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Chair: Mr. John Aldag



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• (1535)

[*English*]

The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)): Good afternoon, everyone. I'd like to call to order meeting number 78 of the Standing Committee on Indigenous and Northern Affairs.

We acknowledge that we meet on the unceded territory of the Algonquin Anishinabe peoples.

Pursuant to Standing Orders, we are meeting today in hybrid format.

Lori, it's good to see you. Because we have you, Lori, or Ms. Idlout, on the first panel—I'm a bit informal here—and you know how to run everything, I won't go through all of the instructions.

For the second panel, we have online witnesses, so I'll do a bit more of an explanation at that point.

Now that we're in session, no photos are allowed. No screenshots are allowed.

We'll jump right into it.

I'd like to welcome our two witnesses today. We have Shannin Metatawabin, with the National Aboriginal Capital Corporations Association, and Hayden King, executive director of the Yellowhead Institute.

Colleagues, we're going to have lots of time for a good discussion today. Our first panel is going to be about 45 minutes. Then we'll have to suspend and bring in our second panel. That will be about 45 minutes. Then we'll suspend and go into committee business for drafting instructions.

Witnesses, I'll give you five minutes for your opening statements. I use a handy visual cue system. When there are 30 seconds left, I'll give you the yellow card. When time's up, I'll give you the red card, but finish your thought. Don't stop mid-sentence. We want to hear what you're saying.

We're ready to go now, and then we'll go into our rounds of questions after that.

Who would like to go first? We're very open here. We're a very friendly group.

Mr. Shannin Metatawabin (Chief Executive Officer, National Aboriginal Capital Corporations Association): I'm ready to go.

The Chair: Okay. If you're ready to go, the floor is yours.

Mr. Shannin Metatawabin: I understand that there's translation going on. I'm going to slow it down just a little bit, so if there could be a little grace....

The Chair: Our staff will greatly appreciate that.

The floor is yours. When you start talking, I'll give you five minutes.

Mr. Shannin Metatawabin: [*Witness spoke in Cree*]

[*English*]

My name is Shannin Metatawabin. I am the chief executive officer of the National Aboriginal Capital Corporations Association. I am also a member of the Fort Albany First Nation of the Mushkegowuk territory.

I would like to thank you for the invitation to speak today. Before I start, I would like to acknowledge that we are on the unceded and unsurrendered Anishinabe Algonquin territory.

The National Aboriginal Capital Corporations Association is the representative organization of over 50 indigenous financial institutions that provide developmental lending to hundreds of first nation, Inuit and Métis businesses across Canada.

Indigenous businesses both on and off reserve face many challenges in accessing financing for starting new businesses, but the greatest impediment is the lack of a modern on-reserve land regime that recognizes first nations jurisdiction.

In Canada, as in most of the developed world, a secure land base is the foundation of economic development. Land provides equity to allow access to financing for investment and entrepreneurship, a taxation base to promote community development and a critical input for the development of business opportunities in a range of sectors, including natural resource extraction. The World Bank estimates that real property represents between one half and three-quarters of the wealth of most economies. When governed through effective management and regulatory regimes, land is a primary driver of economic growth.

The national indigenous economic strategy, the first entirely indigenous-led strategy for economic prosperity, identifies many of the challenges in maximizing land for economic development purposes: the high cost of business due to the cumbersome land management provisions of the Indian Act; restrictions on the sale and use of reserve land; and limitations on the use of reserve land for collateral.

I will leave the strategy with the committee so you can use it. The strategy includes a comprehensive series of recommendations regarding land sovereignty, land management and environmental stewardship. I invite your committee to reference this important document in your study.

Indigenous financial institutions have proved to be an important vehicle to overcome these challenges by providing financing to indigenous businesses that would not otherwise have access to mainstream lending. The indigenous financial institutions are an incredible success story.

During a 30-year partnership with the Government of Canada and, since 2014, delivering the aboriginal entrepreneurship program, indigenous financial institutions, with the help of modest federal subsidies, have provided over 52,000 loans, totalling \$3.2 billion in lending to first nation-, Inuit- and Métis-owned businesses. Each year, indigenous financial institutions make between \$115 million to \$125 million in loans, supporting about 1,500 businesses.

Indigenous businesses are a key driver of employment, wealth creation and better socio-economic outcomes for indigenous communities. Every loan provides 3.34 jobs, increases life satisfaction by 72% and increases mental health by 52% and health indicators by 19.9%.

However, since the 1980s, the economy and the nature of business have changed significantly. The number of indigenous small and medium-sized enterprises have been growing as a result of demographics and demonstrable success. The sizes of loans are increasing as a result of the growing businesses and expanding opportunities, yet the annual federal funding has not increased in almost 20 years, and inflation has reduced its value.

Current program resources do not allow indigenous financial institutions to respond to these factors. Forty per cent of indigenous financial institutions are fully loaned out, and there is insufficient capital to respond to the growing demands of indigenous businesses. The National Aboriginal Capital Corporations Association suggests that your standing committee take into account the challenges indigenous people face without proper land tenure and call for additional funding for indigenous financial institutions.

Specifically, NACCA has called for an additional \$100 million annually of flexible funding to meet the increasing needs of the growing indigenous business sector. Additional funding would result in an increase of \$620 million to Canada's GDP and support 8,600 jobs, with resulting improvements in food security, mental health, health and housing.

During the last election, all major parties committed themselves to undertaking the important step of walking on the path to economic reconciliation. I am here to suggest to you that this reconciliation is not possible if indigenous people continue to be excluded

from Canada's economy and from sharing in Canada's long history of prosperity. Indigenous nations want to end this systemic economic exclusion and be full partners in this confederation. This is what we mean by "economic reconciliation".

Kitchi meegwetch.

● (1540)

The Chair: Thank you for your opening comments.

Mr. King, if you're ready, the floor is yours. You have five minutes.

Dr. Hayden King (Executive Director, Yellowhead Institute): Thank you.

Aaniin, boozhoo kina weyaa.

My name is Hayden King. I'm from Beausoleil First Nation on Gchi'mnissing, which is a small island Indian reserve, an Ojibwa and Potawatomi community, about two hours north of Toronto by car and by boat.

I am also the executive director of the Yellowhead Institute, which is a research and education centre based out of the Toronto Metropolitan University in Toronto. My research and analysis revolves around the land. I am the co-author of the agenda-making report "Land Back". I study modern treaty implementation revolving around land and resources, and I work on rearticulating Anishinabe diplomacy and law around hunting and land management. This is the context from which I speak to you all today.

I believe that any discussion of land back has to begin with the discussion of land theft. The demands that indigenous people and indigenous young people are making today for restitution are old calls, the oldest calls. The oldest protest in the country is for the return of lands and resources that have been taken "by hooks and crooks", as Deskaheh once said.

The doctrine of discovery, that piece of international imperial law, was the foundation of the world's greatest plunder, and it's what Canadian courts have relied upon when hearing the first indigenous land disputes. The doctrine of discovery declared indigenous peoples inhuman, not worthy of rights and certainly not worthy of property rights.

When courts realized the basis of Canadian sovereignty might be questioned using this rationale, arguments for possession shifted to treaties. In other words, Canada owns the land by virtue of negotiating treaties, but this isn't quite right either. In Ontario, pre-Confederation treaties were sharing pacts that were almost nearly immediately broken and used to relocate indigenous people, communities and families. The people who call my community home—Beausoleil First Nation or Gchi'mnissing—were relocated four times and pushed west and south to make way for settlement. Over the Great Lakes and into the Prairies, the so-called Confederation-era numbered treaties followed the trend. Treaty commissioners promised one thing and enforced another, and that enforcement was buttressed, supported and upheld by public officials and the courts.

As a common-law legal infrastructure became entrenched in Canada, indigenous people had few avenues to express the view that treaties were not negotiated to surrender or to cede, but to share in a spirit of mutual respect. It didn't help, of course, that the Indian Act made hiring a lawyer illegal.

Elsewhere in the country, treaties simply were not made, which, even by Canadian law inherited from the English, meant that indigenous people still had some form of title to it. However, here, too, indigenous people have struggled to find an audience as the constitutional division of powers has carved up our territories and the responsibility for them among the provinces, along with deploying the concept of Crown lands.

Today, when indigenous people call for land back, especially in those areas where no treaties have been made, the federal government can conveniently hide behind federalism. In this atmosphere of fictive legal possession of indigenous lands, how can we get land back? There are a variety of tools currently deployed, most commonly the specific and comprehensive claims processes, but they rarely transfer land. Instead, they provide compensation as a form of redress to buy land back and, in some cases—and this was the former Crown-indigenous relations minister's position on land back—turn it into Indian land via the additions to reserve policy.

These tools are inadequate. Instead, why not have a framework for the transfer of Crown lands that, rightfully, are indigenous lands, and related government-owned properties and territories, to indigenous people? Why not, perhaps, have a program to support first nations with resources to develop a national land restitution centre and innovate a tax-free way to reclaim land and fee simple?

There are many private citizens and organizations that are increasingly keen to transfer those lands back to indigenous people, but they lack the tools to do so. Building on models and modern treaty contexts, what about comanagement regimes that eventually give way to exclusive indigenous management? What about a renewed approach to criminalizing indigenous people defending their land? What about the development of a framework to discuss what we mean by treaties and treaty implementation, both historical and modern?

• (1545)

Why not, in the interim, as we work all of this out, deploy free, prior and informed consent? That's something the federal government committed to in the United Nations declaration act action plan. While the duty to consult is limited and narrow, it is broad in

scope. Perhaps, even through federal legislation, free, prior and informed consent could be deployed to allow indigenous people to have de facto authority and make decisions on their lands and territories, and on the resources that come along with those. Free, prior and informed consent can unlock both land restitution and self-government, in fact.

Regardless of what the federal government decides to do with this study, or with future policy or law, indigenous people will continue to innovate, push and enforce their own vision of land back, making it the next-generation indigenous rights paradigm.

Ahow, meegwetch.

I look forward to the discussion.

The Chair: Thank you for those comments.

We're going right into our rounds of questions. The first round is six minutes each for four rounds of questions.

I would also like to acknowledge the attendance of Mr. Shields and Mr. Hanley today.

Welcome to our committee.

First up, we have Mr. Vidal.

When you're ready, the floor is yours for six minutes.

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

Thank you to the guests for being here today. I appreciate your comments and opening statements.

I'm going to start with you, Mr. Metatawabin. I have a couple of questions for you first.

How long have you been the CEO of NACCA?

Mr. Shannin Metatawabin: It's been seven years—going on eight, I suppose. It's been a long time.

Mr. Gary Vidal: It's been a while. You've been at it for a long time. I'm sorry, but that's my point.

I was looking at your website today. It talks about your mission: "To serve as the voice of Indigenous Financial Institutions and as a national advocate for Indigenous business development." Your vision is "Promoting thriving, prosperous, Indigenous businesses with equitable access to capital and care."

Within that context, Mr. Metatawabin.... Earlier in the summer, when we were working on this study, we had a fellow here by the name of Mr. Sean Willy. Do you know Sean from Saskatchewan?

Mr. Shannin Metatawabin: Yes, I know him.

Mr. Gary Vidal: Yes, I think you would.

He talked about some of the use of land by his first nation in northern Saskatchewan. He talked about it being used in the north near their community, but also about some of the work they did around the city of Saskatoon. There's an urban development there that they've had great success developing.

I guess, with all that context, my question for you is not that complicated: How would you like to see first nations utilize land restitution as a way of achieving economic reconciliation? Obviously, you've been working at economic reconciliation for seven years as the CEO of NACCA.

Mr. Shannin Metatawabin: Yes. I actually started as a business development officer, giving out loans. This whole program was created because our people can't access land to securitize loans. They weren't able to participate in the economy. It's had quite a success: \$3.3 billion in lending so far. Communities near urban centres, or communities that can invest in purchasing land near urban centres, are seeing great success.

They are still facing a lot of barriers: timing, as well as lack of capacity and support to ensure they do proper due diligence on any sort of business opportunity. I was speaking with my brother, who helped the Tsuut'ina First Nation out of Calgary. They invested themselves to ensure their opportunity was well thought out, and that they were ready to come to the table to work with the City of Calgary, the province and the federal government, in order to ensure the program and opportunity—you see the ring road finally going around the complete circumference of that city—were realized. Now they are seeing some real benefits to that community. However, the government did not make it easy for them.

I think you have to release the shackles so indigenous people can have some ownership and jurisdiction of land. You heard in my opening comments that half to three-quarters of all wealth comes from land. If we don't have any access to land, we'll never see any wealth.

We need to unlock those opportunities.

• (1550)

Mr. Gary Vidal: Thank you for that.

To pursue that conversation a little, I'll dig into what you just said.

It's obviously no secret that first nations communities are facing challenges, whether it be health care, housing, education, economic opportunity or recreation. There are so many different things. You talked about unlocking economic development of land. How does that directly link back to solving some of these other challenges?

Can you flesh that out a bit for us?

Mr. Shannin Metatawabin: Without land, you don't really have a culture that has any hope of sustainability. Indigenous Services Canada still has a discretionary spend on health, housing and every-

thing that is indigenous. There's no long-term planning for or long-term investment in that. It's a social spend, and there appears to be no way out of it.

The only way you can really think of to get out of that is to invest in economic opportunities, which include land. If you invest in the community now, you'll see a decrease in spending in the future, because you'll have more opportunities, like the communities that bought into the Clearwater \$1-billion opportunity. This is a major industry.

Canada is seeing the slowest growth in major projects and resource development in history, I'd say. Foreign investment is not coming to Canada because of the uncertainty of the indigenous community. Let's provide that certainty back to investors who want to come to Canada and want to partner with us to see prosperity for Canada again, but it's not going to happen without indigenous prosperity.

Thank you.

Mr. Gary Vidal: Thank you.

I have just over one minute left, so I'm going to ask my question really quickly to give you a bit more time. I want to give you the opportunity to talk about your indigenous growth fund, your aboriginal entrepreneurship program or the community futures development corporations, and some of the challenges you may be facing as you go forward with some of those programs at this point.

Mr. Shannin Metatawabin: Thank you for that.

We've been in place for more than 35 years. We have 58 financial institutions from coast to coast helping Inuit, Métis and first nation entrepreneurs. We incubate business. I call it the largest social finance network in Canada, if not the world. It's an OECD best practice that says this is how indigenous people should expand themselves.

The government is launching a social finance fund that's going to be rolling out soon, which, by all indications, looks like it might compete with us a bit, because the market for that social finance fund is indigenous businesses. We've developed this market for 35 years. We don't need competitors in this space.

We've been asking for support through the aboriginal entrepreneurship program to ensure that we have the right support, because you need to invest in something in order for the money to be deployed, and we've always had a lack of capital. We created an indigenous growth fund to be the solution for that access to capital by creating an institutional-grade investment tool to give the private sector an opportunity to invest in our communities, because we give out those loans for members and our members give that to the entrepreneurs.

However, you have to enable that capital to get to that entrepreneur, and we have not seen an increase in that support. We're asking for about \$100 million a year. That will enable us to create and build out that ecosystem to ensure that we're giving the opportunity to every entrepreneur who needs it.

Half of our members are CFs, and right now, ISED is creating a barrier for our members to even use their loan portfolios to access our loan. ISED helped us create it, but it's preventing our members from having access to it. Therefore, we need some help to have the minister allow CFs—community futures development corporations—to access our growth fund.

Thank you.

The Chair: Thank you.

We're going to go now to Mr. Battiste, who will have six minutes.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Thank you for that.

I'd like to thank Mr. King for your history. I think you did a really good job of painting the picture of the dispossession of indigenous lands in Canada.

With that said, my question is for Shannin. When we started this study, the premise was that, if we were able to reconstitute lands back to indigenous communities, such as through ATRs—additions to reserves—as well as through creating urban reserves in municipalities.... I think there is a strong business case that this would not create a decline in growth, but actually create more growth in Canada.

You referenced Membertou in the Clearwater deal. Membertou is located in the heart of Sydney, Nova Scotia, and is one of the largest employers—not only of its community members but also in the Cape Breton Regional Municipality as a total.

I'm wondering if you could speak to why it would be a good investment to make sure that indigenous communities have urban reserves, and the kind of economic impact they can have for Canada as a whole if we were to use that model for success for economic reconciliation across Canada.

• (1555)

Mr. Shannin Metatawabin: Let's remember that indigenous people were separated from the market. We were placed on the individual reserves away from the market, so that Canada could be prosperous and access all those lands. By being separate from the economy, we're in the situation we're in. Canada has a people that are in poverty within the nation, which shouldn't be the case.

Allowing some of these modifications to land tenure ensures that indigenous people can participate in the economy. Indigenous people are not going anywhere. We are going to be here. We have something to provide to Canada and to the GDP. We have a more than \$100-billion opportunity. Per capita, we should be at \$75 billion right now. We're not anywhere near that. We're at about \$30 billion, from the last study that was done.

If we support the mechanism of economic development for indigenous communities, including capital, business support services and making sure that we have the right institutions in place, then indigenous people will provide prosperity for Canada because we're growing at four times the Canadian average. A lot of our youth don't have opportunities in this country. We're going to have a million indigenous youth by 2027. Let's make sure that they have jobs, businesses and opportunities, so that they can contribute to the economy.

Mr. Jaime Battiste: Quite simply, do you think that the creation of urban reserves in municipalities across Canada would add to the economic growth of those municipalities and of Canada in general?

Mr. Shannin Metatawabin: Yes. If you look at any of the leakage studies that are done for centres like Thunder Bay, Saskatoon and all the major centres that support indigenous communities in the north or around it, you'll see that there is a large amount of money creating an economy. Communities are already buying up land near urban centres.

If we can improve that process of transferring it to reserve, then all of a sudden you're going to have a hub of businesses. In Saskatoon, some of the communities have land all around Saskatoon. You're seeing that all across the country. If we made it a little bit easier for them to do it.... They want to invest because they want to be close to the market. They want to hire their people, who are moving to the urban centres. They can create services and products.

Mr. Jaime Battiste: I have about a minute left for my last question.

Shannin, you talked about land as capital.

An emerging theme that we've heard consistently from indigenous witnesses is that they see land as more than just a capital asset that is property to be accessed for funds. They see it more as something they're connected to. They feel like they have stewardship of it.

How would you manage to use land as a form of capital for loans when communities don't want that land to be removed from that connection to those indigenous communities? Is there a way we can do that innovatively, where the land acts as capital without the further separation of indigenous communities from their lands?

Mr. Shannin Metatawabin: I think there's a balance. You just want an opportunity to be able to plan from it. If every society in all of the world can't be wealthy without land, then having no land for indigenous people to plan from is not really a fair thing.

Land is embedded in our culture. We are the land and we're the protectors of the land, but when there's poverty in our land, we want to be able to utilize the land and have a plan to utilize some of that land to benefit our community and future generations.

We're the stewards of that land. We were provided that. It's our generational wealth in the land, but we've been spectators as our generational wealth has been eroded. Our natural capital has been eroded, and everybody else gets prosperous from our lands. We're just asking for a share of that prosperity.

We will be able to manage that land. We'll be able to balance environmental stewardship and prosperity for our people.

Mr. Jaime Battiste: Are there any numbers that you can show? Is there anything you can show us that says with some kind of certainty that, if we invest in these things, it will create growth? Are there numbers that back that up?

I'd really love to have that tabled for the final report of this, to show that when you invest in returning land to indigenous people—whether it's a municipality or whether it's key areas—economic growth comes with that and Canadians shouldn't be scared of it.

• (1600)

The Chair: We'll need a brief answer. We're almost at the end of the six minutes, but I'll give you a chance to respond.

Mr. Shannin Metatawabin: If you're asking for a specific number, I'd say look at history.

I don't have any numbers for that, but you just have to look at history and the indicator of a half or three-quarters of all wealth being derived from the land. If we don't have any land, then we're never going to see that wealth.

There's definitely going to be an increase in wealth for the community if we're able to manage our own lands.

Mr. Jaime Battiste: If you do find any documents, please table them.

Mr. Shannin Metatawabin: I will. Also, I'm providing this national indigenous economic strategy with some great recommendations.

The Chair: Thank you.

We go now to Madame Gill, who will have six minutes.

[*Translation*]

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

I, too, want to thank Mr. Metatawabin and Mr. King for being here. We very much appreciate it.

Mr. King spoke about his work on the “Land Back” report, and I'd like him to provide more information.

Mr. King, you called the tools for land restitution inadequate, saying it may be time to try something else, such as a co-management regime or national land restitution centre.

Could you start by giving us a short critique of those inadequate tools? I know there's a lot to say, so perhaps you could focus on how the tools fail. Second, can you elaborate on some solutions?

If you don't have enough time, you can always get back to the committee with your comments, of course.

Thank you.

[*English*]

Dr. Hayden King: Yes, I can try to answer.

The additions to reserve policy, in particular, has been criticized pretty roundly at this committee. I think people take a lot of issue with the length that it takes to add fee-simple land to reserve status.

I think it's costly. I think there are the negotiations that have to take place with municipalities. First nations don't really like the idea of having to pay tax on their own land back to municipalities, when you do transfer land back to reserve status.

However, I think in principle there's also an issue that we're not really addressing, or very few people are addressing, and that's to

transfer reserve land.... Let's say you have submitted a land claim and you have earned some restitution in the form of financial compensation. You take that money from your stolen land and you purchase land, and then you vest title in that land back to the federal government. The land that's been stolen from you, you've bought back, and then you turn around and give the title back to the federal government, who then transfers it to reserve status.

It seems like a very strange philosophy and approach to land back, where you finally have your land back and now you're giving it to the federal government to manage throughout this decade-long or two decade-long process, when you maybe have tax-free status and limited labour and environmental regulations on economic development initiatives, whether they're urban or rural-based. That doesn't seem to make a lot of sense to me. I think it may perhaps provoke some conversation about a different model of land tenure that indigenous people could hold that maybe is not just the fee simple model that requires taxes and is maybe not the reserve model that requires the transfer of title.

In all of the work that's been done over the past decade to revise the additions to reserve policy, I'm somewhat shocked that a different type of model hasn't been innovated that would allow indigenous people to maintain fee simple land ownership without the onerous taxation requirements.

Specific and comprehensive land claim processes have also been, at this committee, widely criticized. I think the specific land claims process requires first nations to subscribe to an often federal or provincial interpretation of historical treaties before they can even enter into a discussion of restitution.

I think it was in 2015 that the Liberal government proposed a national discussion on treaty implementation. That never came to pass, but it would be useful to have a conversation about what we actually mean by Treaty 3, Treaty 6, or Treaty 9. Why is there such an unwillingness to sit down and discuss what we actually mean when we say we're all treaty people? My interpretation of the treaty is different from your interpretation, and we have never crossed that Rubicon to figure out where the consensus is, if there is such a thing.

Instead we have to fight it out in specific and, of course, comprehensive land claim processes, and the latter are based on the principle of extinguishment. You can only enter into those processes if you agree to extinguish your title on the land or not assert your rights, to provide the federal government or provinces or territories with certainty. I think that's why the comprehensive claims process is grinding to such a halt over the last decade, since 2013.

What else did I mention? I noted the specific and comprehensive land claim agreements and the additions to reserve policy. They are inadequate.

• (1605)

[*Translation*]

Mrs. Marilène Gill: If I may, Mr. Chair, I'd like to ask Mr. King to send the committee more information on the proposals we didn't get to. We would really appreciate it.

Thank you.

[*English*]

The Chair: Thank you.

Now we'll go to Ms. Idlout, who will have six minutes.

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

Thank you very much, Chair.

I have a question for Mr. Hayden King.

I'm sorry I can't see you in person. I've been very proud of you and the work you've been doing.

The question I have is associated with the book you wrote in 2019. The organization you work for, the Yellowhead Institute, and that Red Paper impressed me.

If we're going to have our own government, we need to focus on our rights. Can you please elaborate on how we're going to use our rights to ATR, to land back?

Dr. Hayden King: Thank you for the kind words.

Aboriginal rights in this country are very limited and very narrow. Section 35 aboriginal rights afford us the ability to do what—to hunt, fish and gather? That is not the conception of rights that indigenous people had in mind when our ancestors agreed to share the land with Canadians. They are not the rights that we exercised prior to the establishment of this place—Canada—and, as I said, they provide very few avenues for us to express rights in any contemporary way. Courts have routinely frozen indigenous people in the past in terms of the expression of rights.

I think the one area where there is some innovation is title, in particular, the 2013 *Tsilhqot'in* case that vested a management interest, an economic interest, in jurisdictional potential among first nations that can prove title to their land.

I think that's an additional reason we see fewer communities moving through the comprehensive land claims processes. If the court recognizes that there's a managerial stake and interest in title lands, why would you go through a claims process that extinguishes those rights? You wouldn't. That's silly.

Instead, communities are starting to look to unique and novel models that are not connected to any federal policy or any federal legislation to begin animating aboriginal title in their own ways. I think the examples on the west coast with what the Haida are doing and what the *Tsilhqot'in* are doing really reflect an indigenous-led, indigenous-imagined approach to aboriginal title that isn't necessarily tied to section 35 aboriginal rights.

I think we often, as indigenous people, get caught up in this belief that we're bound by Canadian law and policy, but that's not necessarily the case. We have our own law. We have our own ap-

proaches to our relationship to the land, and we can assert and enforce jurisdiction on that land using those laws.

In fact, we're starting to see that Canadian law is providing maybe the shade or the contour to have a dialogue about where those laws meet. I think that was a really powerful element of the 2013 court decision.

The answer to your question is entirely on the side of indigenous people. It is up to indigenous people to enforce our interpretation of our rights in practice on the land. It's less about what a court decides or a government decides, in fact.

• (1610)

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

Thank you for answering me clearly.

As first nations and indigenous people, if we're going to continue with this.... The people that I sit with on this, the lawmakers of all Canada, how can we...? How can we, as Inuit first nations, get...?

[*English*]

I'll explain it in English. I hope I don't lose my time. The interpreter wasn't grasping what I was trying to say.

The Chair: Lori, go ahead and rephrase your question. We'll hear an answer and then we'll conclude this panel.

Ms. Lori Idlout: Okay. Thank you.

I really appreciate your response, because this can't only be about giving space to indigenous peoples to ensure that we are implementing land back.

As parliamentarians, we see that there's the court case way, which doesn't always work. As you said, it gives us narrower rights. As parliamentarians, what can we do to better recognize the existence of indigenous peoples' rights to things like land back?

It's not just about economic development. It's not just about education. Land back is very much about asserting indigenous jurisdiction and reasserting those rights.

Do you have any recommendations that parliamentarians can consider as we're making laws that impact Canada, so that we could use these tools to implement a better way to ensure that land back is happening?

Dr. Hayden King: Thank you for the question.

It is remarkable to me how little time and space has been spent defining aboriginal rights through a legislative agenda. Aboriginal rights have only been defined by the courts. Courts have, by degrees, expanded the principle and concept of aboriginal rights after conflict between first nations, Métis or Inuit, and federal or provincial governments.

This narrow and limited conception of rights is, in some ways, maybe by design, because of an unwillingness by the federal government to actually articulate how it views aboriginal rights and what is included in aboriginal rights. If we were to write a list of the aboriginal rights, how many lawmakers could list three or four or five, or what aboriginal rights should be? That lack of dialogue on the conception of aboriginal rights is, as I said, somewhat remarkable. That discussion isn't really happening. Maybe it's happening in this committee. I don't know.

Now, it's potentially problematic for parliamentarians to pass a law that describes the scope and content of aboriginal rights without the discussion and consent of indigenous people, but why not have that conversation?

I think that word in particular, “consent”, is a useful one. As I said in my opening remarks, I feel that it is a conversation that is emerging and proliferating around the country. It is a tool that communities are increasingly using to insert and enforce their vision of land management, land restitution, self-government and self-determination.

Perhaps there's an avenue through which to pursue the work that has already been done by the federal government around the United Nation's declaration and implementation plan and to build on the concept of free, prior and informed consent. That would allow communities to decide for themselves, at a local level, and perhaps regional level, what land back means to them.

Those are two possible avenues for that.

• (1615)

The Chair: Thank you.

Colleagues and witnesses, unfortunately that takes us to the end of our first round. We're going to suspend now so we can bring in our next panel. That will take a couple of minutes to do.

Mr. Metatawabin and Mr. King, thank you so much for being here today.

As you mentioned a couple of times, Mr. Metatawabin, you have a document to leave behind.

If you have anything further, Mr. King, that you'd like to send to us, we're in the final phase of our study. We're going to be moving into report writing soon, and we can accept up to an additional 10 pages of testimony.

We really appreciate your being here today and the insights you've shared.

With that, colleagues, we're suspended. We'll be back as quickly as we can.

• (1615)

(Pause)

• (1630)

The Chair: Colleagues, we're back in session.

Just before we get started, we had another slight technical issue related to receiving and distributing a notice of motion from our colleague, Mr. Zimmer, so I have indicated I will give him....

He's going to read it out in English. It will be interpreted by our team. We're waiting for an official translated version, but there's an issue with the translation. We will get that circulated so that everybody has the bilingual one in hard copy, but the oral version is accepted for giving notice, so we'll get Mr. Zimmer to read out his notice.

Before I do that, I'll go to Madame Gill, who I guess might have a point of order.

[*Translation*]

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

I want to flag that the interpreters didn't receive the French version.

• (1635)

[*English*]

The Chair: That's why, if it's in English and presented orally—

[*Translation*]

Mrs. Marilène Gill: They told me that.

[*English*]

The Chair: Verbal notice will be given, although we just received the proper version we were waiting for, so our clerk will distribute that to everybody right now, including the interpreters.

I'll call on Mr. Zimmer to read his motion, and then we'll get into hearing from our witnesses.

Madame Gill, does that work? You'll have it in a second.

Ms. Idlout, I'll go to you.

Ms. Lori Idlout: *Qujannamiik*. Thank you, Chair.

Can we not discuss the motion at the next session after it's been given in both official languages? That way we're not taking time away from our witnesses.

The Chair: Yes, procedurally, if it had been distributed in both languages before four o'clock it would be in order for the 48 hours' notice. As I said, there was a technical piece. That's why I'm trying to dispense with this very quickly so that we can get into the witnesses.

I'm going to go to Bob to read it out. It will be distributed to everyone, so you'll have it. Then, I'm going to move on to welcoming Ms. Bear, who's patiently waiting for us, and we'll get going with our opening statements and questions.

Mr. Zimmer, the floor is yours.

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

The motion reads:

That it be reported to the House that the committee supports the development of the gas-export project Ksi Lisims LNG, which will build a 12 million-metric-ton-a-year LNG facility and contribute to economic reconciliation with the Nisga'a Nation and contribute economic benefits to communities in northern B.C., and that the committee asks the government to remove all necessary regulatory roadblocks to this project and allow Ksi Lisims LNG to move forward expeditiously.

Thank you, Mr. Chair.

The Chair: Thank you.

That is being distributed, so everybody will have it. That's just putting it on notice, so there's no debate on it.

Now we're ready to move on.

Ms. Bear, welcome. Can you introduce your first nation for us, please?

Chief Shelley Bear (Ochapowace First Nation): It's Ochapowace.

The Chair: Okay.

Welcome to our committee today. You'll have five minutes now for an opening statement, and then we'll get into a round of six minutes of questions for each of the parties. That may be about as much time as we have for our discussion today.

When you're ready, Ms. Bear, the floor is yours.

Chief Shelley Bear: I would like to thank you for asking the Kakisiwew-Ochapowace Nation to appear as a witness at this very important hearing regarding the restitution of land to first nations.

My name is Okimaw Iskwew Shelley A. Bear, chief of our nation. I have been involved in first nations politics for decades in different capacities. As well, I've had the opportunity to have had passed on to me much of the oral history of our peoples.

The Kakisiwew-Ochapowace Nation is a signatory to Treaty 4. Prior to that, our peoples date back hundreds of years living off these lands provided by the Creator. We lived by hunting, fishing, trapping, trading and maintaining our way of life on extensive tracts of land throughout parts of what we now call Canada and the United States.

Treaty 4, signed by our leaders and the Crown, unequivocally promised that by agreeing to share this land, we would maintain our way of life. Everything else negotiated was on top of what we already had. This was to be enjoyed by Kakisiwew and its peoples to ensure our posterity forever.

I want to share what took place during Treaty 4 negotiations in 1874. This was passed on to me by my late grandfather and late chief Richard Poorman. Chief Kakisiwew and Chief Kawacatoose carried sacks of dirt and placed them on the negotiating table. Chief Kawacatoose then asked treaty commissioner Morris how many sacks of money he'd brought, and stated that for each sack of money, they could have a sack of dirt in exchange. The chiefs went on to strongly assert that "this country is not for sale". Of course, this never made it into the treaty transcripts, but this exchange has been passed down through the generations.

These words illustrate our ancestors' deep connections to the lands and how such an idea as selling our lands, or country, was a concept that our people couldn't grasp. It also illustrates how our words during treaty deliberations were misunderstood, misinterpreted or totally struck from the transcripts.

This is why our present leaders understand things differently. I'm referring to the agreement to share the land to the "depth of a plow". These words were also struck from the transcripts of the treaty as understood by our peoples.

When Canada transferred the administration of lands and resources to the prairie provinces in 1930 through the Natural Resources Transfer Agreement, the first nations people of the prairie provinces were not consulted or even informed. The NRTA resulted in an incredible breach of our treaties, a breach that was unlawful back in 1930 and is still unlawful today. The exercise of our right to hunt, fish, trap and gather is fundamental to the treaty promises that were made to first nations. Without our lands and resources, the exercise of our rights will be gone, as will our traditions, ceremonies and languages.

When the Crown came upon our lands, they used the doctrine of discovery, which allowed the Crown to claim sovereignty over our lands. This doctrine means that when a nation "discovers" land, it directly acquires rights to that land, but there were many first nations on Turtle Island. We were not discovered. These doctrines need to be put to rest. They continue to oppress our nations.

This oppression is evident in the Saskatchewan First Act, Saskatchewan's unlawful assertion of jurisdiction over lands and resources that rightfully fully belong to first nations. The Saskatchewan First Act is a direct threat to our inherent treaty and constitutional rights, especially when the province says they have exclusive jurisdiction over the natural resources within our treaty and traditional territories.

Canada was built on first nations land. This country has benefited from the colonization of our peoples in many ways, most notably in terms of the theft of our lands and our bountiful resources. In order for our nations to truly become sovereign and able to provide for our citizens, we need our land back.

In the words of Jody Wilson-Raybould, "True Reconciliation is broken down into three core practices—Learn, Understand, and Act".

• (1640)

First nations have been studied and analyzed for decades, yet we are still plagued with poverty, addiction and despair. What we need today is for Canada and mainstream society to learn about what we need. We need mainstream government leaders, their government bureaucrats and Canadian society to understand our rights and why we have a special relationship with the Crown.

First nations don't keep asking for handouts like many in this country believe. We want what is rightfully ours. We want to establish and maintain respectful relationships with our neighbours. We need Canada to understand that the rights we negotiated under treaty need to be respected. Until those rights are respected, we cannot achieve true reconciliation.

Finally, we need Canada, mainstream society and first nations to act. We need to put our words into action and deliver on the promises made under treaty. We need to work to that end in order for our nations to benefit and be truly equal to other Canadians. We want our children and grandchildren to have a fighting chance in our country. We deserve that. Our children and grandchildren deserve that. We owe them that.

The colonial practices of the past cannot continue. We need to re-define our relationship with each other and work toward true reconciliation. To me, reconciliation is “land back” that is fair and justified, because without the land, we have no home or no way to exercise our rights and pass down our sacred teachings to our children, grandchildren and those yet to come.

Thank you for allowing me to be on the agenda today.

Ekosi.

The Chair: Thank you, Chief Bear, for your opening comments.

We're going to go right into our first round.

Mr. Viersen, I have you first. You'll have six minutes.

• (1645)

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

I'd like to move the motion that I put on notice a while back, around the losses of churches in the communities in my riding and around the country.

I read that motion into the record a few meetings back. I would like to get that motion to a vote today. It doesn't ask for a study or anything like that. It just asks for a report to the House. I think we can get that done here today.

Over 80 church buildings have been reported burnt in this country. Most of these have been on first nation reserves and were used by local indigenous people. These losses of church buildings have been devastating to these communities. These churches are places of milestones like weddings, funerals, baptisms and that sort of thing.

Community members have come to me and shown their displeasure for this. Chief Allan Adam of the Athabasca Chipewyan First Nation—

Ms. Lori Idlout: I have a point of order.

The Chair: Hold on a second, Mr. Viersen.

Ms. Idlout, you have a point of order.

Ms. Lori Idlout: I remember that we had agreed that we wouldn't discuss that motion until after this study.

The Chair: It is a motion that's in order and Mr. Viersen has the floor.

The clock is running. I'm going to stop the clock for a second.

We had this discussion last time about moving motions. Bosc and Gagnon actually addresses the issue. For reference's sake, it is in chapter 12, page 565. The first sentence of the second paragraph indicates, “The moving of a motion which does not require notice typically ends the speech in which it is included.”

That principle tends to carry through in other committees I've been at where, if a motion is raised during the allotted timeslot, it will go until the motion is debated and dispensed with. If we run out of time, then the next speaking slot goes to the next party. That's how we're going to proceed with this.

You do still have four and a half minutes. The floor remains yours until we dispense with this.

Mr. Arnold Viersen: Super.

I just wanted to get Chief Allan Adam of the Athabasca Chipewyan First Nation on the record here. He said that he was devastated to watch their church burn in his community. He said, “Where do we go now for funerals or to ask for prayers? [This] never should have happened. It was uncalled for.”

Over the summer, one of the oldest churches in Alberta was burnt down in Grouard. It was St. Bernard church. I would really like to recognize that and give our condolences as a committee to that community and make sure that this doesn't happen any longer in Canada. It's outrageous that churches are being burned down across the country.

I can read my motion once again:

That it be reported to the House that the committee condemn the arson and attacks on over 80 churches across Canada and in particular extend their condolences to the community of Grouard and Kapawe'no First Nation with the loss of Saint Bernard Church, one of the oldest churches in Alberta, a piece of history and a building that holds memories for generations of community members and that the committee reaffirm freedom of religion and assembly and call for those responsible for these attacks to be brought to justice.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Viersen.

We'll go through the speaking list that I have.

First, I have Mr. Battiste, then Mr. Carr, Mr. Kurek, Mr. Powlowski and Madame Gill. That's the speaking order we have.

Mr. Jaime Battiste: With what has happened over the past few years with reconciliation and with churches and with the Pope coming to apologize, there's a deep need for reflection and reconciliation, but I really want to get to the end of this study. We've called to adjourn debate on this. I would like to call to adjourn debate on this if that's what we can do, so we can hear the rest of the study. However, if we have to, then I would rather discuss it in camera because it does have a way of triggering a lot of people who went through Indian residential schools and with the things they are going through. I wouldn't want to have this in camera, but if you're going to force a vote on this right now, then I'd like to call it to a vote, with us voting against.

The Chair: I just need to clarify, because I've heard two things. One of them was to adjourn debate and one was to call the vote, two very different things. To adjourn debate is a motion that is required to be acted upon without hearing any further speakers, and if we do the vote, then I have my speakers list I need to get through.

• (1650)

Mr. Jaime Battiste: Then I vote to adjourn the debate.

The Chair: I will call the question on that. Do you want it recorded, or can we just do a show of hands?

An hon. member: I'd like a recorded vote.

(Motion agreed to: yeas 7; nays 4)

The Chair: Debate is adjourned, and we will continue on with our questions.

There are still 21 seconds on the clock.

Mr. Viersen, the floor is yours.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): On a point of order, Chair, according to Bosc and Gagnon, I believe that, from the moment that the motion was moved, the clock would have been paused. Then it would be restarted with the amount of time that Mr. Viersen had left.

The Chair: No, that's a discussion we had last week and I indicated that we had come forward with the ruling, so the ruling that I have made is that the clock is not stopped. The person has the duration of their period for questioning, and if it hits the end, which we just did, it goes to the next person.

Mr. Viersen.

Mr. Arnold Viersen: Just on that point of order, when you read Bosc and Gagnon to us you said a motion without notice, but my motion had notice, so perhaps you should review that.

I will cede the rest of my time at this point, but I just ask you to review that. My motion was with notice.

The Chair: Point taken. I realize that, and I said it's a principle that has been carried forward to committees for motions with notice as well, so it's just a way of keeping the dialogue going, but I appreciate your ceding the floor.

We will go on to Mr. Battiste, who will have six minutes.

I will go back to the clerk to revisit that, and the next time it comes up I will give you my decision.

Mr. Arnold Viersen: Thank you.

The Chair: Mr. Battiste, you have six minutes.

Mr. Jaime Battiste: Thank you, Chief Bear, for bearing with us through that administrative discussion.

My question is this. You talked about where we are in terms of Saskatchewan and a lot of the numbered treaties. It is my understanding that while land was discussed, there was not a good translation done where the nations fully understood the English version of the treaties.

Is that your understanding of the treaties as well, the numbered treaties?

Chief Shelley Bear: Yes, it is.

As I said, I've spent a lot of time working and reviewing. Not only that, but I had the opportunity to be passed the oral history of my *mosóm*, Marlowe Kanowasquahum, who was raised by his grandfather, who was at the signing of Treaty No. 4. Chief Kakisiwew was the first signatory to Treaty No. 4. The first one to step up and touch the pen for the signing of Treaty No. 4 was my direct ancestor. A lot of that history has been passed on.

I worked for 16 years with the Federation of Sovereign Indigenous Nations. I spent a lot of time—I mentioned earlier the late chief Richard Poorman and the late chief Denton George. They were very strong. As for the late chief Irvin Starblanket, I had the opportunity to spend a lot of time with him. Those were always the discussions that took place over the years when I had the opportunity to sit with him.

Mr. Jaime Battiste: Thank you for that.

We have heard the Office of the Treaty Commissioner in Saskatchewan talk about the treaty land entitlements and how they worked with first nations in Saskatchewan to try to give some of this land back. I'm wondering if you could tell us how you feel that process unfolded and what the successes or failures of that program were.

• (1655)

Chief Shelley Bear: Again, it goes back to the treaty and what our ancestors signed. Yes, we signed for land to be set aside. I actually shouldn't even be saying "set aside". It was always our land. We had never given it up. It was land sectioned out for us, for our people to have posterity.

Today, unfortunately, we're in a case where Ochapowace's two treaty bands were amalgamated unilaterally by the Indian agent in 1881. Canada was found guilty of breach of treaty, so we're in the process of reconstituting one of those nations back to its original place.

When we look at the amount of land we have and we look at the survival of our population for the future, the amount of land we have is never going to be enough for our people when we move further into the future. That's what I go back to. It was meant to be for our future generations to prosper. I don't think that when they gave us 46,000 surveyed acres of land in 1876 or 1878, they knew that wasn't going to be enough land for our people to prosper.

We talk about the TLE. Yes, there have been problems with it. We are a TLE band here in Saskatchewan. We never received our "loss of use" for those lands over the years. We received enough to purchase back those acres of land that we weren't given rightfully under treaty. It makes things hard when you have the Saskatchewan government putting up Crown lands for auction, when we haven't even acquired our shortfall acres for treaty. That goes back again to the Saskatchewan First Act and what they're doing here in Saskatchewan.

With what's going on here, I don't know if we'll ever be able to achieve shortfall for our first nation here in Saskatchewan, the Kakisiwew and Chacachas treaty bands. In Saskatchewan, due to the policies they put in place, they can auction off Crown lands without any consultation whatsoever.

Mr. Jaime Battiste: Chief Bear, I think I have about a minute left.

A lot of the testimony we've heard so far talked about just what you're talking about, the future generations and how we can create prosperity within first nations communities. A lot of them have done really well with urban reserves and moving forward with economic development that creates capacity and growth.

Do you think this is something that should be done more in Saskatchewan?

Chief Shelley Bear: Yes. We do a lot of it in Saskatchewan. We have urban lands that have been transferred to treaty lands. I wouldn't say too urban; we're on the outskirts of Regina, just a couple of minutes out. We had the opportunity to purchase those lands back in the early 1990s. On those lands we have started businesses that our urban members or off-reserve members can enjoy.

At the end of the day, it's about sharing in these resources so that we can be equal and even more prosperous.

I don't think it was—

The Chair: Thank you, Chief Bear. I'm going to have to jump in. We're at the end of the six minutes, and I still have two members who need to get to their questions. Unfortunately, we have to stop there.

[Translation]

We now go to Mrs. Gill for six minutes.

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

Thank you to Mr. Roy and Ms. Bear for their participation.

Mr. Roy, I hope you'll be sending the committee your opening statement and perhaps a brief. As the chair mentioned, we would be very appreciative.

Ms. Bear, I'm interested in your comments. A few times, you talked about the barriers to land restitution, the time frames associated with the various programs and the impact on your first nation.

What are your recommendations for the committee when it comes to land restitution?

• (1700)

[English]

The Chair: Did we lose Chief Bear?

The Clerk of the Committee (Ms. Vanessa Davies): Yes, Chair, we have.

The Chair: I'm stopping the clock.

We've lost Chief Bear. That's the issue.

Mr. Damien Kurek: Mr. Chair, if I could, that just highlights the dynamics that so many rural and remote Canadians face when it comes to the Internet and connectivity. Certainly, it's emphasizing that those watching should note that this is an ongoing challenge that so many Canadians—the 10% of Canada that lives outside the urban centres—have to deal with on a regular basis. That's just a note for the many who do, because sometimes connectivity issues affect not only those who are trying to do basic things, like school and work, in small towns and remote villages, but also those who are trying to participate in Canada's political and parliamentary processes.

The Chair: You raise a very good point.

That gives me an opportunity to speak to the significant investments the government is making in increasing rural broadband across the country to make sure that all Canadians are connected. Thank you for the opportunity to raise that.

Madame Gill, do you have a point of order?

[Translation]

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

Can we suspend until we get the technical issues fixed?

[English]

The Chair: I was going to look and see.... That's a good idea. We'll suspend until we get the sound back.

• (1700)

(Pause)

• (1700)

The Chair: I call the meeting back to order.

Unfortunately, we've been unable to get Chief Bear back here, and because of this technical issue we are at the end of the meeting time. We're going to be moving into drafting instructions at this point.

I apologize to Madame Gill and Ms. Idlout, but we have no witness left online. We're going to end this portion of the meeting and move in camera for the next part of the meeting.

Ms. Idlout, you should have the new link for moving to the in camera meeting. We'll close off this public meeting, and we'll give you a minute to get into the new link and join us in camera.

Mr. Roy, thank you so much for sitting in with us today. I really apologize that things didn't work, and I think it raises the question

of technology for many indigenous communities and rural areas, as Mr. Kurek mentioned. That's why our government is working on it.

With that, folks, we'll suspend, and we'll be back in camera in a few minutes.

[Proceedings continue in camera]

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