Grand Chief Daniels, you talked about how you've had trouble finding agreements with the Province of Manitoba on customary care. You talked about that in your address, so you must have concerns about the coordination agreement provision of this bill, which would have the indigenous governing bodies still negotiating then with the provinces and, in your case, with the Province of Manitoba. Don't you have an issue with that?

• (1205)

Grand Chief Jerry Daniels: Of course we do. We have to be able to work as collaboratively as possible. When that has been exhausted, however, we have to be able to move on. My hope is that the federal government can intervene in that instance. That's why I asked, long before there was ever any drafted legislation, how you're going to intervene if the province decides that it doesn't want an agreement at a federal level.

That's my wholehearted question, and that is why I've always collaborated with the province to try to have an agreement that would continue to get towards where we're trying to go, which is community-driven strategies and first nations laws being recognized. That's the endgame here. We need it to be funded properly.

When I have to work with the province, when I have to work with the feds, I've continued to be adamant that we're here, we're at the table. We're the ones appointing the board members to the southern authority, which is the current regulatory body for southern Manitoba. It's our responsibility to ensure that the people who are our partners, our treaty partners, are well informed and that they're reflective of what's really happening on the ground. That's what we've tried to do. We've been constantly meeting with the executive directors, the agency directors, to get their opinion and trying to bridge the communication between them and the southern authority and how their relationship works.

That's really on the ground that it's being implemented. Then we have to deal with the government regulatory level. We tried to inform that table as well—and that's what I'm doing here—so that you have an understanding of how it truly is rolled out in Manitoba, in southern Manitoba. That's how we've done it.

We're the only ones doing the Doula Initiative where we have our women and our doulas supporting families. They have anywhere between 200 to 300 mothers they support through the process right at birth. From what I hear, it's going to be quite successful in the way that it's going to impact families.

Mr. Kevin Waugh: I was on your website here, and you have five areas of CFS and agency complaint resolution processes, and I congratulate you on that. You have your five areas.

We're going to go over to First Vice-Chief Morley Watson. Unfortunately, I think you just got moved into this position. I think Vera can help you.

We talked about subclause 14(1) on preventative care. You talked at length about prevention and you mentioned six items. It was number two of the six that you mentioned. What we have on preventative care, is it enough? Would you add anything to it? It's rather short, and yet priority-wise, it may be number one or two in the whole thing.

Mr. Morley Watson: When you look at our history, there's always been a level of distrust between our people and governments. That started way back in the residential school area where the Indian agent and the schoolmaster and law enforcement who were there to protect us did not do that. Anytime we move forward, there's always that doubt about whether this is best for us.

Some of our communities still have that doubt about whether this is good for us. We are going to have some very cautious communities that aren't sure. For the most part, however, we realize that if we're going to take control of ourselves, our lives, and our future we have to start somewhere. The best investment we can make is in our children.

We'd like to bring our children home and raise them just as all of our families do here. We love our grandchildren. We want to make that investment in our own communities. Having to overcome some of the great things like residential schools.... Our grandmothers were ready, and I believe we're ready today.

• (1210)

Mr. Kevin Waugh: Vera, we're looking at foster care for the Peter Ballantyne Cree Nation, Deschambault Lake, Pelican Narrows, Sandy Bay, Denare Beach, Sturgeon Landing—you cover such a wide area.

If you don't mind me asking, how is foster care...? I know you're located in Prince Albert but you cover such a wide range here.

Ms. Vera Sayese (Executive Director, Peter Ballantyne Child and Family Services Inc.): If you've looked at our website and if you've read up on Peter Ballantyne Child and Family Services.... We're a multi-community band. That's been one of the issues with our funding.

In foster care, we have 17 transition homes. When we talked about lack of housing—therefore a lack of foster homes—we're probably one of the only agencies in Saskatchewan that has 17 transition homes, from emergency homes when we apprehend in our bigger communities, such as Pelican Narrows.... We have two emergency homes where we would place children. Then we have receiving homes if we didn't have placement for.... They are regular homes; they are in the community. We still have foster care, but with the policies in foster care, we're very limited because every home is already over the limit of people in the home. The policies in foster care and in the Ministry of Social Services are very limiting.

That's why we have those homes ourselves—to have our children. We have receiving homes and we have peer homes. Peer homes are independent homes for adolescent children before they age out. We have homes for them for their life skills and to get them ready to transition out into community living or on their own. We also have a six-week program at a family wellness centre where we work with the family unit before we return them from their foster homes.

We do a lot in foster care.

The Chair: Thank you.

The questioning now moves to MP Rachel Blaney.

Ms. Rachel Blaney: I want to thank you all so much for being here.

You probably heard in the last question that my biggest concern is about having this sustainable funding that we really need. I thank you so much, Vera, for what you just outlined because that's the very core of the need. What do you do when you don't have enough houses or when you have too many people in one house, but you're trying to keep the children in the community and keep them connected to their history and their families? I think those are the core issues.

I'm wondering if you could speak to the fact that there isn't anything in the legislation that specifically speaks to funding. Do we need to make sure that is in there as a measurable outcome?

I would be happy to start with Grand Chief Jerry Daniels.

Grand Chief Jerry Daniels: Although we do believe that it would be nice to have that in there, I think it's important that we identify what substantive equality really means. Substantive equality might actually mean that you fund first nations much more than you fund non-first nations because of the equity position in which first nations have found themselves over the last hundred years. We're in a deficit when it comes to our opportunities and the different quality-of-life indicators if you look right across the board. We need institutions like CFS, education, and other areas to be an anchor in terms of improving the lives of our citizens.

It's important that we identify the level of funding that is attached to this bill, although I wouldn't want to lock it in, so that it continues in some.... One of the biggest problems faced by Parliament and people making decisions around funding is that funding might not necessarily have to be the same. Through the implementation of this bill over the next number of years, you're going to see that there are going to be areas where you might want to increase it. There are areas that may not need so much. That is based on how it looks on the ground at the community level.

I would argue that Pauingassi, Poplar River and Little Grand Rapids—the ground zero in southern Manitoba, which is really for the whole country—need much more resourcing than anywhere else. That's really how I've tried to focus and contextualize CFS because you want to deal with the areas where you're having the most trouble. In those instances, you might need more funding. You need much more funding and support than you would need in other areas.

• (1215)

Ms. Rachel Blaney: Thank you.

Mr. Watson.

Mr. Morley Watson: Absolutely; as the Grand Chief mentioned, some of our northern communities, very remote communities, face the same issues we do. I really think we ask for not a lot. What can we do the job properly with? What can we carry out our responsibilities with? That's what we ask for.

There's the cost of living. There are so many issues and factors that we all face. I think in a lot of our communities, it's just for the love for our children—for them to remain in our communities, for them not to be lost in leaving our communities. The kids have to feel good about themselves. I think a lot of our agencies don't ask for a lot. They ask for just enough to do the job properly. It's a responsibility of ours. If we can have that, as I said, to do the job properly, I think all of our nations in Saskatchewan and other places would be happy with that.

Ms. Rachel Blaney: Thank you.

Is there anything you'd like to add, Vera, or did he capture it all? Okay.

Mr. Watson, you did talk a little bit about something that also concerns me, which is the definition of “best interests of the child”. Right now it's been defined by a lot of legal places in this country. A lot of courts have defined what that is. When we look at this legislation, if this is not defined somewhat more clearly, or if it's not given to the power of the nation to decide the best interests of the child, I'm just scared that it will be interpreted the wrong way, and we'll see, again, these colonial systems imposing what that is on communities across this country.

I'm wondering if you could speak to that concern a little bit.

Mr. Morley Watson: Again, as both the grand chief and I mentioned earlier, we'll always act in the best interests of our children. We have some challenges ahead of us, there is no doubt, but I really think that at the end of the day it's about working together. Getting this bill to where it's at today took work. It took understanding on behalf of all parties. I really believe that in anything we do in the future, as long as that respect is given to the first nations to make some decisions that affect our lives, affect our children's lives, there is nothing we can't overcome here.

Keep in mind that the government has to understand that we now have that ability, not only to make decisions but more importantly to look after our children properly. We have to get away from colonial thinking. We do have the ability. In each and every one of our first nations across Canada, we have the ability to do things if and when we're given that opportunity. I certainly hope we're given the opportunity with Bill C-92.

The Chair: Thank you.

We are now moving to MP Robert-Falcon Ouellette.

Mr. Robert-Falcon Ouellette: Thank you very much, everyone, for your testimony.

I'm wondering if you could discuss a little bit more what I think will actually be a fairly substantial change. This is going to perhaps coalesce around the idea of treaty territories or nations and not just individual communities exercising authority and jurisdiction and self-determination. How would organizations, indigenous communities, come together to pass their own laws? Do those institutions

yet exist? I know that Treaty No. 4 has a kind of specific territory. Will it be along linguistic lines or cultural groups? Will it just be the Dakotas or the Cree peoples or Oji-Cree peoples?

Perhaps you could talk a little bit about that and your vision for that.

Grand Chief Jerry Daniels: In southern Manitoba we've been challenged with this, not only on CFS but really along many different lines, with the discussion around Treaty 1, Treaty 2, the Dakota governance, Treaty 5, and the already long-established Treaty 3 and Treaty 4.

What unites many of us in southern Manitoba is that we're all Anishinabe people. We have Dakota people. There are really only two nations, when you think about it, but we like to negotiate with Canada based on the treaty, really because we need to remind Canada and remind Canadians that we've never relinquished our jurisdiction. No person of sound mind would ever do that or relinquish their title to the land.

The way in which we want to create the narrative in terms of our government-to-government relationship is through an internationally recognized treaty. That's how we approach these things.

The way we've done it in southern Manitoba, and the way I see us proceeding, is the recognition of the *inaakonigewin*, the Anishinabe law, and later the Dakota law. These things are going to be done at the community level. They are going to be done at the tribal council level, and they are going to be done at the treaty level. We're working towards an SCO-level law.

The way that is developed is the harmonization of all those laws. Those laws at their core come from the community, so it's community by community. However, as a lawmaker, a legislator or a regulator who wants to ensure that indigenous children are protected and that families are supported, we have to do it community by community. Where there's an instance in which there's an opportunity to have a regional law or agreement, we should do that, and later on, much more, at a higher level.

It's the same way that Canada would go about trying to rectify Alberta's laws with Quebec. You have very diverse cultures, but you have to try to find a way to support all of them, their own ambitions and their own interests. That's how we do it in southern Manitoba.

• (1220)

Mr. Robert-Falcon Ouellette: Would you see yourself also having a legislature of some type at some point?

Grand Chief Jerry Daniels: The chiefs are the ones who make the decisions. The way we've structured it is very similar. At SCO we have a director of families and a chief of families. We do the same thing with health. We are structuring to do those sorts of things, but we do want to support the treaty government as well. We want to support their priorities, vision and strategy, and include that as part of what we're doing.

There are different interpretations around it, but I think we're kind of going the same way. Really what it comes down to is jurisdiction at the community level. That's where it is.

Mr. Robert-Falcon Ouellette: Suppose you have full jurisdiction and are exercising your jurisdiction under the Constitution. Let's say there's a case where, after passing all your laws, someone wants to contest. They don't believe their child should have been taken for whatever reason. Do you believe you will be setting up your own form of dispute resolution, your own court system within that?

Maybe the others would like to answer.

Grand Chief Jerry Daniels: We have a restorative justice program at SCO, so we have restorative justice committees in the communities. Actually, I'm heading over to the indigenous justice conference right after this, and we're going to be talking about Southern Chiefs' Organization and the work we're doing on restorative justice, as well as mediation.

What do I see happening in terms of court systems? We recreate a whole new indigenous court system and justice system that can resolve these sorts of problems because it shouldn't be up to Canadian colonial justice systems to decide for us what is in the best interest of our communities or our families. It has to be our own people doing these things.

If you look to different examples throughout the world, you will see that indigenous peoples have always focused on the harmony of the community, not necessarily on the punishment of people. When you do that, you see the perpetrators to be much more understanding of how their actions have impacted the community. The community is also much more accepting, and works with those people who have made those decisions.

Mr. Robert-Falcon Ouellette: Would you like to answer, Mr. Watson?

Mr. Morley Watson: Absolutely. We have, I guess, 74 first nations in Saskatchewan. We bring our chiefs in council together four times a year and take direction from them. They take direction from their membership. I think we deal with a lot of that.

We do have a first nations advocate, and we realize when we go into these things that they may not be perfect, but we always will act in the best interest of our children. Sometimes that means making the tough decisions, but we've made those. We will always act in the best interest of our children who will need that guidance and that protection, and we believe that our agencies currently provide that.

Like I say, we will continue to improve. We're not perfect, but we're getting there on that road. I would like say that the important thing is that we're allowed to look after our own children and have them remain in our communities. I think that's paramount.

•(1225)

The Chair: That is a strong message to end our panel.

Thank you very much for coming out. Your comments will be part of the official record. If you have submissions, we will also take them. You can pass them on to the clerk or submit them online.

Meegwetch. Thank you.

We're going to suspend because we have another panel coming in.

•(1225)

(Pause)

•(1230)

The Chair: We're going to get started.

We have two panellists, both appearing via video conference. I'm happy to see you. I'm hoping that our sound system works, and that we're ready to go.

We are here in Ottawa on the unceded territory of the Algonquin people. It's a goal for all Canadians to reflect on our history, whether we're part of a nation of settlers or part of a community of indigenous people who were here first. It's something that Canada has started a process on, a process of truth and reconciliation.

We are on an important subject: how Canada treats indigenous children. Is the system working? Our statistics indicate that major changes have to happen.

We look forward to your comments and advice. We will give each group up to 10 minutes, and then after that there are opportunities for MPs to ask questions.

We will begin with Lyle Thomas and Bernie Charlie.

Mr. Lyle Thomas (Cultural Advisor, Secwépemc Child and Family Services Agency): Thank you. Good morning.

[Witness spoke in Secwepemctsin]

[English]

I'm a member of the Neskonlith Indian Band, but I reside with my wife, who is from the Kamloops Secwépemc. We have five children and one grandson. I work for the Secwépemc Child and Family Services Agency. My title with the agency is "cultural worker". We are caregivers for the agency, and currently we have two little girls who are part of our family.

I'm honoured and thankful that, on behalf of the agency, I can share a small part of the thoughts on the new Bill C-92. However, before I get started, I'd like to recognize that these proceedings are taking place on the unceded territory of the Algonquin people. I would like to thank them for allowing me the chance to share what my feelings and thoughts are for the children and families who we serve.

After reading Bill C-92, the first thing that I thought was this: How does it affect the families and the culture of those families as a whole? Yes, Bill C-92 focuses on the child or children who have a chance to be placed with extended family or with members within their community. However, what is most important is how it keeps the family connected.

For children, their main want is to be with their parents. With these thoughts and feeling of reconnecting, this needs to go beyond the children and should involve their parents. It should allow them to grow together and to learn and reconnect. This love will always be between a child and a parent as a group, and they will find their roots in remembering who they are.

It is exciting to see that the government, with the introduction of Bill C-92, is recognizing how important it is for individuals to be grounded and to have a place and a sense of identity. However, there are also times to remember that these children may be in a different nation or territory learning their ways and traditions. There may be something from the past of the parents that has made them move to another nation, that has made them move away to protect the children they love from their own nation, their own reserve, their own people. For the interests of the children, they may be placed with caregivers from those host nations who treat and love that child like their own. They have a connection with the family, but most of all, they teach the child in their home with the same values, the same love and the same respect that all nations have.

Bill C-92 may be as strong as the language in the assurances in the old law that families will be afforded the opportunity to remain connected throughout any interaction with child and welfare services.

I'd like to thank you for allowing me a brief time to speak. Now I'd like to pass it on to my colleague.

• (1235)

Ms. Bernie Charlie (Senior Resource Specialist, Resources and Foster Care, Secwépemc Child and Family Services Agency):
Good morning.

[Witness spoke in Carrier]

[English]

I introduced myself to you in my Carrier language.

My name is Bernie Charlie. I am a proud Carrier matriarch in training. I am the youngest child of nine of my mother, Dil-za Dzakiy, Violet Charlie, who holds this hereditary chief name that she acquired through the traditional governance system of my people called the *bah'lats* also known commonly as the potlatch.

I want to acknowledge my late father, Ben Charlie Sr., who has crossed over to the spirit world to watch over us with our ancestors.

In our *bah'lats*, we have four clans: the Jihl tse yu, which is the frog clan; Likh ji bu, the bear clan; Gilhanten, the caribou clan; and.... Sorry, I can't read my own typing.

Anyway, I sit with the Likh ji bu, the bear clan of my people, and my late father belonged to Gilhanten, the caribou clan. In our *bah'lats*, children are born into the clan of their mothers. Before contact, it was the matriarchs, the mothers, the grandmothers and the extended family who were the decision-makers for the people in relation to the political, social and economic governance of the communities. The *bah'lats* are still very much alive in our nation. My community of origin, which is the Lake Babine nation, is statistically the third largest band in B.C.

I want to acknowledge the unceded ancestral homelands of the Tk'emlúps te Secwépemc, where I have the privilege to work, to live and to play. I am very fortunate that I have a surrogate family in this beautiful territory of the Secwépemc people. I have an entire network of surrogate parents and extended family who I find comfort in when I need support in my life.

I am the mother of two beautiful children and a surrogate mother to several others who refer to me as a guide, a mentor and a protector for them. I am also a *kyé7e*, a grandmother to one beautiful biological baby girl and to several others who refer to me as their grandmother in our cultural customs.

As the youngest child in the family of my siblings, my siblings would say that I was the spoiled one. However, I do recall that the multiple cousins who lived with us through many of my formative years were often fed first, given new linen and often bought new clothes as opposed to the recycled clothes that I recall I was able to choose from first. I did not realize at that time that they were foster children and that they were given to our family because they were abused or neglected in their own homes down the street on our reserve.

My recollections of my childhood include living in a government-subsidized, four-bedroom CMHC house that was filled to the brim with multiple generations, including my aged deaf and blind *xpé7e*, my grandfather, my parents, my siblings and my cousins. At one point in time, there were 13 people living in our four-bedroom home. My parents ensured that we were always fed, that we were clean, and that we were sent to the local Catholic school for our education. When my older siblings completed elementary school, they were sent away to the Catholic boarding high school, which was almost 300 kilometres away from us.

I needed to share with you this small bit of my history and how it relates to this pre-study on Bill C-92.

• (1240)

My work on the front lines as a resource social worker with Secwépemc Child and Family Services Agency has given me some excellent first-hand experience in sharing some of what I have learned. I take a completely relational approach from the perspective of a C6 delegated social worker, which simply means that I have the authority and the obligation to remove a child from an unsafe environment.

I made some notes of potential considerations, and I will just review them according to how they appear in the document.

In regard to the principle of the best interests of the child, historically children were raised in communal family systems where the extended family group all assumed the responsibility of caring for children: parents, aunts and uncles, grandparents and others in the community.

Currently, under the provincial legislation, the focus is primarily on the individual child. This has been the practice in child welfare. Due to the high numbers of indigenous children in care, it is proven that this process is not working.

In moving forward, the focus needs to be on the family unit: the family and the extended family that cares for and provides for children. What is best for families and communities will always be best for children.

With regard to the best interests of the indigenous child, may I suggest the wording in subclause 10(1) read, "The best interests of the family must be the primary consideration".

Another theme is capacity, building the foundation for children to be home and stay home in times of crisis, investing in rebuilding what was lost. This lends itself to communities coming back to life and caring for families naturally.

Among other factors to be considered, with regard to the child's cultural, linguistic, religious and spiritual upbringing and heritage, or lack thereof, segments of the urban population, specifically in B.C., have seen that due to multiple factors such as—

The Chair: Sorry. Please wrap up quickly, because we're over the allotted time.

Thanks.

Ms. Bernie Charlie: Okay.

In closing, thank you for this opportunity to share my thoughts about Bill C-92.

The Chair: Thank you.

We'll have an opportunity to have your brief. You'll submit it to us online, probably, or through the clerk.

We'll be asking you questions very shortly, after we hear from Chief Judy Wilson.

Hello, Judy. Welcome to the committee. Thank you. I think it's still morning in your territory, so thank you very much for participating.

Any time you are ready, you have up to 10 minutes.

• (1245)

Chief Judy Wilson (Union of British Columbia Indian Chiefs): Thank you.

[Witness spoke in Secwepemetsin]

[English]

I'm acknowledging and honouring the unceded lands and the peoples of the Algonquin territory, where these proceedings are taking place.

I'm from the Secwépemc Nation, one of the largest nations in the interior of British Columbia. I am a member of executive of the Union of B.C. Indian Chiefs. We've been working towards the implementation, exercise and recognition of our inherent title and treaty rights. The union has been involved in advocacy work and efforts with the provincial government and the federal government to recognize and affirm our inherent jurisdiction over our children, for many decades.

It's important that the work of advancing the policy and legislation for our children is a priority of our B.C. first nations, and for the Union of B.C. Indian Chiefs. I'm also a member of the First Nations Leadership Council in B.C. We're made up of the First Nations Summit, the Union of B.C. Indian Chiefs and the B.C. Assembly of First Nations. Our three organizations work together, and bring respective political mandates to build a strong collective and unified voice in British Columbia. One of those issues has always been the children and youth.

It started in 2002, with the Tsawwassen Accord—it will all be in our brief we submitted to you—and also in the leadership accord developed in 2005. We've been working toward these outcomes and changes for our children. Bill C-92 does offer practical and meaningful progress that aligns with our work here in B.C.

It is the utmost importance in critical timing this legislation is presenting. Even though we've done some provincial changes to the legislation out here, with respect to children and family, we find that we're still stuck in a lot of the old models. The only thing we were able to do was delegated agencies for many years. Really, the delegated agencies were supposed to be a transition to full jurisdiction for our nations.

We have been stuck in that process. We need to carry on with that work, into the affirmation and recognition of our inherent title rights, especially with our children. We have to change, because indigenous children across Canada are overrepresented in the system. The first contact with the settlers and colonial laws impacted our families, and broke down our families, through residential schools. It's documented in all the different commissions and hearings that have happened in Canada.

We need to make that change. Our families are fractured, and we need to bring them back together, for that meaningful change in the lives of the children—to be able to bring them home.

In our community, we recently brought 20 children home, but it was a lot of effort and fight to do that. We held an honouring and recognition for our children. Our nation also held one, about a month ago, in Vancouver, where many families were reunited with their children. That's only the start of the work. There needs to be a lot more work in bringing up our children, and truly connecting them with who they are, in their lands, their families and their communities. We have to have that meaningful change for our children and families.

One of the core purposes of this legislation must be to implement the United Nations declaration. It's truly a framework for reconciliation, and it was recommended by the Truth and Reconciliation Commission. Yet, the provisions in the bill, under clause 8, do not reference the United Nations declaration as the context for the reconciliation in child welfare. It's only referenced in the preamble, but not in the critically important and substantive clause 8, on purpose and principles. That needs to change in this legislation.

I also emphasize this because the United Nations declaration reflects the minimum standards of the survival and dignity of our indigenous people. It sets out the minimum standards of human rights. It's an important provision that needs to be emphasized in the implementation of Bill C-92, once it becomes legislation. Article 22 focuses on the importance of respecting the rights of girls and women and ensuring they do not experience discrimination. For this reason, I urge you to consider an amendment to clause 8 of Bill C-92, adding paragraph (c), as follows, "To implement the United Nations Declaration on the Rights of Indigenous People as a progressive framework for the resolution of human rights issues impacting children, youth, and families."

●(1250)

One of the other things I wanted to note is that this is a historic and transformational moment for Canada and for indigenous people across Canada. We cannot let this moment pass. If we went back in time to the residential school policy legislation changes, for example, had we made that change, how many families would not have had to go through that whole residential school experience? We're saying that with this child and family legislation, we have an opportunity to make these changes, stop the number of children going into care and reunify them with their community and their family.

There must be that meaningful change, because there are more children in care now through this child welfare system than at the height of the residential schools. It's continuing to grow. Former minister Philpott mentioned that this was a humanitarian crisis, which it very much is, so we can't sit by idly and let this go. We have to keep pressing forward on these changes that are to come. We've been doing it in the courts. We've been doing it in other avenues, but now we have the opportunity through legislation.

It's been about four years now since the Truth and Reconciliation Commission released its final report urging Canada to deal with the residential schools and the child welfare system, and to support languages. We're on that threshold, and we need to be able to carry on with this work and not let another year pass by.

Bill C-92 provides a means by which we can begin to action some of these calls. I think the core...the families, the communities and our legal systems are really important. Since the time it was established, that colonial law, as I mentioned, severed that connection. It was meant to assimilate our people into the system, and the result was the removal of our children and the disruption of our family systems.

The other part of this is the funding piece. Bill C-92 must include the funding. We can't rely just on the coordination agreements that dictate the resources for this rebuilding. Because of the colonial impact, it's important that Canada also attach the funding to this process so that we don't have to rely on, as Bernie mentioned earlier, the western view of the best interests of the child. It's really important to rely on the collective interests of not just the child, but the families as well. They were trying to stop the transmission of our culture, our ceremonies, our language and our laws, but in a reverse way we can turn that around so that we're empowering the children, the families and the communities for healing and for rebuilding. It's really important to rebuild our families, our communities, our nations.

Our Secwépemc Nation is doing a lot of that work in our child and family jurisdiction. It's called *Stsmémelt*. We've been working with the Secwépemc Child and Family Services and the Shuswap Nation Tribal Council in rebuilding that. It's a lot of work, and it does need to be resourced.

This approach didn't survive, because our people had resilience and have survived it. I stand before you today despite the damage that the colonial laws caused. We're going to continue to rebuild our people and our children, our families. Canada has an obligation to right these wrongs that impacted so many of our families and children across Canada. We really need to bring our children home so they can be raised in our communities by our own people and

know that they can connect with their communities and their language and their laws.

I wanted to touch on one other area. I acknowledge and support a lot of the nations that have issues with this legislation, because each nation has a right to self-determination under the United Nations Declaration on the Rights of Indigenous Peoples, article 3. If they wish to enact their own laws, they just need the recognition, whether it's their treaty recognition or their inherent recognition; they have the free choice to do that themselves. This legislation must find a way to respect that, or again, it will be a colonial path, and we don't want to go down that path.

●(1255)

We want to be able to respect those nations that make their own decisions for their nations and do not rely on Canada's laws to do that. It's their choice if they don't want to recognize the bill. We have a mandate here in B.C. Our chiefs have already identified the mandate to work with this bill, Bill C-92. It's federal legislation. It provides affirmation to our inherent children's rights that exist and does not rely on these colonial laws.

We will submit our brief. Again, thank you for the time to discuss these issues with you. I look forward to the questions you may have.

The Chair: Thank you, Chief.

Our first round of questioning now goes to MP Hedy Fry.

Hon. Hedy Fry: Thank you so much for your presentations.

I must say, Ms. Charlie, that the time you spent talking about your culture and how you grew up, etc., really brings home the fact that what we're talking about here is the de-culturalization of a people, with children being apprehended and sent off to foster homes that are not in themselves indigenous.

There are a couple of things. Most of the people we heard from are supportive of the bill, but they have found some things that they wanted to discuss. One of them I'd like to hear from you about is this. I think, Ms. Charlie, you made a really important point about the collective, about not just the best interests of the child, but the best interests of the families and the community and that whole ability to bring back nations to what they used to be. As you said, the best interests of the child, when it's interpreted through a western colonial lens, is very different.

In British Columbia we have been told, and I have been told by many provincial bureaucrats who wish to remain anonymous, that more children have been apprehended today and over the last 30 years than have been in the residential school time. They were taken from their families and put into foster homes that were not indigenous. How do you see this happening for urban aboriginal children? I think this is the key thing.

On reserve, it's easy to get involved back in the family. But when someone has moved away to an urban area and they're very far away from families, and many times they're fleeing abuse within the family itself, how do you see that ability to come back together happening so that you can protect the child while trying to reunite the child with the family? That's the first question. The second question is, if it's not possible to do that, how do you see the role of either friendship centres or of neighbouring bands being able to take up that role of bringing the child back? Do you see that as a possibility? How do you see funding going to that ability to help neighbouring bands to bring back children into their band, even if the children can't go back to their original band?

Ms. Bernie Charlie: Those are excellent questions and I'm happy to respond.

In regard to your first question about the urban populations, and the high rates of children and youth in care from our urban centres, I think the first and foremost solution to that is that we need to identify with them who their networks of support are. Their support networks could be their neighbours, a trusted friend, the support workers at their school or even the.... I don't know, there could be a variety of people they identify. Just recently I heard one of my colleagues ask, "Who are the people you first connect with on social media?" Right now that's the main mode of communication for our children and youth—well, society at large, in general. I would say establish and identify their networks.

In regard to your second question, could you maybe elaborate on that again?

• (1300)

Hon. Hedy Fry: I wondered, for instance, about urban areas, where the family has moved to the city, because there are a huge number of apprehended families, and they cannot go back to the original community because there has been family abuse or something like that within that community. Could they go to neighbouring bands within that urban sector that might take care of them? How would that happen, and what is the role of the friendship centres in making sure that happens, if any?

Ms. Bernie Charlie: In terms of that, here at Secwépemc Child and Family Services we do engage with an urban population that spans all across Canada. We do host and take care of their quests to return home.

In terms of capacity and funding, once they identify who their home community is, Lyle serves as our cultural support worker who engages with them and also supports them to identify who their connections are. We do have relationships with the friendship centres because they deal with the same populations.

I think in terms of funding, front-loading that funding on prevention programs and services, that's the key in terms of working with our urban indigenous children and families.

Hon. Hedy Fry: Thank you very much.

The Chair: We move on to MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you, Chair, and thank you to both sets of witnesses. Of course, I wish I was home in beautiful B.C. with you, enjoying some of that great weather we're having.

I'm going to start with Chief Judy Wilson. I think it would be helpful, because British Columbia is in a bit of a different place from some of the other provinces. In many cases, I believe the devolution agreements already give capacity for both on- and off-reserve for your memberships in terms of providing services.

I think this legislation, perhaps, is a next step. Can you tell me how you perceive this legislation is going to help you go that next step, and what that next step is going to be? Again, I think there are many communities that don't have even the devolution agreements that we already do have in place.

Chief Judy Wilson: I think the important part is that many of our nations in B.C. are outside of the B.C. treaty process, so we have inherent title and rights. The modern treaties set out a path that includes children. What we're doing in B.C. is a tripartite table that we set up with the federal government, provincial government and our respective organizations. We have resolutions from our respective tables in regard to children and family.

We went through a process with the provincial amendments, and we still have some more processes to do for the children and family provincial legislation stemming out of the federal legislation. I think it's really important to understand that we've been at this federal and provincial tripartite table, and we have examined the existing legislation and the changes that need to happen.

First and foremost is the recognition of our inherent title and rights, and our jurisdiction and legal orders that include children, but the biggest part of the work is nation rebuilding and healing. That's so important, so we've been working on that as well. We also have protocols and MOUs with the provincial government in different respective areas. We've been involved in a lot of different legislation pieces with the provincial government. It's going to set out this work in recognizing our jurisdiction over our children and family, and I think that's one of the biggest pieces that's really important.

It exists right now, but the federal legislation would provide that affirmation and recognition of our inherent title and rights, especially with children. I'm not sure if that answers your question exactly.

• (1305)

Mrs. Cathy McLeod: Do you perceive a time where you will not need to have near as much contact with the provincial government as you deal with these issues, and when you will be moving independently of the provincial government?

Chief Judy Wilson: The one thing we've always fought for was that there needed to be prevention funding, because what we're really talking about is the healing and the reconnecting and the opportunity for our own governance and jurisdiction over our children and families. Because of the colonial disruption and the number of children who were removed from our communities and our homes, we need to have that prevention and the healing, and we also need the funding to be able to work on our nations' governance for our children and families.

When I was talking with our local delegated agency, we did have strategy sessions and we did talk about the time the lights went out, and everybody was really sad. I told them not to be sad because there was still the huge prevention piece to work on. It's not displacing the work. Your work will shift not from removing the children from families and children in care, it's going to shift to the healing and prevention piece, the culture, bringing the children home, the language, reconnecting with families. That is going to take time because this business of colonialism impacted our communities for hundreds of years, eradicated some and assimilated many. It's going to take many more years to rebuild our nations and provide homes for our children and reconnect them with their language and their culture.

Mrs. Cathy McLeod: One of the challenges as you know is that there have been many interpretations of what the UN declaration would mean if you were implementing it, and that includes an absolute right to say yes and no. If you look at article 19 around laws of general application of the UN declaration and free, prior and informed consent, at this committee we've had groups such as the Assembly of Manitoba Chiefs that have essentially said it does not support this legislation. They don't give it free, prior and informed consent. So how do you align those concepts of the UN declaration; article 19; free, prior and informed consent and some significant objection? In my perspective, it creates some real challenges in what we do and where we go ahead. So on one hand, you're indicating the need to embed that into the legislation. If it's embedded, some legal opinions say it means you can't move ahead with the legislation, given some of the responses of the groups.

Chief Judy Wilson: I think you're talking about self-determination. And as I mentioned in my presentation, the nations have their choices. It just needs to be recognized that way in the legislation, so it's not placing us under any further colonial laws or restrictions. But it's about the self-determination, which article 19 and article 3 of the UN Declaration of the Rights of Indigenous Peoples speak about. A lot of the nations are at different levels. It's that part too, but it's also that the Government of Canada created this whole.... Some of the nations have modern treaties; some are outside the treaty process; some have comprehensive self-government. Those are the hurdles we need to look at.

The inherent right to title and rights and our self-determination is key in this whole legislation piece. I think it needs to be clear on that. If some nations are choosing not to go down that path and uphold their international treaties or their numbered treaties, they should have the right to do that. Meanwhile, we would like affirmation and recognition of inherent title and rights, the ones in our processes.

The Chair: Thank you.

Questioning now moves to MP Rachel Blaney.

• (1310)

Ms. Rachel Blaney: Thank you all so much for being here with us today.

Chief Judy Wilson, I wanted to pick up on the last part of the conversation you were having. I couldn't agree more. And I think we need to make sure in this legislation there's the ability of nations to opt out with resources, not opt out with nothing.

I'm wondering if you could speak to the ability of a nation to make a decision but still get the resources they desperately need to deal with the issues they are facing in their own way.

Chief Judy Wilson: Bill C-92 cannot create more division and cannot create more discrimination against our nations. I think there has to be recognition for those nations, whatever path they're choosing, because the whole overall intent of the legislation is to reunify children with their nations, their communities and their families and support those collective rights of the children and the families. The bill needs to aim to do that, not to further create any more divisions. I don't see why the bill cannot do that because all the nations, whichever path they're choosing, need to be recognized and affirmed as well as how they work with the federal government and provincial government. It needs to be resourced no matter what, because the children did not have that choice when they were removed from the home, whether they're going to be resourced or not or what's going to happen.

The bill needs to be able to look at the adequate healing, the adequate resourcing, the adequate reunification and reconnection of those children with their family, their nation and their community so that we can get on with the work of healing.

I think viewing the legislation such that it's going to be an answer for all of the nations is the wrong thing to do. I think it's about just looking at the legislation as a step forward for the nations that have their pathway set up, but also supporting the nations that do not want to have the legislation limit them in any way in the exercise of their treaty or their inherent title and rights.

Ms. Rachel Blaney: Chief Wilson, you had said during your testimony to us that there were some ceremonies done about bringing the children home and that families were reunited through that process.

I'm wondering if you could speak to us a little bit about what that ceremony entails and who participates in it.

Chief Judy Wilson: We had a nation ceremony a few months ago here in Vancouver at the Joe Mathias Centre. The reason we chose to do it outside of our nation and do it in Vancouver was that there are many children in the urban areas and many families. A number of our 17 communities participated. The children were from all over. We had the whole Joe Mathias Centre filled with families and children. Each community blanketed and welcomed home their children. Some had a lot, some had a few.

There's much more work. The families called for us to do that each year so that we could recognize the children who are in care and the ones we're still working on bringing home.

About a month later, our community of Neskonlith welcomed home 20 children, which was a high number. Our family support worker Gena Edwards and our councillor Fay Ginther worked for a long time in reunifying those children with the community and the families. It was really emotional to a lot of the families.

I recognize that there's still a lot of healing to the children and a lot of healing to those families that participated. Our families also asked that we continue to do that work.

We had a baby who was being removed in Toronto, for example, and thankfully, they notified us. They almost took the baby and put the baby in the system. We had to ask almost door to door in our community whose relative this baby was. We found out it was because of the sixties scoop when the grandfather was removed. He didn't have a connection with the community, so nobody knew this baby, but it was because of the gap and the void that the sixties scoop caused. We were able to bring the baby home. He was one of the 20 children we brought home and we're working on reconnecting him with his family. His sister is still, unfortunately, in Toronto. She's not from our community, but the grandmother did express interest in having that child placed with us, so that the brother and sister can be together.

Those are the kinds of stories each one of those children and their families could have shared, the horrendous experience they had and the work it's going to take for healing and the work it's going to take for reunifying them with their family, their culture and their language.

● (1315)

Ms. Rachel Blaney: Thank you so much.

I'd like to go to Bernie Charlie really quickly. I think we're related, but we'll talk about that another day. I'm from Stellat'en.

You talked about how the focus has to be on the family and the family unit. You talked about specific language that you want to see changed. I wonder if you could speak a little about honouring the whole family, as opposed to just individual children.

Ms. Bernie Charlie: As I presented to you, and even in terms of the work that we do, I just want to elaborate on the ceremony that took place in the Coast Salish territory. Children, their siblings and their biological parents were involved. An extension of that was the caregivers, the foster parents. We support that whole circle of support.

Lyle had also shared with you his experience that, as a caregiver to these children, you're not just caring for the children, but you're also encouraging their relationships with their families, whether their parents are able to.

In working under that structure, it's a whole community approach of the extended family, the caregivers, those who are chosen to do this work to care for and to nurture children and their parents.

Ms. Rachel Blaney: Thank you very much.

The Chair: Questioning now moves to MP Dan Vandal.

Mr. Dan Vandal: Thank you very much for both presentations. They were very informative.

My first question will go to Lyle Thomas and Bernie Charlie.

What are the greatest challenges to providing child welfare services in your territory?

Ms. Bernie Charlie: I'll start. That's a very important question to acknowledge.

The work that Secwépemc Child and Family Services is doing is important in terms of reconciliation and connecting children to the families, and the biggest challenge right now is funding.

In terms of developing capacity within the community and building those natural supports for those families, when we're looking at the family unit, it's not just the child, but also the parents and reintegrating that extended family model and that community model. It's building the capacity within the community so that children don't have to come to the urban centres for medical supports or education for their special needs.

In that regard, I'll let Lyle elaborate.

Mr. Lyle Thomas: The biggest challenge is that we service seven bands here that are in more rural places, and then we have an urban population. We just try to balance. There's a balance to try to figure out who everybody is and where they're from. We try to teach and let the kids understand. They're in our nation, our territory of Secwépemc, and we just share with them.

Looking at it from the aspect of culture, we want to make them feel as comfortable as possible before they go home—if they're allowed to go home—when they go home to visit.

The way I look at it, with our kids here—I call them our kids—from the urban population, there needs to be a new system, a new welcoming system, something new that will involve everybody.

We have a large urban population, but people are from the same territory. We need everybody to work together and come together, if there's a way to do that. We need a way to bring everybody together and help each other to work together.

● (1320)

Mr. Dan Vandal: Thank you.

The next question will go to Chief Wilson. There's been quite a lot of discussion about the importance of defining the best interests of the child. That was discussed this morning, I believe. I'm not sure if it was your presentation or the prior presentation that emphasized the importance of family, but one of the clauses we have in this bill is.... One of the factors to be considered when talking about the best interests of the child is the importance to the child of an ongoing relationship with the indigenous group, community or people to which the child belongs in order to preserve the child's cultural identity and connections to the language and territory of that indigenous group, community or people.

That's in the current bill. Could you comment on this clause?

Chief Judy Wilson: I know there was a lot of discussion with regard to the best interests of the child. We always said it couldn't be under the western view of the best interests of the child, because when the best interests were created, that was without a lot of our input. Again, the indigenous view, as noted earlier through Bernie, is different with regard to the best interests of the child.

Clause 9, the relationship, is key to the child. In our indigenous view, we don't own our children. They're given to us by the Creator. When they're born, they're born inherent to the nation. Looking at the indigenous view of what are the best interests of the child, we all have a responsibility of supporting and raising that child. In our indigenous view, the aunties are just as important. The grandfathers, grandmothers, the extended family, they are all important in connection to raising that child. It's not just the mother and father.

It's the extended family. Respecting that indigenous view and the relationships that child has is really important.

It just couldn't be based on a western colonized view of the best interests of the child. That's the important part. The relationship of that child to the extended family and the nation is also important.

Mr. Dan Vandal: I understand. Thank you.

The Chair: Thank you to both groups for participating on the video conference. We all appreciate it. This concludes our public hearings on Bill C-92. We look forward to your briefs. If you're sending them in, we'll all have a chance to look at them.

Meegwetch.

The meeting is adjourned.

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