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• (1600)

[English]

The Chair (The Honourable Marc Garneau (Notre-Dame-de-Grâce—Westmount, Lib.)): We will now begin with 30 minutes on receiving witnesses with respect to proposed legislation Bill C-29.

We have with us this afternoon for the first half hour, and they will stay on for the hour when the minister will join them, Mr. Andy Garrow, director, policy and strategic direction, reconciliation secretariat, planning and partnerships; Ms. Kate Ledgerwood, director general, policy and strategic direction, also from the reconciliation secretariat; and Ms. Seetal Sunga, senior counsel from the Department of Justice.

To ensure an orderly meeting, I would like to outline the usual rules. Members and witnesses may speak in the official language of their choice. Interpretation services in English, French and Inuktitut are available for the first part of today's meeting. Please be patient with the interpretation. There may be a delay. For those in the video conference, the interpretation button is found at the bottom of your screen. It's the interpretation globe, and you can listen in English, French or Inuktitut, if you choose. If interpretation is lost, please inform me immediately and we will ensure interpretation is properly restored before we continue.

Before speaking, please wait until I recognize you by name. If you are on the video conference, please click on the microphone icon to unmute yourself. For those in the room, of course, your microphone is controlled by the proceedings and verification officer. When speaking please speak slowly and clearly, and when you're not speaking, please put your mike on mute. This is a reminder that all comments should be addressed through the chair.

We're going to launch immediately into questions. We'll have six minutes for each of the four parties.

If I'm not mistaken, I believe, Mr. Vidal, you will be starting as the first speaker for six minutes. Please go ahead.

Mr. Gary Vidal (Desnethé—Missinippi—Churchill River, CPC): Thank you, Chair.

Thank you, folks, for being here today. I think most of you were on the technical briefing the other night, if I can remember the faces in the checkerboard instead of in person. I appreciate the other night as well.

I want to go through a little bit of timing, and I want you to help me out with a couple of things to make sure I understand. If I'm

clear, the government announced the creation of an interim board of directors in December 2017. That was through a Governor in Council appointment, which would be directed by cabinet. This interim board that was appointed at that time did their work and issued a final report to the then-minister on June 12, 2018, with 20 fairly specific recommendations.

In the technical briefing the other night, you indicated that these recommendations were the basis for the draft legal framework, which ultimately ended up in Bill C-29 now.

It appears that the vast majority of the work was already done by June 2018 to create this council. That was when the work happened, but not until December 2021 did the minister actually take that next step, as advised by the interim board and the report, to appoint the transitional committee members. Finally, in March 2022, the final recommendations of that group were given back to the minister to go ahead and finalize the legislation.

My first question is simply this: Is that an accurate time frame? Have I understood that well?

• (1605)

Mr. Andy Garrow (Director, Policy and Strategic Direction, Reconciliation Secretariat, Planning and Partnerships, Department of Crown-Indigenous Relations and Northern Affairs): That's correct.

Mr. Gary Vidal: Thank you.

Could you tell me what happened between June 2018 and December 2021? My understanding is that there was nothing done in that three and a half year period to advance this process. Can you tell me why or why not that was the case?

Mr. Andy Garrow: In that period of time, the department undertook its analysis of the recommendations that were provided by the interim board and provided that analysis to the government, and really did a thorough review of what was provided. The interim board in that period of time did extensive engagement with their work and came up with really sound recommendations in terms of where they should move forward. That analysis took some time.

Also in terms of what the next steps were, there was the recommendation for establishing a transitional committee and determining the process for that. In the meantime, that's when the pandemic came as well. That delayed efforts significantly, as well as identifying who was going to be on the transitional committee. There were some delays in that process.

Mr. Gary Vidal: No, I appreciate that but, sorry, we use COVID as an excuse or the pandemic as an excuse, but the time frame was June 2018 and the pandemic didn't start until March of 2020. That's 18 months, almost two years in the meantime, and really the next steps were already identified. The report on June 12, 2018, indicated the next step was to appoint the transitional committee.

I'm not quite following all this work that was supposedly done in the three and a half years. It seems to me from your technical briefing, honestly, the presentation, it's pretty clear that things just paused and then picked up again in December of 2021.

I will leave that one for now and I'll move on to something different because I think my assumptions on that seem to be fairly accurate.

On call to action 56, we've had this conversation a couple of times over the last few weeks already. Call to action 56 explicitly calls on the Prime Minister to answer the national council for reconciliation's annual report by providing a response. This interim board of directors that issued these 20 recommendations back in June of 2018 also advised that this should be the process, yet according to the bill it's the minister who would respond to the national council's annual report.

Can you tell me how this happened and who made the decision not to respect that call to action and have the minister respond instead of the Prime Minister?

Mr. Andy Garrow: For that one, the minister was bringing forward the legislation and in that process it was determined that the minister responsible for the legislation would be the appropriate person to table the responses as identified in the legislation.

Mr. Gary Vidal: The minister made that decision on his own. That wasn't something recommended by any of the transitional committee people or the department officials?

Mr. Andy Garrow: It came out through the drafting of the legislation process.

Mr. Gary Vidal: From the minister...?

Mr. Andy Garrow: Through the process...yes.

Mr. Gary Vidal: Thank you.

In the legislation there's some language that I struggle with, and I'm going to be quick because I think I'm running out of time.

There's some language in the purpose that talks about the purpose of this bill is to "advance efforts for reconciliation". I'm an accountant. I'm all about measurable outcomes and numbers and data and that kind of thing. Can you give me any indication of whether there have been discussions at all in this journey of four and a half years about how we would measure the success of advancing efforts for reconciliation?

Ms. Kate Ledgerwood (Director General, Policy And Strategic Direction, Reconciliation Secretariat, Department of Crown-Indigenous Relations and Northern Affairs): Perhaps I'll say that as we have been developing this and working very closely with the transitional committee, one of the directions that we have received is very much to provide the frame but to let the board make some of these determinations once it's formed. It is there that it can make the determination in the future on the scope. I think it is

better placed than perhaps us determining what is to be advanced around reconciliation.

While this bill is there to provide the frame, we understand and appreciate that there will be much more work once the board —

Mr. Gary Vidal: I'm sorry. I appreciate that but the legislation says "advance efforts" and I think it could really just say "advance reconciliation". We want to move forward on advancing reconciliation. I don't think we can measure efforts in this context, and I think we heard that from some of the people on the transitional committee and the interim board of directors who said this language was pretty weak.

That's kind of somewhere we'll be going in the future.

Thank you, Chair.

The Chair: Thank you, Mr. Vidal.

We'll now go to Ms. Atwin.

Mrs. Jenica Atwin (Fredericton, Lib.): Thank you, Mr. Chair. Thank you to our witnesses for being here today.

I just want to take the opportunity to acknowledge that we did just have the second National Day for Truth and Reconciliation. I want to just acknowledge survivors and descendants from my riding, and of course, across Atlantic Canada and throughout the nation. I was fortunate enough to attend a ceremony. It was anticipated that 50 people would be there and there were hundreds of people. I think that speaks to the important work that's being undertaken and how effective it is at communicating just how critical it is for all of us to walk this road of reconciliation.

I want to point out that there have been several organizations and self-governing first nations who have voiced concerns about, perhaps, a lack of consultation for the legislation and the national council. They might feel left out of the process.

Could you please elaborate on the consultation process that the interim board undertook to advise on what the national council for reconciliation would look like and just how important it is to include indigenous voices every step of the way? Thank you.

● (1610)

Mr. Andy Garrow: We're looking at this in terms of what's happened over the years from the Truth and Reconciliation Commission to now. In that process, the Truth and Reconciliation Commission travelled across the country with the national events, the community events and the regional events that were part of that process and heard from thousands of survivors, thousands of community members and those impacted by residential schools.

That was one thing and that created the framework of what went into call to action 53, which is what's been established for the national council for reconciliation. After that the interim board also held engagement, so they established a public website so that any interested individuals across Canada could share their thoughts on the national council for reconciliation. They did some outreach to the national indigenous organizations and then they also hosted an event where a number of experts came in.

Then with the transitional committee, noting that it was time for the legislation to move forward, they wanted to move forward with this as quickly as possible. They also did some engagement as well but with targeted experts on the framework of legislation and what would be in there.

Mrs. Jenica Atwin: Would either of you like to add anything to that? No...?

Were there any lessons learned throughout that process that you could maybe speak to that might be helpful for our committee?

Mr. Andy Garrow: This is a really broad council that we're establishing. There are a number of people who are going to be impacted by it. I think over time—and we're seeing this in a number of areas—whether it's the level of engagement that's happening across the countries on issues or... There's a lot happening because of that.

With what's happened here, we're grateful for the experts who came and brought their voices to the table. We're grateful for the leadership that the Truth and Reconciliation Commission has shown, and the interim board members and the transitional committee members. I think they have created a solid framework, which we see in the legislation today.

Mrs. Jenica Atwin: Could you also speak more broadly about what the reconciliation secretariat does? I'm curious and excited to learn more about it.

Ms. Kate Ledgerwood: Thank you very much for the question.

The reconciliation secretariat, which is situated within Crown-Indigenous Relations and Northern Affairs Canada, supports what are called the “permanent bilateral mechanisms”. These are meetings that take place between indigenous partners—the three national indigenous organizations—annually. There are meetings that take place with the Prime Minister as well as with the other ministers.

That is a forum to advance joint policy initiatives and a place where we can come together at the table to identify key issues and policies and to take efforts to make some differences and move programs forward. My colleague Andy Garrow helps support the overarching whole-of-government approach to the calls to action. As well, he is supporting the Truth and Reconciliation Commission and the advancement of this bill too.

Mrs. Jenica Atwin: Excellent.

I would add that oftentimes the communication piece is difficult. I've talked a little about those who might feel left out of the process. I've also seen a bit of feedback from Canadians, even around the National Day for Truth and Reconciliation, just not understanding what it's grounded in and that it's actually a response to a call to action itself.

Can you speak to the communications piece and what it looks like to engage with community members across the country?

Mr. Andy Garrow: Thank you for the question.

A lot of this is talking about the different aspects of what came out of the Truth and Reconciliation report, and also in terms of what the interim board and the transitional committee have heard through their journeys. That communication has gone out. We've tried to share some information through the website and through ministers' statements, etc., about it as well.

• (1615)

Mrs. Jenica Atwin: That's all I have, Mr. Chair.

The Chair: Thank you, Ms. Atwin.

[*Translation*]

I now give the floor to Mrs. Gill for six minutes.

Mrs. Marilène Gill (Manicouagan, BQ): Thank you, Mr. Chair.

I thank the witnesses for being with us today.

I have questions about consultations prior to drafting Bill C-29.

You mentioned several times that many people had been consulted. Obviously, you know how many First Nations there are in Canada and on their own territories. Were they all consulted ahead of time?

[*English*]

Mr. Andy Garrow: Through the processes that were available, there were opportunities for all first nations, and everybody in Canada, to participate, especially through the open website that was posted.

[*Translation*]

Mrs. Marilène Gill: That does not answer my question. I want to know if they had the chance or opportunity to be consulted. I want to know if all First Nations participated in consultations and were able to give their opinion.

Ms. Kate Ledgerwood: We don't currently have that information, but we can check.

Mrs. Marilène Gill: Thank you. At the same time, if certain First Nations were unable to participate in consultations, please identify the reasons. As you know, many communities are remote and do not necessarily have the means required, specifically the technological means. I think Mr. Garrow mentioned the issue of internet. Some communities don't have the required infrastructure or the technological literacy needed to use it.

[Translation]

Before I begin, I would like to acknowledge that Canada's Parliament is located on the unceded traditional territory of the Algonquin Anishinaabeg people.

[English]

I'd like to thank the chair of the committee for inviting me to appear today to speak about Bill C-29, an act to provide for the establishment of a national council for reconciliation.

I look forward to answering these questions, because strengthening this bill and ensuring we move forward on this are priorities for all of us.

[Translation]

We marked the second National Day for Truth and Reconciliation on September 30, last Friday. Indigenous and non-indigenous people across the country came together in their orange shirts to continue to learn about the legacy of the residential schools and the intergenerational impacts. Orange shirts alone are not enough, though. We have to continue to take concrete steps towards reconciliation.

As committee members know, the Truth and Reconciliation Commission published its final report and calls to action seven years ago. Among the commission's calls to action, number 53 calls upon Parliament to establish a national council for reconciliation, while numbers 54, 55 and 56 expanded on the roles, responsibilities, and expectations for the council and the various levels of government. These calls to action are saying that, as a country, we need to measure our progress on reconciliation. We must be held accountable for our promises to indigenous peoples.

[English]

That's why we must implement the calls to action as envisioned by the TRC. It's important that the board of the national council for reconciliation be diverse and reflective of all indigenous people in Canada. If the bill is passed, as Minister of Crown-Indigenous Relations, I would collaborate with a transitional committee to appoint the first board of directors. The first council would then establish a process to nominate and elect future board directors, in accordance with the legislation stipulated in the bill.

The board would comprise nine to 13 directors, at least two-thirds of whom are indigenous. Three directors must be nominated by the Assembly of First Nations, Inuit Tapiriit Kanatami and the Métis National Council, respectively. These criteria would apply to the first board, as well as to the future board once the council is incorporated.

[Translation]

In particular, the council will include representation from first nations, Inuit, Métis, indigenous organizations, youth, women, men, gender diverse persons, and various regions in Canada, including urban, rural and remote regions.

It is important to understand that the government does not own or dictate this process. This is a collaboration, and it has been since the beginning, as this bill was jointly developed with indigenous leaders.

Indigenous leaders led the interim board and transitional committee. They provided independent advice and recommendations that were instrumental in shaping the legislative framework before you.

● (1635)

[English]

One example of those recommendations is the decision to set up the council as a not-for-profit entity. Incorporating the national council for reconciliation as a not-for-profit organization under the Canada Not-for-profit Corporations Act utilizes the existing legislation to set up the council. Moreover, it establishes and enables the council to be incorporated as a legal entity that operates completely independently from the Government of Canada. It will give the council legal status under the act and allow it to, for example, freely enter into contracts and have bank accounts. The council will also be able to independently fundraise for projects and future work.

It's important to note that budget 2019 announced a total of \$126.5 million in funding for the national council for reconciliation, including \$1.5 million to support the first year of operation. The funding can be used by the board to establish their endowment for future work, which was very important to the interim board.

[Translation]

I am grateful to the TRC commissioners, the interim board members, the transitional committee members, survivors, and especially the families, and all indigenous and non-indigenous people who participated in the engagement process. Their contribution was essential in shaping this important legislation.

I am happy to answer all your questions.

Meegwetch. Qujannamiik. Marsee. Thank you. Merci.

The Chair: Thank you very much, Minister.

We will now begin the first round of questions.

Mr. Vidal, you have the floor for six minutes.

[English]

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

Thank you, Minister, for coming today.

Minister, you talked about the call to action number 53 and the importance of independence. I want to talk about independence for a couple of minutes.

The Governor General, acting on the advice of cabinet, appointed the interim board back in 2018. They did six months of work and came up with a final report. Then, there was a long delay. You appointed the transition committee in December 2021. As you stated in your comments, you, the minister, in collaboration with the transition committee you appointed, will select the first board of directors. You'll take their advice. This first board of directors is then to establish an application process for future board members to be elected by an as-yet-undefined membership. We don't know who that membership will be yet. I get the non-profit organization. There are no articles of incorporation yet. I get all that.

In your own words, in talking about this body, you said it isn't up to Canada to be grading itself. However, when I look at this process, Minister, I have to ask you why you're comfortable having so much direct control or influence over this body tasked with holding your government to account and advancing reconciliation. Even if you don't feel you actually have that direct control, the perception.... It sure seems as if you do.

Hon. Marc Miller: MP Vidal, it's a very fair question.

As you look through the formation of the board, this is something that will be done with the committee. Ultimately, I consider the nomination of the first board a legal artifice. It's written in black and white that it is with the committee itself. The work is being done. I don't see my role as being one to veto people. Indeed, with respect to the appointment of the current committee, essentially I could have had a call on it, but I haven't. They have determined their membership by themselves.

After that, it's the Not-for-profit Corporations Act that prevails. They will determine their own way of reproducing what is in the act, but there's sort of a legal construct in there that we have to get over as part of the first hurdle, and that's one that has to involve consultation. I'm open to getting the recommendations you have—

Mr. Gary Vidal: Okay. That's fair.

Hon. Marc Miller: —because I do recognize the perception involved.

Mr. Gary Vidal: I'm sorry. I'm not trying to be rude, but I have such limited time and I have a lot of questions.

I get what you're saying and I get what you're implying—that you wouldn't override that. However, the bill clearly says “selected by the Minister”. That is the language of the actual bill.

In all fairness, the relationship with indigenous people is one that probably lacks trust, and for good reason. There's lots of history for that to happen.

I'm concerned with the record of the government. We could talk about all kinds of people. I'm not going to go into specifics, but you're kind of saying, “Trust me that I won't put any undue pressure. I won't influence the process. I won't...,” but the bill actually says you have control.

You also opened the door to my next question, which would be whether you would be willing to give up that control to alleviate the concerns of indigenous people who have lost that trust. Would you sit down at the table with us and come up with a way that maybe we could ensure that it is indigenous people, indigenous organiza-

tions, that not only appoint the future boards after five years but also are a part of appointing that first board, which is going to set the playing field and the ground rules for all future elections of the boards?

● (1640)

Hon. Marc Miller: I don't want to diminish your point, MP Vidal. I'm open to recommendations as to what this committee, the vast majority of whom are not indigenous, would suggest. I don't want to reproduce the same artifice that you're criticizing this bill as having. Indeed, if you extend it to the whole parliamentary process, you have another set of arguments that feed into the initial criticism.

At one point someone has to make a decision. I would highlight that the minister does not have absolute discretion. It does say that it is done “in collaboration with the transitional committee”. Again, I'm open to the recommendations of the committee as it considers other witnesses.

Mr. Gary Vidal: Thank you for that.

In your presentation, you also talked about this legislation being codrafted with Indigenous peoples, yet Wilton Littlechild, one of the members of both the interim board and the transitional committee, is on the public record stating that, in fact, the bill was not codrafted with indigenous peoples. Is his criticism accurate, or how does his criticism compare with your comments today?

Hon. Marc Miller: I haven't had an opportunity to speak with Dr. Littlechild on the matter.

Mr. Gary Vidal: Well, I think that's something we could pursue.

In our conversations with officials in the last half-hour here before you came, I asked the question of who made the decision to change call to action number 56 from having the Prime Minister being the one responsible for reporting to having the minister responsible for reporting. My understanding of what they said to us was that it happened in the drafting of the legislation through the ministry.

A further question of mine would be whether you are amenable to the idea of amending that section so it would actually be the Prime Minister who would be responsible for responding to this report and actually honouring call to action number 56?

Hon. Marc Miller: I'd say, first off, that it's absurd to suggest that the Prime Minister hasn't held himself up to be responsible to indigenous peoples for what we have shone a light on in the last seven years. That said, I'd absolutely be open to it. We'd have to examine what the recommendations of the committee ultimately would be.

Again, I do think what's in the legislation, from a purely technical perspective, is more responsive in terms of a government response than what is contained in the call to action, but, again, we're open to any suggestions you would propose.

Mr. Gary Vidal: In fairness, Minister, that is not what the call to action called for. That's my challenge.

Hon. Marc Miller: That's my point. We're trying to present a government response, and what's in the call to action is a response by the Prime Minister. If you look at the machinery of government, a tabling in Parliament on behalf of the government makes a much broader statement. As to the symbolic value of having the Prime Minister say it, I'm open to suggestions from the committee.

The Chair: Thank you, Mr. Vidal.

We will now go to Mr. McLeod.

Mr. McLeod, you have six minutes.

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

Welcome, Minister. It's certainly good to see you join us here today.

It's also very good to see that the government is working with indigenous people rather than against them as we've seen so many times in our history.

Mr. Minister, I think you know that the Northwest Territories has been dealing with a lot of very serious challenges. A recent report found that one in five homes in the territories was in need of major repairs. In some communities, it's up to 60%. The people in Fort Good Hope are dealing with the aftermath of multiple stabbings last month that left one resident dead. Just this past week, the chief coroner released new data showing that there's been a dramatic increase in the number of suicides this year in the Beaufort Delta. The community of Tuktoyaktuk alone has seen four deaths in the last three months.

At the root of these problems, in my view, is the ongoing impact of colonialism and also the intergenerational trauma from the residential school system. It's no coincidence that the Northwest Territories has the highest rate of residential school survivors per capita.

I want to ask you if you could explain how the work of the national council for reconciliation will ensure that Canada does the work necessary to address these issues.

• (1645)

Hon. Marc Miller: Thank you, MP McLeod. I appreciate the question.

Clearly, as we all know, as members of this committee know, this is an organization that is supposed to be independent from the government. There has been a lot of very public back and forth as to the state of the completion of the TRC's calls to action, with the government at times stating how much it has completed and then, perhaps, how much is ongoing, noting that not all the calls to action call on the federal government specifically to fulfill these calls—the most notable one, obviously, being the apology from the Pope this summer, which was given.

Again, it's the federal government deciding how much has been done and what needs to be done. We know that indigenous peoples often criticize this for the lack of clarity, process and truth, frankly, from our government in the sufficiency of the calls to action and their level of completeness.

This board, in a sense, will hold this government and subsequent governments to account, particularly on issues that require persistent, sustained investments in matters like mental health and housing—all themes of the calls to action that we've made, as you know, significant investments in. However, I can't sit here today and tell you that those are sufficient nor that the results are following particularly fast. As you've seen in the north—it being one of the places where the residential schools were closed last—the effects are felt in a generation that is still much younger, as well as on their children and families.

It isn't something that we have been particularly good at measuring and, therefore, very good at addressing. The \$500 million-plus that has been allocated for mental health in prior budget years, with the another \$200 million most recently allocated, is important. We know the hidden pandemic that has followed after COVID and was very much present prior to that is huge. The impacts are felt in the most severe forms of expression of mental health distress, whether that's problematic substance use or ideation of suicide.

Minister Hajdu, as you know, today invested a supplementary amount of \$11 million, which will affect in that form the Inuvialuit portion of the Northwest Territories.

There is work to do. It requires us to be held to account. It requires that type of organization to look at the TRC's calls to action as not only a check-the-box operation but as an ongoing undertaking that goes right up to the duty of our government and the honour of the Crown.

Mr. Michael McLeod: Thank you for that.

It's good to see that there's investment happening in the north. It feels especially good because, for the longest time, indigenous people had to sue the government to get anything in the budget. It's good to see that's changing.

There's been a total of \$126.5 million announced for this council. I'd like to know how that dollar figure, the \$126.5 million proposed in the budget, was arrived at.

Hon. Marc Miller: Key to the financial independence of an organization such as this is that you can create this organization, but if it has no money, you essentially limit its ability to act because it can't pay for the proper expertise to analyze all the massive information that it will be provided or hire experts who deserve to be well paid for their work.

The \$126.5 million—and I'll defer to officials after this—was looked at as part of an essential injection of funds for the first number of years, and there's the possibility of creating an endowment to support ongoing activities. It might need more money, but it was sort of a measure that was come up with as part of the 2019 budget to make sure that this committee would have a level of independence that was financial in nature.

I don't know, Andy, if you want to complement that.

Mr. Andy Garrow: That's correct. Thank you.

I also want to reiterate that it was looked at in terms of the operations of the council and what would be required, but also in terms of giving it the flexibility to do some of that fundraising for additional operations as well as being an important part of becoming a not-for-profit organization and being established in that way. Yes, it's for the operations and then the initial years.

• (1650)

Mr. Michael McLeod: I have one more quick question.

The Chair: It will have to be very quick, Mr. McLeod.

Mr. Michael McLeod: I just want to ask the minister if he could reassure me that the north, the Northwest Territories and all the northern jurisdictions, will have representation on this board. We don't normally belong to some of the national indigenous organizations, but we do have a large indigenous population.

Hon. Marc Miller: Quickly, the answer is yes. The discretion will not be mine to wield. It's been noted many times, and there is that need to have that diverse representation. That's the answer I can give you right now, MP McLeod.

The Chair: Thank you, Mr. McLeod.

[Translation]

I will now give the floor to Ms. Gill for six minutes.

Mrs. Marilène Gill: Thank you, Mr. Chair.

I would like to thank the minister for participating in this meeting.

In the first round of questions, I asked primarily about first nations representation in the consultations.

We can, of course, ask the same questions about the members of the board. I am not referring to the transitional committee or the interim board, but the board of directors that will be established thereafter. I was going to say permanent, but that is not the right word since the members are elected for a five-year term.

Can we say that the Assembly of First Nations, the Inuit Tapiriit Kanatami and the Métis National Council truly represent all the nations in Canada?

Hon. Marc Miller: The simple answer is no. These organizations represent a large majority of people, but there are, of course, first nations, who consider themselves to be first nations, but do not feel represented by the Assembly of First Nations. We all know that; it is common knowledge.

Overall, we have tried to ensure that each national council had a place on this council. There is also the issue of proportionality, which other witnesses might address. Another challenge is ensuring

that there is diversity on the council. So there is some tension, but we wanted to prevent things from becoming too politicized. As you know, these are groups that are not necessarily rights holders, especially as regards the AFN. The communities are, of course, rights holders. One of the challenges is to have prominent individuals who can work independently. What is most important is that the AFN, the National Métis Council and, of course, the ITK are represented.

Mrs. Marilène Gill: I wonder if the minister would be open to the idea of a mechanism that would allow the first nations, which consider themselves to be nations although they are not represented, to be represented in another way. They could occupy other seats.

Hon. Marc Miller: I am open to recommendations. We would have to listen to the testimony. It is already quite difficult to limit the membership to 13 people. It will be a difficult choice and the results will not be perfect, ultimately.

Mrs. Marilène Gill: Precisely. Even if there were just nine members, it would be difficult. In any case, we must always aim for relative perfection. I just wanted to hear you say that you are indeed aware that the representation cannot be perfect.

There is something else I would like to know, and I think you mentioned it in your reply. I would like to know if some people have made comments, not to say complaints, about the consultation itself, during which not everyone necessarily had the chance to speak, or about the membership of the board. Were there certain people, for instance, who were unhappy with the membership or did not feel represented? Did you receive those kinds of comments or suggestions from the first nations?

Hon. Marc Miller: I am hesitant to speak on behalf of the participants, especially indigenous persons.

I think you will hear that the membership is not perfect. Some people would like their own representatives to be on the board of directors. At the same time, I don't think they want to criticize the current membership of the committee.

• (1655)

Mrs. Marilène Gill: Could you give an indication, by percentage or some other measure, of how representative it is of all first nations in Canada?

I know that will be difficult.

Hon. Marc Miller: First, I think people are generally very happy with the principle of Bill C-29. Where it gets complicated is that everyone wants their voice around the table. It's going to be difficult at the end of the day if everyone wants to be represented. There are stakeholders who are very political. I don't blame them for that. Unfortunately, difficult choices will have to be made. Most of the time, people who are independent are not politicians. People can also be political without being politicians. In the end, it will be a hard choice. All in all, I think people, looking back, will be very happy with the bill.

[Inuktitut text interpreted as follows:]

Thank you for your answer.

Last year, in June 2021, there was the implementation of a new commissioner for indigenous languages. One was appointed. Ronald Ignace was appointed.

Thinking about that, those with diverse and different perspectives made the recommendation, and we were expecting that. How will this be diverse or would it be similar to that type of process? Do you think this would be a good route to take with regard to our rights, for example, the right to our languages?

[English]

Hon. Marc Miller: It's a great question.

I met with Commissioner Ignace this morning to speak about the work that's ongoing and the work that the commission is doing. There's an opportunity here, I think, to cross-pollinate. I think that it's odd to say you're limited only to language, because language is identity, and it falls into every aspect of the calls to action as well as the work that the commission will be doing.

Commissioner Ignace's work is targeted specifically to how the work that needs to be done on indigenous languages is still outstanding, and the recommendations that have to be made by the government are related to that particular area of language, which is obviously so key to this debate.

I do think there will be an opportunity. They shouldn't limit each other in their approach. For example, I wouldn't think this commission would abstract itself from the calls to action that deal specifically with language. They can have other views, which is their right, but I do see the opportunity to feed into each other and to have a better approach as we talk about something in this country that we're not very good at talking about or at least having an intellectual debate on, which is language, particularly in the promotion of indigenous languages, which both colonizing languages have contributed to destroy. That's something that is an ongoing challenge, but it will be an opportunity in both the form of the language commissioner and this board.

The Chair: Thank you.

We have time for a complete second round. We've never done this, but we're going to start off right away.

We have Mr. Schmale this time for five minutes.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you, Chair.

Thank you, Minister and officials, for being here today.

I want to pick up on the line of questioning by Madame Gill regarding representation. We talked about the big three being included on the board of directors initially. We've had your words through testimony pointing out that there's a vast majority of indigenous people who are not feeling represented by the big three, but it also says that, after five years, you get some mandated representation on the council from groups like indigenous women, youth and that kind of thing. Why not do that right away? Can you help me understand that?

• (1705)

Hon. Marc Miller: The three national indigenous organizations have a very powerful voice in this country, and it is important for them to have that representation on the board.

As I explained to MP Gill, we're open to suggestions. We want to make sure that there is diverse representation on the board. How much the federal government steers that is a challenge. It's why we've deferred quite a lot to the interim board and the transitional board. It isn't lost on me that there are perhaps some organizations that are forceful advocates of indigenous peoples that will not feel represented necessarily, or they may feel represented but not have the opportunity to appoint one of their own. This can be a highly political and politicized process.

Again, I think my recommendation to this committee, if it chooses to do so, is to put forward some suggestions, understanding that this has to be a working group that isn't too large but has that level of representation.

I would note the comments that MP McLeod made, which is that the north, despite having fewer people, has to have that representation on the board, particularly in light of his comments on residential school survivors.

Mr. Jamie Schmale: I'm sure you're aware that the Native Alliance of Quebec, the Manitoba Métis Federation and the Congress of Aboriginal Peoples have all said that they want to be included rather than have to wait.

Again, for the record, is the government open to reasonable suggestions?

Hon. Marc Miller: We're open to suggestions.

Mr. Jamie Schmale: Let's talk about time frames now.

According to the technical briefing, the interim board of directors did six months of work between January and June of 2018. Then the transitional committee did three months of work between January and March of 2022. There's a massive gap there.

What happened to that first bit of work that was done way before the pandemic started, in 2018. How did we get to the point we are now where there has been a long time between any movement?

Hon. Marc Miller: I don't want to blame the entirety of this on the pandemic, but there is a large measure of that attributable to the pandemic.

Recall that, for that two-year period, the focus, particularly for indigenous communities, was to keep their own alive and safe, which is a basic minimum, but it became priority number one under the pandemic.

Mr. Jamie Schmale: This started in June 2018, not December 2020. The pandemic didn't start until March of 2020, when the world declared a health emergency.

Hon. Marc Miller: Like I said, I'm not going to ascribe everything to the pandemic, but for a large measure of this.... Recall that for the funding for this it's not like nothing happened. The funding was achieved in budget 2019, so it's not an accurate argument to say that nothing happened. There has been work that's been done and is under way—

Mr. Jamie Schmale: I'm sure there has. I just want to know what in terms of.... It took a long time to get this going here. This has taken a lot of years.

Hon. Marc Miller: Well, \$126 million isn't nothing. I would add, just to complete my thought, the large portion of that time period relates to a period of, let's hope, a once-in-a-lifetime pandemic, when people were focused on keeping their own alive.

Mr. Jamie Schmale: Absolutely, and no one is debating the fact that everyone around the world had their priorities changed during the pandemic. What I'm trying to focus on is what was happening way before that, for two years. All of a sudden there's a rush for it at the end. We have to get this tabled now. We've had years, minus the pandemic, to get moving on this. All of a sudden now is the rush to get this done ASAP.

I agree it's important, but I'm still not understanding what the blockages have been.

Hon. Marc Miller: I would submit to you that, in light of the discoveries in and around Kamloops, our government has been focused on how we accelerate things. Despite the work of the transitional committee and the interim report—

Mr. Jamie Schmale: That happened during the pandemic, as well. Again, we're going before the pandemic.

Hon. Marc Miller: If you want me to isolate a period of time that is a few months, I can't offer you an explanation that, obviously, will satisfy you, but again—

• (1710)

Mr. Jamie Schmale: I'm not saying a few months. I'm saying a few years, from 2018.

Hon. Marc Miller: I'm sorry. Just recall the time frame we're talking about.

Mr. Jamie Schmale: It was 2018. The board of directors, they started their work in January 2018. That started from January to June of 2018. Then the transitional committee did an additional three months of work after that. You've had all this information, all this work. We're still in 2018. The pandemic hit in 2020. I'm just curious about what happened from 2018 to March 2020. What work was being done?

Hon. Marc Miller: We got \$126 million to make it happen and then there was also a pandemic. I wouldn't suggest that's nothing. The fact of the matter is that this is before us here today. We've been told by indigenous people across the country that we need to accelerate things, particularly in and around the discoveries of the unmarked graves at residential schools. We've been moving quickly. This is a bill that was put in front of you in June. It's something we'd like to get done. It's a priority of our government. I think it should be a priority of every MP.

Mr. Jamie Schmale: It is. We're being asked—

The Chair: Thank you, Mr. Schmale.

We'll go to Mr. Weiler for five minutes.

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you, Chair.

Thank you also to the minister and officials for being here today.

Minister, one key function of the council is going to be reporting on the progress on reconciliation as well as offering recommendations to advance it. It's really critical that the council has access to documents, data and reports from the government to effectively be able to do their work and report. Actually, call to action 55 calls on the federal government to disclose documents to the council.

I was hoping you could elaborate on what this process will look like, according to section 16, and how it can ensure that the council will have access to all of the information that's needed to inform its work.

Hon. Marc Miller: That's an excellent question. It's something that we'll have to make sure we're putting our best foot forward on in providing the documentation that the board asks us to provide.

It's key for us that there's a fluid back-and-forth on how and what we provide to the board members as they request information. That goes through a process of establishing a protocol and constant lines of communication so that information requests don't get lost. Any suggestions, frankly, that this committee would have for strengthening the mechanisms that have been proposed inside the proposed bill would be very much welcomed by us.

One key aspect to this is measuring things. You can't measure things that you can't ascertain or have the information on to back up your conclusions. In my mind, this, the results and the recommendations that will be made by this independent board, hinge on its ability to operate on its own and its ability to have access to documentation from the government in a timely fashion across various ministries. As you would know, the TRC calls asks the entirety of government to deliver. It isn't limited to one or two departments that touch and concern indigenous peoples. It touches on all departments.

I anticipate it will be a challenge, but it's a challenge that we can live up to if we have robust legislation that gets the government to do what it's supposed to do.

Mr. Patrick Weiler: Thank you for that. I think it is really important to make sure that any information the council will be asking for from our government and future governments will not be blocked.

Certainly just as important as providing the information to do their work is the significance of having the government having to respond to that. That's what subclause 17(3) addresses directly.

From your point of view, what recourse will there be if the government response is deemed insufficient or lacking in the information that appropriately responds to the requests made by the council?

Hon. Marc Miller: The ability of the council in the face of a government request that is insufficient.... I think you've seen proof of that, particularly in this very important aspect of our future and our present.

I think this commission heightens it. I think it enhances it. I think it enhances it for the civil servants who don't spend their days doing this but have a responsibility to live up to it. That's why we have the Inuit Nunangat policy, which is key to perfecting that relationship. I use that as an example because it is something we've worked on for a very long time. The proof is still outstanding as to whether it is actually working, but it is something we need to remind ourselves of. Far too often, indigenous groups come to the table having to educate us on our relationship. It should be a no-brainer that we have that relationship, and we should be educating ourselves as to what it is.

I'm not creating a false tension in the question you asked, but I think it can actually enhance the relationships that are nuanced and diverse in nature—not only directly towards indigenous peoples but with the rights holders themselves, to the extent that they hold collective rights and represent them. I think that is varied, and having a group of independent people express that will not only reinforce it. It is also a reminder that we can't simply say that the commission has spoken and we can ignore all the other things that are going on that are used to hold us to account, or at least the relationships that we have.

This is about human dynamics and political dynamics. They're not perfect, but I think this will be an added benefit if we act like the mature responsible government we hold ourselves out to be.

The Chair: Thank you, Ms. Idlout.

[*Translation*]

I now give the floor to Mr. Deltell for five minutes.

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you very much, Mr. Chair. I salute your achievement 38 years ago.

Ladies and gentlemen, I'm very pleased to be with you today.

My best wishes to you, Mr. Chair.

I want to say that whenever I've had dealings with the minister with respect to the indigenous community in my riding, we've always worked well together. I want to thank him publicly for that.

Indeed, I have the privilege to represent the community of Wendake. The Huron-Wendat are established here, on the ancestral lands, and have been living here on a more permanent basis for over 300 years. I had the privilege of representing them for seven years in the Quebec National Assembly, and now I have been representing them for seven years in the House of Commons. I say that with pride because I was born next to Wendake, in Loretteville, which is just a mile from that community. I grew up with the people of Wendake, and I am very proud to represent them. Unfortunately, that representation will end in the next election because of the electoral redistribution. So if I run again and am re-elected, I will no longer have the privilege of representing them. It breaks my heart. Electoral redistribution isn't done based on the moods of the members, but rather on demographics.

That being said, I would like to commend the minister and come back to what Ms. Gill said earlier about the various governments.

As we know, there is a department in Quebec that deals with first nations affairs. I've forgotten the official name of that department.

In any event, I think the minister responsible is well recognized and has done a good job in recent years.

Bill C-29 calls for the creation of a national council for reconciliation, which will be very important. We want everyone to work together. Of course, no one is against virtue. However, when there is jurisdictional overlap, that's when problems can arise.

In the context of this council that will be created, I would like to know how the minister sees the fit between the federal government, which is the lead on first nations matters, and the provinces, particularly Quebec, which have jurisdiction over the issues.

I would like to know the minister's vision on this.

Hon. Marc Miller: That's a very valid question. I would add that we can represent people who are not in our riding. I know you care about the Wendat people. You know very well that you will always have the right to represent them.

In the context of indigenous relations, jurisdiction is a poisonous concept. In fact, the Constitution of Canada was imposed on them, as was the border. So it's a very difficult discussion.

Most of our fights with the provinces, whether it's about language or services for indigenous children, have been to the detriment of indigenous people. So I'm going to be cautious before I make a definitive statement as to what jurisdiction this falls under. In fact, we all have a responsibility to serve indigenous people. We are talking about a fiduciary obligation that is as much the responsibility of the provincial Crown as it is of the federal government, although the federal government has primary responsibility.

I've seen first-hand, during the pandemic, how difficult this issue is. It's associated with relationships that are often broken, whether it's in the context of the numbered treaties or the treaty that Quebec and Canada claim as the first progressive modern treaty, in this case the James Bay and Northern Quebec Agreement.

What we're hearing from indigenous communities, in general, is that there is a problem, that we need to sort out the jurisdictional issue, and that we need to work together. Most of the time we haven't done that.

For example, to be able to solve the housing shortage, you need investment from the provinces. British Columbia is doing it, as is Canada, but not all provinces are.

Reforming the child care system will require that children be well served in their own language and that the best interests of the child come first. Unfortunately, this is a conflict we have with Quebec and is currently before the Supreme Court. That being said, other provinces are waiting to benefit, if at all, from the province's victory.

So it's a very thorny issue. I don't have a definitive answer or opinion on the division of powers. This is a word that's fraught with consequences, especially for indigenous people.

I have a good relationship with Ian Lafrenière, the outgoing Quebec minister, but we need to work together. The same is true for all responsible ministers in the other provinces.

• (1725)

Mr. Gérard Deltell: You raise some interesting points. However, assuming this leadership is your responsibility.

For our part, we are currently in a consultation process. We have raised a number of issues, including accountability and the issue of appointment. However, in the specific case of federal-provincial-first nations relations, you are the lead.

Here, I'm asking you to decide: what place will you give the provinces in this bill?

Hon. Marc Miller: This bill includes but is not limited to the federal government and its responsibility. The national council for reconciliation will have the right to rule on the progress of a particular province. I assume you have Quebec in mind, but it could be Saskatchewan, for example. The council will have every right to do that, and I'm not going to criticize them for that. It's not a jurisdictional issue; it's ultimately a societal project.

The Constitution Act, 1867 and the case law concerning the 24th element specified in its section 91 are quite nebulous. In fact, a case is currently before the court in this regard. This provision has always been interpreted very narrowly by the federal government.

The fact remains that this has been imposed on indigenous people. However, when we talk about reconciliation, we are also talking about joint responsibility for reparation. This obligation to indigenous peoples falls under both levels of government. In terms of that responsibility, we may be the standard-bearer, but legally and morally it's a shared obligation.

The Chair: Thank you, Mr. Deltell.

[English]

We'll now complete the second round with Mr. Battiste.

Mr. Battiste, you have five minutes.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Thank you very much.

Minister, thank you for joining us.

I really appreciate some of the comments I've heard about how we need to move forward on indigenous rights and on the Truth and Reconciliation Commission's calls to action. I can't help but think about how much further or more quickly we would have gotten to this legislation if Romeo Saganash's private member's bill on UNDRIP hadn't been blocked by Conservative senators in 2018 and 2019, and then dragging their feet on Bill C-15. I think we could have gotten to this legislation a lot quicker.

Since we're talking about reconciliation, within the Truth and Reconciliation Commission's calls to action, the United Nations Declaration on the Rights of Indigenous Peoples was mentioned seven times.

Minister, can you talk a little about what you've heard from the leadership on the priority of moving forward on UNDRIP during the years that you were a minister in Indigenous Services and now as Minister of Crown-Indigenous Relations?

• (1730)

Hon. Marc Miller: I often get this question as well, as it ties into the calls to action. I think as we looked at the very painful moment of the rediscoveries in Kamloops and other locations, the focus moved quite rightly to the calls to action 72 through 76, which are now being extensively financed for people to do searches on their own time. It brought back lots of painful memories and the importance of putting the truth before reconciliation so that we can speak quite clearly about what is going right and what is going wrong, and about our relationship. It is the one impediment, and the justified mistrust toward the Canadian government, that prevents us from doing things like implementing the United Nations Declaration on the Rights of Indigenous Peoples. That work is ongoing with the Minister of Justice, which we are assisting with.

I think, as Wilton Littlechild said, the declaration itself is a bunch of principles that set indigenous peoples at the starting line. The finish line is yet to come, and I don't know what that finish line looks like. It definitely isn't up to me to decide, but it's something that we have to keep working on with indigenous communities as we review our laws, which are extensive in nature, and regulations, and put together an action plan that reflects the contribution of indigenous communities to what that would look like.

Luckily, thanks to B.C. we have a path. It is not one that we would completely copy, but it's something that I think shows us where the pitfalls are, where the positive elements are and where we can move as a country, as a leader in implementing it, especially in our jurisdiction. Also, it's encouraging provinces, then, to adopt UNDRIP as their own set of principles as they implement and reform their laws to make them consonant with the basic inherent rights of indigenous peoples.

Mr. Jaime Battiste: Thank you, Minister.

Within some of the work that this committee will be doing, paragraph 7(c) says that they'll be conducting "research on promising practices that advance efforts for reconciliation in all sectors of Canadian society, by all governments in Canada and at the international level". I'm wondering if you could speak to some of the promising practices that we're seeing on reconciliation, which you've been able to witness in your journeys around Canada, especially in terms of education and creating awareness of what happened during the residential schools.

Hon. Marc Miller: I'd preface my response to that by saying there still is a lot of ignorance as to the reality of residential schools. I think if you see any sort of polling out there, there is a large ignorance as to what residential schools were and the legacy of that.

I think it's unfortunate that indigenous peoples have to take it again on their shoulders, while they're in a period of trauma, to educate people who should already know better. I take a lot of pride in seeing my own children being educated in a way that I wasn't—and I see that across the country. It's not anecdotal. It's a real groundswell. That's nice to see.

When you come to the education reform and some of the discussions that I've had with elders, particularly those who have attended residential schools, there's a lot of hope in that. It's to their credit, because they have no reason to trust the Canadian government, but they see hope in our not reproducing the model that created residential schools in the first place. They see it in investments in education and education reforms, schools on reserve and schools that are culturally appropriate.

The path is long. I'm not going to say it's going to be fixed overnight, but I think there's a lot of hope out there and hope that we won't fail. It isn't blind to the realities of what is ongoing, but it's something I think we can all be quite proud of as parliamentarians for having pushed that hard. It's really because indigenous peoples pushed us.

Regardless of the form of government of the day, this is a joint project for everyone in Canada and something that we have to keep moving forward on and make irreversible. This commission is part

of the process. It's very difficult to reverse a law and an organization that is fully funded to hold people to account and hold people's feet to the fire. We'll be the first government to be subject to it, but this is more than just keeping the current government's feet to the fire but also that of any subsequent government that would report to govern Canada.

[*Translation*]

The Chair: Thank you, Mr. Battiste.

This ends our second round of questions.

I'd like to thank the minister for being with us and answering our questions on Bill C-29.

[*English*]

I'd also like to thank Ms. Ledgerwood, Mr. Garrow and Ms. Sun-ga for being here today and for answering some of our questions as we continue, in committee stage, to look at Bill C-29.

With that, I remind the committee that our next meeting is on Monday the 17th—we won't be here next week—when we'll continue our study on Bill C-29.

Thank you very much, everyone.

With that, the meeting is adjourned.

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