HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

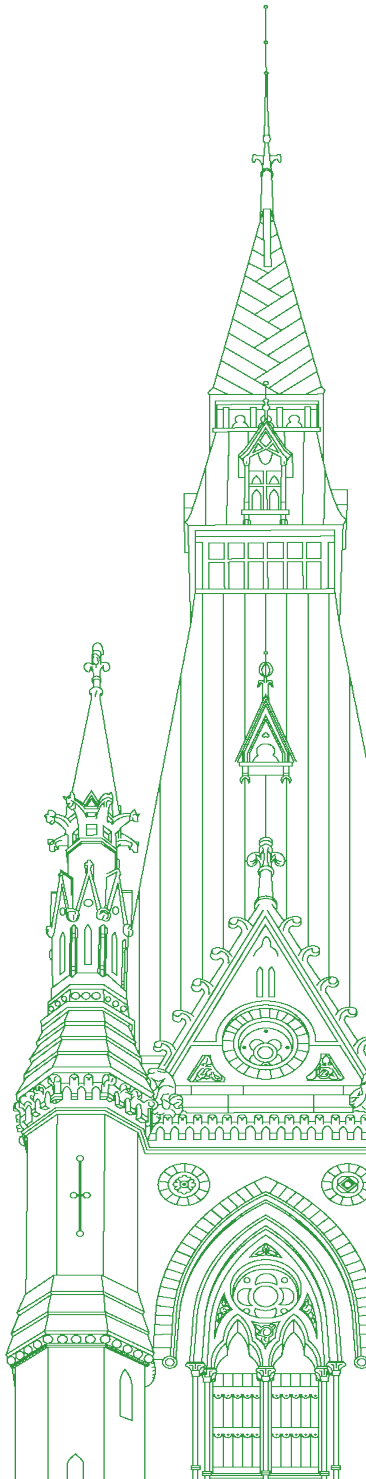
45th PARLIAMENT, 1st SESSION

Legislative Committee on Bill C-39

EVIDENCE

NUMBER 004

Monday, October 26, 2026



Chair: James Maloney

Legislative Committee on Bill C-39

Monday, October 26, 2026

● (1540)

[*English*]

The Chair (James Maloney (Etobicoke—Lakeshore, Lib.)): Good afternoon. We're running a bit late. We had a vote in the House of Commons. I apologize to our witnesses for that.

I'd like to call this meeting to order. Welcome to meeting number four of the House of Commons Legislative Committee on Bill C-39.

The committee is meeting today pursuant to the order of reference of Thursday, October 8, 2026.

Today's meeting is taking place in a hybrid format pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

I would like to make a few comments for the benefit of the witnesses and the members. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic. Please mute yourself when you're not speaking.

For those on Zoom, at the bottom of your screen, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you can use the earpiece and select the desired channel. I'd like to remind the witnesses that the committee members may ask questions in either French or English. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance in order to take full advantage of the time allocated for questions and answers.

All comments should be addressed through the chair. For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the “raise hand” function. I will manage the speaking order as best I can with the assistance and patience of the clerk.

I would now like to welcome our witnesses for today's first panel. As an individual, we have Maxime St-Hilaire, professor, faculty of law, Université de Sherbrooke. From the Canadian Federation of Agriculture, we have Brodie Berrigan, senior director of government relations and farm policy, and Scott Ross, executive director. From the Fédération des chambres de commerce du Québec, we have Véronique Proulx, chief executive officer, and Miriane Bouthillier, vice-president, labour and labour relations.

Each organization or individual, as the case may be, will be given up to five minutes for opening remarks.

I believe, Mr. St-Hilaire, that we're starting with you.

You have five minutes, and the floor is yours.

[*Translation*]

Maxime St-Hilaire (Professor, Faculty of Law, Université de Sherbrooke, As an Individual): Mr. Chair, members of the committee, thank you for the invitation. I will focus my remarks today on the amendments proposed to the Building Canada Act.

In June 2025, when the government moved Bill C-5 under time allocation, I appeared before the committee studying the bill. At that time, I argued that the bill was designed, without saying so openly, to grant emergency powers to the executive. Had the government followed the transparency required by rule-of-law principles, it would have acknowledged that openly. I warned the committee against making those powers permanent. Consistent with constitutional rule-of-law best practices, I proposed that those powers expire after five years, that they not be used when Parliament is prorogued or dissolved, and that they be reviewed by the parliamentary review committee established under the Emergencies Act. I also stressed that the legislation should not be assessed solely through the lens of economic development, but rather against the public interest, taking into account the respective objectives of the statutes from which exemptions might be granted. Put simply, we need to determine whether setting aside those laws in the name of economic efficiency is actually justified.

The committee adopted those amendments, virtually word for word, at the opposition's request. As a result, the legislation was forced to acknowledge its true nature as emergency legislation, even though, I would note, the word “urgent” appeared in the preamble from the very first version of the bill. The bill before us today, Bill C-39, undoes most of the safeguards those amendments put in place.

The issue is not whether Canada is in an emergency situation as a matter of fact. The issue is whether we understand or are prepared to acknowledge what it means in law to grant the executive the power to exempt projects of its choosing from public-interest laws that would otherwise apply. Legally speaking, I emphasize, these are emergency powers or exceptional powers, regardless of how they're packaged.

Contemporary international best practices, including those promoted by the Organization for Security and Co-operation in Europe and the Venice Commission, of which Canada is a member, I remind you, require that emergency powers, first, be declared with full transparency; second, be temporary; and third, be subject to robust and ongoing parliamentary oversight. These practices are designed to guard against a danger facing all constitutional democracies governed by the rule of law today: that of the exceptional becoming the norm, and emergency powers becoming permanent.

Today, 15 months after the passage of Bill C-5, the government is back for more. Bill C-39 removes the five-year sunset clause. It extends the exceptional regime to entire regions and categories of projects. It creates new powers that may be exercised when Parliament is not sitting. The very normalization of emergency powers that I warned against is now taking shape.

There is something even more troubling. This significant step is not being taken openly through a stand-alone bill that would clearly acknowledge its implications. Instead, it's buried in a 243-page omnibus bill. That is not an accident. It is a method. In March, under the reassuring label of a “regulatory sandbox”, Bill C-15 gave ministers the authority to exempt businesses from federal statutes through amendments to the Red Tape Reduction Act, the very title of which conceals its true effect. There's a difference between cutting red tape and exempting compliance with the law. In short, the use of omnibus legislation is compounded here by the gradual dispersal of exceptional powers that, scattered in this way, make the law increasingly difficult for parliamentarians and the public alike to understand. However, best practices require that exceptional legislation remain clearly separate from ordinary legislation.

I therefore address all members of this committee. You face a simple choice: Either you uphold the transparency and safeguards that were ultimately built into the original bill in 2025, or you remove them and, in doing so, turn away from established rule-of-law principles.

● (1545)

In conclusion, let us be clear: If Parliament believes that its laws governing assessments and administrative approvals are genuinely too burdensome, then it should amend them openly through the normal legislative process and debate those changes accordingly.

Thank you.

[*English*]

The Chair: Thank you, sir.

We will go over to the CFA.

Mr. Ross, go ahead.

Scott Ross (Executive Director, Canadian Federation of Agriculture): Thank you, Chair and members of the committee, for the opportunity to appear today.

My name is Scott Ross. I'm the executive director of the Canadian Federation of Agriculture, which is Canada's largest general farm organization, representing approximately 190,000 farmers and farm families across the country. I'm joined here today by Brodie Berrigan, our senior director of government relations and farm policy.

Canadian producers depend on reliable rail and marine transportation to receive essential inputs and move their products to domestic and international markets. Disruptions affect far more than the parties directly involved in a labour dispute. Farmers face delayed payments, higher costs and lost market opportunities. Repeated disruptions also undermine Canada's reputation as a reliable supplier, particularly as we work to diversify our export markets. That is why CFA welcomes the government's efforts through Bill C-39 to strengthen collective bargaining in Canada's transportation system.

We believe the special mediator is one of the most promising provisions in the bill. A dedicated mediation process supported by clear timelines and public reporting when parties are unable to reach an agreement can improve transparency and accountability, while encouraging timely negotiated outcomes.

However, we believe there is an important opportunity to make this provision more effective. The bill creates the special mediator process we have advocated for, but leaves appointment entirely to the minister's discretion. Neither party can require an appointment, and if no special mediator is appointed, there is no report. Without that report, the minister may be unable to exercise certain powers to direct binding dispute resolution. CFA recommends making that appointment automatic for disputes that remain unresolved by day 75 of conciliation.

Our goal has been the same from the beginning, which is to resolve disputes before they become disruptions. The economic consequences of labour disruptions for Canadian agriculture can be substantial. The supply chain task force noted that “rotating strikes at the Port of Montreal in 2020 led to 21 container ships diverting elsewhere, which cost businesses an estimated $600 million in lost sales.”

A February 2026 study by Anderson Economic Group estimated that a combined rail and port work stoppage lasting just one week during peak export season could cost Canada's grain industry nearly $540 million in lost earnings. Importantly, that same study estimates that up to $112 million in grain sales could be lost before a work stoppage even begins, as transportation networks slow in anticipation of a potential disruption. These impacts can continue after service resumes, as backlogs take time to clear and international customers may turn to alternative suppliers.

These findings underscore the importance of addressing disputes as early as possible and taking proactive steps to prevent disruptions, particularly given that significant economic harm can occur well before a work stoppage begins.

Beyond the labour provisions, Bill C-39 also includes an important measure related to rail competition, which is the proposed restoration of extended interswitching in the prairie provinces. CFA welcomes this measure. However, we would encourage the committee to make extended interswitching permanent rather than introducing another temporary pilot. We also believe the measure should be brought into force as soon as possible. The government's stated intention to delay implementation until there is a reliable trading relationship with the United States creates unnecessary uncertainty for agricultural shippers, who need greater competition and more reliable transportation options today.

Bill C-39 represents meaningful progress. We encourage the committee to build on that progress by strengthening the special mediator process and advancing greater competition and resilience across Canada's transportation system.

Thank you and I look forward to your questions.

● (1550)

The Chair: Thank you.

We'll move on to Madame Proulx.

[*Translation*]

Véronique Proulx (Chief Executive Officer, Fédération des chambres de commerce du Québec): Good afternoon, everyone.

Thank you to the committee for giving us the opportunity to share the perspective of the Fédération des chambres de commerce du Québec.

I'm joined today by my colleague Miriane Bouthillier, vice-president, labour and labour relations.

The Fédération des chambres de commerce du Québec brings together 120 chambers of commerce across Quebec, from Montreal to Matane. It is therefore a network firmly rooted in communities throughout the province. The federation also includes 1,000 member businesses, ranging from large corporations to small and medium-sized enterprises, representing all sectors of activity across Quebec. As you can appreciate, this gives us a broad perspective on the challenges and realities facing each region of Quebec.

The federation has four key priorities, which reflect those of Quebec businesses: workforce issues, which remain the number one challenge for small and medium-sized enterprises; competitiveness from a tax, regulatory and administrative standpoint, an area that is addressed in part by this bill; market access, particularly access to the U.S. market but also to public procurement opportunities; and, finally, regional vitality, which means ensuring that our regions remain dynamic and contribute to the economies of Quebec and Canada.

We are appearing before you today against the backdrop of a particularly challenging economic environment. As you know, Quebec has been hit harder than any other province by tariffs and the trade dispute. In practical terms, this has resulted in a decline in exports, the loss of nearly 100,000 manufacturing jobs and a 19% decrease in investment intentions over the past year.

I often say that there is very little we can do about the decisions President Trump chooses to make. What we can do, however, is make sure we are using the tools that are within our control, those over which governments have influence. I'm referring here to creating a predictable, efficient and attractive business environment.

For that reason, we support Bill C-39. However, three conditions must be met if we are to see tangible results. First, we must continue investing in transportation infrastructure. Second, approval processes must become more predictable. Third, we need to reduce the frequency of labour disputes and ensure that the government can step in when circumstances warrant.

I will now briefly outline some of our recommendations and will be pleased to discuss them further with you during questions.

Our first recommendation is to continue investing in major strategic projects and transportation infrastructure that support regional growth, particularly through the national trade corridors fund. Why is this important? Our ports, railways, airports and highways are what allow Canadian products to reach markets across the country, in the United States and around the world. The Prime Minister has identified market diversification as a priority. We must therefore ensure that we have world-class transportation infrastructure.

We also have two recommendations related to the approvals process. Recommendation 5 in our brief is that the agreement between Quebec and Canada on environmental approvals be finalized as quickly as possible. Recommendation 7 is that the federal government draw inspiration from Alberta's “Automatic Yes” model, a deemed approval regime, by attaching enforceable mechanisms to approval timelines in order to strengthen the Impact Assessment Agency of Canada's accountability obligations.

Having a single decision-making authority is an excellent step. The government has committed to providing a decision within 12 months, which is very positive. We want to ensure that the government meets its own commitments in order to provide predictability for businesses. Whether or not the federal government adopts Alberta's model outright, it could certainly draw inspiration from the deemed approval model to ensure that administrative delays have consequences and that meaningful corrective measures are available when deadlines are missed.

I will now turn to labour disputes.

We have three recommendations in this area.

Recommendation 9 is to provide for government intervention in exceptional situations where a labour dispute threatens the viability of businesses.

Recommendation 10 is to clarify that the minister may begin assessing the relevant criteria immediately upon receipt of the special mediator's report.

The Fédération des chambres de commerce du Québec fully supports collective bargaining and respects workers' right to strike. Only 6% of labour disputes result in work stoppages, but those disputes can have a devastating impact on the economy. We saw that with Canada Post, the Port of Montreal, CN, CP and the Port of Vancouver, among others.

As it stands, the Canada Labour Code leaves uncertainty about when government intervention to limit the right to strike may be warranted. We support the proposed amendment to section 107 and agree that the minister should have the ability to intervene. That said, the conditions governing ministerial intervention should be more clearly defined rather than left entirely to ministerial discretion. More clarity would provide greater predictability for all parties involved.

Finally, I'd like to touch on strike notice periods. Currently, the notice period is 72 hours. In some countries, it is as long as 14 days. The bill should allow the minister to require longer notice periods when circumstances justify it, particularly in sectors such as rail transportation and ports.

I will conclude there. I look forward to your questions. Thank you very much for your attention.

● (1555)

[*English*]

The Chair: Thank you very much.

We'll move into the six-minute round, starting with Mr. Gourde.

[*Translation*]

Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

My first question is for Ms. Proulx.

You talked about worthwhile transportation infrastructure. One major project currently on the table is Alto, the high-speed rail line, with a price tag of $130 billion.

Is that project worthwhile enough to justify a $130-billion investment? Would that $130 billion be better invested in rail infrastructure for moving freight or in ports for shipping goods?

Sooner or later, choices will have to be made. I'd like to hear your thoughts.

Véronique Proulx: We have come out in support of the Alto project because it's expected to generate significant economic benefits. We're talking about $40 billion to $60 billion in economic spinoffs for Quebec.

In the current environment, we need major projects that will facilitate the movement of people and goods while generating economic activity. As I mentioned earlier, we're dealing with the effects of the tariff war. Our exports are down. We must ensure that our businesses have opportunities if we want them to stay and invest in Quebec. High-speed rail is one of the projects that could generate economic benefits for locally based businesses.

Jacques Gourde: Help me understand how a project with such a hefty price tag, designed primarily to move people faster, is going to boost Canadian exports.

Véronique Proulx: I was referring to the mobility of people and workers. Let me draw a parallel with regional transportation. We're calling on the government to invest in regional transit so that workers, visitors and tourists can travel throughout Quebec's regions. This project will facilitate the mobility of workers, tourists and other travellers.

Returning to this particular project, what interests me most is ensuring that there is local content in the contracts awarded. That would create opportunities for businesses in the construction and manufacturing sectors, both of which have been hit hard by the tariff war.

Jacques Gourde: Do you really think workers are going to take the train morning and night to work at a manufacturing plant and produce goods? Most workers live fairly close to where they work.

Véronique Proulx: That's a fair point. I'm referring more to people who travel for business to Ontario or who move between provinces. That's the context in which I was presenting our position. Again, the most important consideration for us is the business opportunities and economic benefits it could generate for our companies.

Jacques Gourde: Your microphone isn't on. Please repeat your answer; otherwise, it may not make it into the record.

[*English*]

Véronique Proulx: Are we good?

The Chair: Yes, but just let the technical people control the microphone.

Véronique Proulx: I didn't touch it, though.

The Chair: There was a glitch. It's okay. It's not your fault.

Véronique Proulx: Do you want me to restart my answer?

The Chair: Yes, please.

[*Translation*]

Véronique Proulx: Certainly.

As I was saying, the most important aspect of the Alto project, and one of the main reasons we support it, is the economic benefits it is expected to generate for Quebec businesses.

Jacques Gourde: You've just confirmed my point: It won't benefit people who live near where they work.

Véronique Proulx: No, people commuting to and from work will not necessarily use high-speed rail. However, many people travel for business. We do a great deal of business with Toronto and with companies in Ontario.

Jacques Gourde: Do you really think people will start holding more meetings in person simply because there's a high-speed train, instead of using Zoom? The reality today is that people can hold three meetings a day on Zoom rather than spend two days travelling for a single in-person meeting.

Véronique Proulx: What I'm saying is that it improves mobility, but I will return to the point that matters most to us. In the context of the tariff war, we want businesses to remain in Quebec and continue investing here. They need projects, and they need to know that they'll be able to compete for contracts with a degree of predictability. In that respect, the project is worthwhile.

● (1600)

Jacques Gourde: Thank you, Ms. Proulx.

Professor St-Hilaire, you spoke about executive overreach. Could you elaborate on that? It's a very important concept.

Maxime St-Hilaire: The principle of executive action and public administration is, first and foremost, to comply with the law within its framework. Laws are passed, and they're intended to apply to the government and the public administration.

In this case, though, the government plans to give the executive branch a massive amount of power to depart from the law. In fact, that can be done; all governments must be able to do this when an exceptional and urgent situation arises. Everyone understands that. However, in a situation like that, it's important to be frank, to be transparent, to be open and to acknowledge that the government is resorting to exceptional means and that it normally doesn't behave that way. Laws have been passed for a reason. It has to be transparent. It has to be open. It has to be temporary. It has to be more closely monitored. That's how to do things properly.

If people don't want to resort to exceptional means, then they amend the law. You're all parliamentarians, so you should understand your role. In Athens, in 403 BC, people knew the difference between a law and an order.

Jacques Gourde: I have one last question for you, Mr. St-Hilaire.

Maxime St-Hilaire: They were able to make that distinction.

Jacques Gourde: Thank you.

I have one last question for you, since my time is running out.

One example of executive power going too far is the Alto high-speed rail. The executive branch gave itself the power to expropriate land. After the events at Mirabel, laws had been put in place to prevent this from happening again. However, everything was dismissed out of hand.

Is this type of regulation abusive?

Maxime St-Hilaire: My remarks aren't about what political choices should be made. As a constitutional law professor, I'm focusing my remarks on how. The choice of whether or not to use emergency powers is up to you. I'm discussing how to comply with international best practices regarding the rule of law. I'm not going to comment here on the substance of cases. I'm not here for that. I'm speaking as an expert.

Jacques Gourde: The government is overstepping international best practices, then.

Maxime St-Hilaire: Absolutely, the government oversteps international best practices when it tries to pass off emergency powers as normal powers, when it doesn't set time limits on them and when it doesn't ensure, for example, that Parliament will continuously be able to control powers that don't normally belong to the executive.

[*English*]

The Chair: Thank you, sir.

[*Translation*]

Maxime St-Hilaire: All of that was addressed in the last amendments to Bill C-5, and all of that is what's being removed.

[*English*]

The Chair: I'm going to have to stop you there.

Ms. Desrochers, we go to you for six minutes.

[*Translation*]

Caroline Desrochers (Trois-Rivières, Lib.): Thank you very much, Mr. Chair.

I'd like to thank the witnesses for being here today, in person or by video conference.

Thank you very much, Ms. Proulx, for talking about the benefits of the Alto project for Quebec, which would be between $40 billion and $60 billion. That's significant. We also have yet to mention the environmental benefits. It's a fact that the high-speed rail will significantly reduce greenhouse gas emissions.

To answer my colleague's question, I have to tell you that the people in my riding, Trois-Rivières—and the same is certainly also true for the people in the riding of my colleague from Peterborough—are very much looking forward to being able to go to work in Montreal or Toronto within 45 minutes, compared with the two hours it takes now. This is a project that's highly anticipated in our region.

I would now like to come back to Bill C-39.

Thank you very much for the brief you published. Some of your recommendations aim to require departments to take into account the technical, economic and practical feasibility of the conditions imposed as part of the approvals for all projects. Bill C-39 would make that very explicit when it comes to, for example, the Fisheries Act, the Species at Risk Act, the Navigable Waters Act and the Canadian Energy Regulator.

Does what we put in the bill address your concerns, or do you think we need to go further?

Véronique Proulx: I would say that the bill addresses our concerns.

Whether at the federal or provincial level, the challenge for businesses that carry out major investment projects in both infrastructure and energy—I'm thinking of the mining sector and transportation infrastructure, in particular—is the lack of predictability. It's also about being asked questions that are difficult to answer and that maybe carry less weight in a decision-making process. Being more practical, looking at economic aspects and having predictability will enable investors to have predictability. It will make them want to invest here. It will give them insight into what to expect.

Now, I want to be very clear: Businesses will comply with the regulations that are in place. For us, the idea, our interest, our objective, is to have that predictability and to be able to move through the process more quickly, without necessarily skipping any steps.

● (1605)

Caroline Desrochers: Thank you for that.

Do you think it's possible to have conditions that remain strict from an environmental standpoint, while being realistic and achievable for project proponents? Is it possible to find that balance?

Véronique Proulx: Absolutely. I have spoken with a number of businesses that were going through approval processes with the provincial or federal government—to bring us back to Ottawa—and what they often mention is the duplication of applications and the fact that they have to wait for a response to a submitted form before they can move to the next step. How can the process be made more agile, without necessarily skipping steps, to enable businesses to move forward in this process? What can actually be done to better support the people who apply, to help them get through the various steps?

Caroline Desrochers: That's great, thank you very much.

I will now turn to the representatives of the Canadian Federation of Agriculture.

[*English*]

Thank you so much for bringing the examples of the last two work stoppages and their impact on farmers. I'd really like to dig a bit further into this, because the current project does put some guardrails and some conditions around how the minister would be able to invoke section 107, as well as the national interest assessment.

I'd like to understand this: From your perspective, what other means do farmers have of getting their product to market if rails and ports are not available to them?

Scott Ross: Simply, they do not have any alternatives. For foreign markets in particular, ports are absolutely essential. Even for the vast majority of producers that are shipping domestically, if you're in the prairie provinces, as a prime example, costs and shortages in trucking make it cost-prohibitive to ship many of the commodities farmers rely on for their incomes.

Caroline Desrochers: In some cases, those crops are just lost completely.

Scott Ross: It could be a loss of crops, or it could be a loss of quality. There are a number of different implications that can happen, but all of them come directly out of the farmer's bottom line at the end of the day.

Caroline Desrochers: You talked about $600 million in lost sales. Concretely, I'm curious about small farmers. I know you don't have a number, but in terms of magnitude, I'm trying to get to the impact on the small farmers, their families, their people and their ability to put food on the table.

Scott Ross: Right now, 98% of Canadian farms are family-owned, small and medium-sized enterprises. There are literally tens of thousands that would be implicated. Like we said, we represent 190,000 farm families across the country. Depending on where the work stoppage occurs, there could be implications for tens of thousands of farmers, if not over 100,000 farmers, at any point. They are family operations.

Caroline Desrochers: Thank you.

My last question is this: What do you think would be different if the provisions in this bill had been in place back then?

Scott Ross: What we see as beneficial in this bill, certainly, is the longer period for conciliation. The special mediator function is a critical tool in ensuring that there is good-faith negotiating happening earlier in the process and ensuring that we aren't getting to a point where there's a labour disruption without that real good-faith negotiating happening. That's why we're so seized with the need to move that special mediator function to an automatic one at that 75-day period to ensure there is that good-faith negotiation happening in advance of a work stoppage.

Caroline Desrochers: Thank you very much.

The Chair: Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie (Joliette—Manawan, BQ): Thank you, Mr. Chair.

I would like to welcome all the witnesses and thank them for the valuable contribution they're making by participating in this committee.

My questions will be for Mr. St-Hilaire, the constitutional expert.

I assume you haven't seen this, because it has just been published, but the Barreau du Québec has just submitted a brief. I would like to bring up two excerpts from it, and I would like to hear your reaction, if you're okay with that.

I will start with one excerpt to the following effect:

> The Barreau du Québec's main concern with the bill is not so much the ad hoc fast-tracking of certain projects and more the perpetuation of exceptional mechanisms to exempt those projects from legal regimes specifically designed to ensure the legitimacy, transparency and legality of government action.

Further on, the document makes another statement to the following effect:

> The Barreau du Québec believes that, if the environmental assessment processes or the mechanisms for consulting indigenous communities do indeed have shortcomings that cause delays or leave blind spots, the appropriate response is to reform the regimes themselves rather than create alternative workarounds.

I'd like to hear your reaction.

● (1610)

Maxime St-Hilaire: That's exactly what I said today and exactly what I said in 2025. That's what I had argued: that it was necessary to recognize that these were emergency measures and that the government had to act accordingly. I was the one who insisted that these measures be made temporary.

Everything the Barreau du Québec is saying is consistent with what I just told you and what I said in 2025.

Gabriel Ste-Marie: This is an act that introduces emergency measures. What you said in your presentation is that this must be declared with full transparency, it must be temporary and it must be subject to stricter parliamentary oversight.

Does Bill C-39 meet those three criteria?

Maxime St-Hilaire: No, absolutely not.

We managed to ensure that Bill C-5, which sought to enact the Building Canada Act, did actually include those safeguards. However, all these guardrails are now being blown up. Right now, there's a push to really normalize the exception and make the emergency permanent, and that's a global phenomenon.

For that reason, I'm a bit astonished at the direction this discussion is taking. I hear about a need for predictability, but the law is much more predictable than executive and administrative government. I'm having a bit of trouble piecing things together.

Gabriel Ste-Marie: You said that this wasn't temporary and that it was becoming permanent. You also said that when the law is circumvented, stricter parliamentary oversight is required. Here, however, the legislative branch and elected officials seem to have been set aside, and full powers are being given to the government, which governs without having to be accountable to the House. Is that correct?

Maxime St-Hilaire: The amendments that I had proposed and that the opposition passed set out that the exceptional powers granted by Bill C-5, under the Building Canada Act, could not be exercised when Parliament was prorogued or dissolved. The essence of that guardrail is now being ditched. Powers will be able to be exercised even when Parliament can't provide oversight.

During the COVID-19 pandemic, Canada was a laughingstock for this way of doing things. Parliament should have been summoned, for example. There was governance by decree, without parliamentary oversight. Everyone understands that emergency powers must exist, but they must be subject to certain controls. This is now a case of normalizing the emergency. It seems that the distinction isn't even made anymore between what is normal and what is exceptional, between what is permanent and what is not. There's absolutely no understanding of how things should be done.

I want to emphasize that this is not about opposing the substance of the measures. I'm not talking about the substance. I'm the first to be concerned about Canada's economic situation. That isn't what this is about. The two shouldn't be confused.

Gabriel Ste-Marie: Yes, thank you.

If the government wants to speed up project processes, it should reform the ordinary law instead of setting up alternative workarounds, as you said and as the Barreau du Québec said.

Maxime St-Hilaire: There are two options. Option one is that the government does indeed consider there to be an emergency; it uses exceptional means and it does so under the conditions I have indicated. Option two is that it thinks it isn't responding to an emergency; it respects the separation of powers; it respects the difference between the government and Parliament, and between the parliamentary system and the rule of law; it stops using sleight of hand and secrecy; and it permanently amends the laws accordingly.

What is currently being attempted for economic purposes could be done. There are at least two ways to go about it. In this case, the government has found a way to avoid both of the right ways to do it. Well done.

Gabriel Ste-Marie: Yes, it's very worrisome. Thank you.

In Bill C-39, declaratory power is invoked in the amendments to the Canada Marine Act. Have you had time to look at that? Do you have any comments on that?

Maxime St-Hilaire: No, I'm going to refrain from commenting on that. It's really quite difficult to control declaratory power. It still takes a degree of unity. There has to be a connection and there has to be a coherent whole. I haven't been able to go through the details to see whether the requirements are being met. There's a great deal of vagueness in the case law in this regard.

However, we should keep in mind that this is a fairly controversial power. This is a legal power that exists and that has been used much more in the past than it has recently. There isn't exactly a constitutional convention, but we can say that it has been used far less often in recent times, because it's recognized as being completely excessive.

That said, I'm not going to comment on the constitutionality of what is proposed.

● (1615)

[*English*]

The Chair: Thank you, sir. I'm going to have to stop you there. We're a little bit over time.

[*Translation*]

Gabriel Ste-Marie: Thank you very much.

[*English*]

The Chair: Mr. Gourde, it's over to you for five minutes.

[*Translation*]

Jacques Gourde: Thank you, Mr. Chair.

I have one last question for you, Mr. St-Hilaire.

Bill C-39 will give more power to the executive branch and less power to parliamentarians, because it simply won't be possible to come back to Parliament in cases where a state of emergency has been declared. Is that correct?

Maxime St-Hilaire: Yes, there is that.

There's also the fact that the laws that Parliament has passed that are supposed to apply to the executive branch to control security, the environment or health—in short, the common good and the public interest—will not apply.

Jacques Gourde: Checks and balances are being removed, just like that. Powers will just stay in the same place.

Maxime St-Hilaire: Yes, that's right. If the government continues thinking like that, it may as well shut down Parliament. I don't know what you're going to do, but forget it; there will be a normal executive government.

Jacques Gourde: Have we reached the point where we have a totalitarian government?

Maxime St-Hilaire: That's not what I'm saying, but there is a global trend toward making emergencies permanent. Yes, I have seen a few totalitarian deviations from the current government, but I don't think that's why I was invited today.

Jacques Gourde: Thank you, Mr. St-Hilaire.

My next question is for the Canadian Federation of Agriculture.

You talked about rail capacity and how difficult it is sometimes to deliver goods. I have been here for 20 years, and I often hear Canadian agriculture federations say that rail capacity has already hit its maximum. It's a struggle to deliver any more, and the slightest issue of time or the slightest work stoppage turns it into a disaster.

While the government is investing in transportation infrastructure, should it focus on rail infrastructure or make it essential for freight transportation, whether that's for grain, oil or the manufacturing sector, among others?

[*English*]

Brodie Berrigan (Senior Director, Government Relations and Farm Policy, Canadian Federation of Agriculture): Thank you for the question.

Some agricultural goods are already covered under the Canada Labour Code and must be moved. I think there is a considerable number of other products, though, that are not necessarily considered under the Canada Labour Code and, therefore, absolutely should be considered priorities.

Our main concern is that we have Labour Code provisions that are going to see a more efficient dispute resolution process. We've outlined a couple of measures already today that I think would go a long way in supporting a more efficient process, including the special mediator.

[*Translation*]

Jacques Gourde: There must have been a problem with the interpretation. I'm talking about the capacity of the rail system to move agricultural goods: grain, livestock and so on. Whenever there's a work stoppage, there seems to be an inability to get those goods to port for export to customers. If the ship is sitting in port waiting for the grain, it's not going to work. The goods have to be there already.

Do we have an infrastructure deficit when it comes to moving our agricultural products? I've been here for 20 years, and for 20 years, I've been hearing that things are very tight. A work stoppage of just a few days breaks the whole chain.

Should we be investing in our freight infrastructure?

[*English*]

Brodie Berrigan: Certainly, we have a real deficit. There's no doubt. In Canada, we have, effectively, a duopoly in our rail system, which makes it very difficult for shippers to have competition when they're shipping their goods across the country. This is part of the reason we were encouraged by the four-year pilot around the interswitching provisions in Bill C-39.

However, we feel those provisions should be made permanent on an ongoing basis, and we should remove the stipulation that they would only come into force when we have a more reliable trading relationship with the United States. This measure alone would create more competition in the marketplace for the transportation of agricultural goods, and it would support a more efficient and effective transportation system in Canada.

[*Translation*]

Jacques Gourde: Would you take part of the $130 billion that the government wants to put into the high-speed rail project and invest it instead into freight rail transportation, which could help agriculture? We know that agriculture has long been neglected when it comes to infrastructure in Canada. Are we seeing a double standard here?

● (1620)

[*English*]

Brodie Berrigan: From our perspective, we certainly support more efficient, more effective and quicker project approvals in Canada. Trade and transportation infrastructure is critical to meet our trade diversification objectives in the Canadian agriculture sector.

The impacts on food security and food production are not very well understood in Canada. It's a systemic problem. Part of it is the decision-making process. We've been advocating for mandatory agricultural impact assessments on all major federal infrastructure projects across Canada, including Alto rail—which the CFA is not in favour of in its current form. We feel it's going to have a significant negative impact on farmers across Ontario and Quebec. We get phone calls on a regular basis from farmers expressing their anxiety and concern. We're very concerned that this project is going to move to an expropriation phase very quickly, and it will be too late.

The Chair: Thank you very much.

We'll move on to Ms. Harrison.

Emma Harrison (Peterborough, Lib.): Thank you, Mr. Chair.

Thank you to all the witnesses for being here.

Quickly, I'm going to pick up from the comments of my colleague Mr. Gourde.

What difference has extended interswitching made for producers?

Scott Ross: I can speak to that briefly.

At the end of the day, what extended interswitching does for farmers is give them a competitive option in terms of service delivery. Even when not used directly, the very existence of extended interswitching provides farmers with the ability to hold railways accountable to shipping standards and delivery obligations. It's not necessarily about how often it's used but rather about its very existence, which allows an individual farmer to move away from a monopoly environment to, at least, a duopoly, where there is some degree of competition.

Emma Harrison: Thank you.

I don't think I can overemphasize how all infrastructure is important to farmers across Canada. It's not just transportation. It is water. It is climate adaptation.

I would like to focus more on what the transport office would do under Bill C-39 for agriculture and farmers. How will this approach help build the rural infrastructure farmers rely on?

Scott Ross: I think, at the highest level, what we see in this is that it provides the support for coordinated planning. This is a space in which investments need to be made with significant lead time and significant vision as to the system you're building over time, so certainly the planning function is an element, as is transparent performance measurement, which is a critical need.

Farmers often lack information on how the system is working in real time, and I think things like export sales reporting could be an area where farmers could gain considerable benefit if that were something considered. From our perspective, I think it's critical that agriculture itself have a voice at that table because there is a fear that the unique needs of our sector would not otherwise be reflected and understood.

Emma Harrison: To follow up on that, what types of nation-building infrastructure would provide the greatest benefit to Canadian agriculture, particularly as producers respond to tariffs and uncertainty in global markets?

Scott Ross: I think it's important to note that agriculture is not one industry. It's hundreds of industries, representing significant diversity.

There are, within that, a lot of different elements as to what's needed to move our sector forward. I think that first and foremost is reliable access to transportation. That can take the form of a greater investment in diversifying the options and channels to get to Prince Rupert, for example. Modernization of the Second Narrows bridge is a critical element for the entire western economy, including the Prairies and much of western Canadian agriculture.

On top of that, when we think of infrastructure and agriculture, value-added processing capacity in Canada is critical. Finding tools to make sure we have a tax and regulatory environment that's conducive to investment in value added allows agriculture not only to continue to be a global leader in quality agricultural products but also to do more value creation here in Canada. It also ensures that we are doing some of the significant transformation that can take place here in Canada, instead of moving it abroad to have it processed and potentially even reimported to Canada at that time.

Emma Harrison: Thank you.

You've already spoken to this, but I would like to go back if you'd like to further elaborate. How important are reliable transportation corridors and domestic infrastructure to Canada's ability to protect both the agricultural economy and food security?

Scott Ross: Over the last number of years, the proliferation of work stoppages and the disruptions to our supply chains are bringing into question the reputation Canada has as a reliable supplier. These markets are predicated on just-in-time delivery. If you are unable to move product when product is needed, buyers are very quick to go elsewhere.

Certainly, Canada is still very well positioned with our innovative farming sector and our resource base, but the longer we see uncertainty in this space, the greater the chance that we lose further ground internationally on our ability to be a reliable supplier.

Canada's reputation is grounded in our rigorous standards, our reliability as a supplier and the quality of our products. While two of those are very much a given, reliability has been very uncertain for years now. Therefore, measures that improve this, such as the special mediator function and things that drive to avoid work stoppages altogether, are critical to the future of our sector.

● (1625)

Emma Harrison: Quickly, could you speak to the modernization pieces that are in Bill C-39 and what that might mean for producers, such as digitization, when they're moving products across Canada?

Scott Ross: Simply anything that streamlines the process for moving products across Canada is a net benefit for farmers. I don't think there's one specific provision in there that stands out. Anything that gives us greater certainty, predictability and clarity around how products are able to move and the regulatory environment they're moving within is a benefit to Canadian agriculture.

Emma Harrison: Thank you, Mr. Chair.

The Chair: Mr. Ste-Marie, the last word goes to you.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

Mr. St-Hilaire, have you examined the concept of regions of national interest in Bill C-39? If so, do you have any comments?

Maxime St-Hilaire: In fact, what I see is that it relaxes certain safeguards, making emergency powers even more far-reaching. The requirement for provincial consent is removed, as are the conflict-of-interest and national security review requirements. So it goes further.

What we seem to be gaining, namely, prior regional assessment and compliance with the criteria, isn't really a gain, since we're adding a new pathway that, overall, provides fewer assessment safeguards.

Gabriel Ste-Marie: Thank you.

Ms. Proulx, in your opening remarks, you referred to a letter of understanding providing that BAPE, the Bureau d'audiences publiques sur l'environnement, would be solely responsible for impact assessments in Quebec. Is that correct?

Véronique Proulx: In fact, we recommend that only one agency be responsible for it.

Gabriel Ste-Marie: Would you like it to be BAPE or does it not matter to you?

Véronique Proulx: Our understanding of the bill is that there would be an agreement between the federal and provincial governments, and Quebec would be the one-stop shop.

Gabriel Ste-Marie: As you understand it, Quebec would be solely responsible for the assessment.

Véronique Proulx: That's our understanding, yes.

Gabriel Ste-Marie: Great, thank you.

I don't have much time left to address the representatives of the Canadian Federation of Agriculture.

You're calling for agricultural impact assessments before projects are approved, a bit like what we have with the Commission de protection du territoire agricole du Québec.

Do you feel confident that the Alberta Energy Regulator, which is basically made up of former oil industry lobbyists, is best placed to conduct these assessments?

[*English*]

Brodie Berrigan: From our perspective, it's about having a systematic process to review all federal projects and policies from that perspective and that lens of the impact it would have on food production and agricultural production in Canada and our broader food security interests. There are several means with which we could accomplish that objective. There's a review of how we dispose of federal surplus lands, for example, but we could also do it through the cabinet decision-making process and internal decision-making processes within the Government of Canada to ensure that we have a coherent perspective—

The Chair: I'm sorry, Mr. Berrigan. I'm going to have to cut you off. We're really running short of time.

We have one member from the Conservatives and one member from the Liberals. You have one minute on the button each.

Branden Leslie (Portage—Lisgar, CPC): Thank you, Mr. Chair.

I'll ask you to be quick, Mr. Ross.

Should it be more than 160 kilometres for the interswitching?

Scott Ross: Yes.

Branden Leslie: Should it be extended beyond just the Prairies?

Scott Ross: As I said earlier, as this has been an issue for years now, we've advocated that it should be extended to British Columbia as well.

Branden Leslie: My understanding is that the shippers have been very hesitant to use these pilot programs for fear of potential repercussions later when it's expiring. Four years is longer than these past ones. I assume four years isn't enough.

Should this just be permanent?

● (1630)

Scott Ross: Yes. Since day one, we've believed extended interswitching should be an ever-present reality for Canadian farmers to ensure the competition they need to be able to ship products effectively.

Branden Leslie: I believe you've mentioned it, but could you reiterate the concerns of the coming into force of this? It's one thing to say we're going to do it, but to wait for some unknown, ubiquitous change in international relations as the reason....

Do you think this should come into force as soon as this bill comes into law?

Scott Ross: Yes, we've been looking to see this maintained permanently—

The Chair: Thank you. That's one minute.

Scott Ross: —from day one.

The Chair: Ms. Desrochers.

[*Translation*]

Caroline Desrochers: Thank you, Mr. Chair.

Ms. Proulx and Ms. Bouthillier, I'd like to come back to what we were discussing earlier, namely, the conditions relating to feasibility.

Could you tell us a bit about the potential risks if conditions are imposed for the bill to proceed without taking into account the economic, technical and practical feasibility of projects? What are the risks for businesses?

Véronique Proulx: In fact, businesses need to be able to plan and anticipate the materials, labour and investments they will require. When it comes time to bid on a project or secure a contract, those elements are essential to ensuring feasibility. For businesses, it affects both their reputation and their costs. In fact, the entire supply chain is affected.

I think that, if we want to be able to carry out major projects and ensure that investors, both foreign and domestic, are at the table—I'm thinking of our companies that produce local content and employ people here—we need the right conditions in place.

Caroline Desrochers: Thank you very much.

Véronique Proulx: Thank you.

[*English*]

The Chair: Thank you very much.

Thank you to our witnesses on that first panel. We really appreciate your contribution. It's very valuable.

We're going to suspend for a very brief moment to get the second panel ready to go.

● (1630)

_____(Pause)_____

● (1635)

The Chair: Welcome back to meeting number four of the House of Commons Legislative Committee on Bill C-39.

I have a few comments for the benefit of our new witnesses. Members can ignore us because they know it off by heart.

Please wait until I recognize you by name before speaking. I will remind witnesses that committee members may ask questions in English or French. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance, in order to take full advantage of the time allotted for questions and answers. As a reminder, all comments should be addressed through the chair.

I'd like to welcome our witnesses for this second panel.

We have, from the International Union of Operating Engineers, Mr. Steven Schumann, Canadian government affairs director; from Unifor, Ms. Lana Payne, national president, and Jean-Stéphane Mayer, assistant to the national president; and from the United Steelworkers, Marty Warren, national director, and François Soucy, legislative staff representative.

Each organization will be given up to five minutes for opening remarks, which will be followed by a question and answer session.

Mr. Schumann, I will start with you.

Steven Schumann (Canadian Government Affairs Director, International Union of Operating Engineers): Good afternoon. On behalf of the International Union of Operating Engineers, I'm honoured to appear before the committee today.

Across Canada, we represent nearly 65,000 members building and maintaining the infrastructure our country relies on. Our members operate cranes and heavy equipment, work as mechanics and apprentices and are often the first on the project and the last to leave. Our local unions run not-for-profit training centres nationwide, preparing the next generation of skilled trade workers.

We are here today to support Bill C-39's efforts to accelerate the major projects Canada needs: new energy infrastructure, transportation corridors and investments that strengthen our economy and create good-paying jobs. The proposed one project, one review approach is welcome. Better federal coordination, clearer timelines and less duplication can help move projects from the drawing board to the job site without compromising necessary standards.

Approving projects is only part of the equation. We also need to ensure that Canada engages in the skilled workforce and the stable labour relations necessary to build them. That's why we believe project labour agreements between project proponents and building trade unions should be a requirement for major projects benefiting from federal support and streamlined approvals.

These agreements standardize labour terms and conditions, coordinate trades and contractors, improve scheduling and workforce planning and provide clear ways to resolve disputes with no strike or lockout provisions during the construction of the projects. They reduce disruptions and give owners greater confidence that the projects will be completed safely, efficiently and on schedule.

A recent study by Independent Project Analysis examined 140 completed projects in B.C. and Alberta, primarily at existing industrial sites. It found that union labour was 17% more productive than open shop labour, with 16% lower construction labour costs and 7% lower total project costs on average.

British Columbia Infrastructure Benefits offers another example. On its community benefits agreement projects—PLAs, by a different name—workers have logged 13.7 million hours, apprentices or trainees have been at 24%, and residents within 100 kilometres of the job performed 83% of the hours worked. A separate study, covering 2019 to 2024, found that 14% of those workers were indigenous—more than twice the provincial construction average—and 9% were women, at about 50% above the average. A quarter of the women hired were indigenous. None of these outcomes would have been possible without the enforcement provisions set out in the body of a project labour agreement.

This also presents an opportunity for economic reconciliation. Research by economist Jim Stanford finds that indigenous workers covered by union agreements earn, on average, 20% more than indigenous workers without union coverage.

Project labour agreements, together with our union's training centres, can help deliver these benefits across Canada. We encourage the committee to make them central to the major project framework.

Turning to the labour provisions of Bill C-39, we acknowledge the government's efforts to address concerns related to first contracts, contract flipping and other issues that have affected workers in Canada.

Regarding section 107 of the Canada Labour Code, the vast majority of our union membership is employed in workplaces that are governed by provincial labour codes. Therefore, we are not impacted by the changes to section 107. We acknowledge the government's efforts to introduce clearer guardrails and hope this committee will work closely with directly affected unions to address their concerns and develop acceptable amendments.

We recognize the importance of stability in federally regulated industries. However, the right to strike is a fundamental in meaningful collective bargaining. Government intervention when negotiations become difficult can reduce employers' incentive to reach agreements at the bargaining table, risk prolonged disputes and undermine collective bargaining. We urge the committee to address these concerns and protect free collective bargaining and the constitutionally protected right to strike.

In conclusion, Canada has no shortage of infrastructure needs, and our members have the skills to meet them. We hope Bill C-39 helps more projects move forward, creating lasting opportunities for Canadians, workers and communities. We also hope that the federal government will ensure this work is performed by the highly skilled, well-trained workers of Canada's unionized sector.

I'm happy to take any questions. Thank you to the committee.

● (1640)

The Chair: Thank you, Mr. Schumann.

Next is Ms. Payne.

Lana Payne (National President, Unifor): Thank you, Chair and members of the committee, for this invitation. I'm very appreciative of that.

I'm here today, as you know, as the national president of Unifor, Canada's largest private sector union, with 320,000 members working across every major sector of the economy.

The past two years have been extremely challenging for our members in many industries, with plant closures, mill curtailments, layoffs and widespread uncertainty caused by a punishing trade war. We are fighting everywhere right now—from Nackawic, New Brunswick, to Howe Sound, British Columbia—to save jobs, plants, workplaces and communities. We take the economy of this country very seriously, and we use collective bargaining as a powerful tool for investment in our workplaces.

Bill C-39 and its explicit attack on the right to fair and free collective bargaining is the last thing the workers of Canada need right now. The proposed changes to the Canada Labour Code will impact the bargaining tables of nearly 70,000 Unifor members in every major federal sector, including rail, road, aviation, marine, telecommunications, broadcast media and aerospace.

As a union, we're responsible for bargaining over 2,600 collective agreements. We know something about collective bargaining. We know how to get deals. We know how to use the power of collective bargaining to change conditions of work, address issues of inequality, raise living standards and fight for safe workplaces. We see collective bargaining not as a transaction but rather as a powerful tool to transform.

When collective bargaining is undermined because the right to strike is no longer an effective tool, it changes workers' ability to defend their workplace gains or advance new ones. Let's face it. Big federal employers have not been shy about their demands to weaken the very rights that workers depend on to improve their livelihoods, make their workplaces safer or advance equality.

Collective bargaining behaviour is very much dictated by the rules of bargaining. For example, if employers believe the government will intervene on their behalf, it changes their bargaining tactics and strategy. We have seen this numerous times. This has an impact on worker behaviour too. Workers become conditioned to believe their employers are not coming to the table to bargain fairly. These two things together result in a breakdown in trust in the bargaining process and a lack of confidence in the rules of bargaining. As we all know, trust is critical to getting deals at the table. Without it, you will get more labour strife, not less.

The bill is proposing to give the minister responsible for labour a superpower: the power to override rights, stop legal strikes and direct the CIRB to end a labour dispute and impose an agreement, not through Parliament but through a single minister. There are those who think these changes would result in less conflict and fewer disputes. I disagree. I'm here to say that it's time to pump the brakes, because this is going to cause a major problem.

Before I get into our issues with the labour section of the bill, let me state clearly that we think Bill C-39 gets some things right.

The first is making sure that, in airports, if contracts are flipped to another company, workers get to take their collective agreement with them. Currently, they do not. This is especially important in today's context, when we are talking about the privatization of airports in Canada.

The second is support for a union's first collective agreement. Newly organized workers should be able to get a first collective agreement in a timely fashion. Employers should not be able to circumvent their right to a union by using egregious stalling tactics, which happens a fair bit.

Where BillC-39 gets it wrong is its assault on the right to strike.

● (1645)

First, in our opinion, what the government has proposed by amending section 107 is a direct violation of international and Canadian law. Even the government's own lawyers agree that Bill C-39's proposed amendments potentially engage section 2(d) of the Charter of Rights, which guarantees freedom of association. Nowhere does that analysis state that the legislation would not infringe on the right of freedom of association.

The Chair: Thank you, Ms. Payne. I'm going to have to stop you there.

Lana Payne: Okay, I will get the rest in during questions, if that's okay.

The Chair: You certainly will.

Mr. Warren, we'll go over to you for five minutes.

Marty Warren (National Director, United Steelworkers): Thank you, Mr. Chair and members of the committee, for the opportunity to appear today.

I'm here with my legislative staff representative, François Soucy, who will be able to answer any questions in French if need be.

I am the Canadian national director of the United Steelworkers union, which represents 225,000 members across Canada, including around 20,000 in federally regulated sectors like rail, transportation and telecommunications.

We understand the importance of building a strong Canadian economy as workers and industries face the consequences of Trump's trade war. However, let me be clear: We cannot build a strong Canada by weakening the rights of workers who keep the economy running.

For steelworkers, the right to strike is a red line, and Bill C-39 crossed it. The right to strike is not an obstacle to collective bargaining. It's what makes meaningful bargaining possible. Employers control investment, operations and jobs. All workers have is their collective strength, which, as a last resort, includes the ability to withdraw their labour. Nobody makes that decision lightly. Strikers lose their paycheques, and their families make enormous sacrifices. They only strike when they believe they have no other choice.

Unions know that strikes have an economic consequence. That's the point. The pressure gives workers leverage to reach a fair agreement, yet Bill C-39 would allow those very consequences to become grounds for government intervention. The proposed changes to section 107 would explicitly authorize the minister to direct the CIRB to order back-to-work legislation and impose binding dispute resolutions when a strike is considered harmful, potentially harmful or in the national interest—whatever the definition of that may be, and by whom.

The bill doesn't define, as I've just said, the national interest or establish a clear objective threshold at which to intervene. The minister could consider actual and potential economic impacts, social disruptions and other relevant factors, all of which give the minister extraordinarily broad direction to end a legal strike.

The government says that it's putting guardrails around section 107, but the current legislation doesn't explicitly authorize the minister to end legal strikes through binding arbitration Nevertheless, that's how the government has interpreted it, and the interpretation is being challenged in court. Instead of addressing the concerns, Bill C-39 would write the power directly into law.

Yes, the bill introduces procedural requirements. The ministry must consider a special mediator report, but it isn't obligated to follow its recommendations. The minister still makes decisions without independent approval or a vote in Parliament—democracy. Even the government's own charter statement acknowledges that the proposed powers under section 107 could interfere with the constitutional right to strike that is protected by the charter. That should be a serious warning to this committee.

Our government cannot claim to strengthen collective bargaining while giving itself the power to take away workers' most effective bargaining tool. The consequences extend well beyond any individual strike. If employers believe the government will intervene once the strike becomes economically significant, why would companies bargain to reach an agreement? This is particularly concerning for workers in strategic sectors under federal jurisdiction, like rail, ports, transportation and telecommunications. Their work is essential to Canada's economy, but should that mean they have less bargaining power than other workers? The economic importance of their work should not become a justification for taking away their fundamental right to strike.

There is a positive measure in this bill, including improvements to first-contract arbitration, successor rights and enforcement against bad-faith bargaining. These reforms should have been been considered as stand-alone legislation.

● (1650)

We support the measures that strengthen workers' rights, but those improvements cannot justify undermining the right to strike. The government already has the tools to address truly exceptional situations. If it believes a legal strike must end, it should make that case publicly before Parliament and let the MPs vote.

The Chair: Thank you, Mr. Warren. I'm going to have to stop you there.

Mr. Seeback, we'll go over to you for six minutes.

● (1655)

Kyle Seeback (Dufferin—Caledon, CPC): Thank you very much, Mr. Chair.

Ms. Payne, I'm going to start with you. The minister seems to think that the new changes in this bill to section 107 are guardrails. She also believes that the changes she's made will lead to less labour disruption.

What do you think of that? Do you agree with what she's had to say on that?

Lana Payne: What I can tell you is what I know happens at bargaining tables. The rules of bargaining, as I said in my opening, will change the behaviour of bargaining. If employers believe they're going to get to a place where there's a special mediator's report or where the minister can intervene very quickly after a dispute starts, that will start changing how they act at the bargaining table.

We have a perfect example of this. It's called DHL. In 2024 there was a dispute, and they firmly expected the minister to use section 107 the way it had been used previously. I guarantee you that we ended up in that dispute because they thought.... By the way, it was a lockout by then. They applied to the minister to get him to use section 107 to put our members back to work after they locked them out.

This is what happens when employers get conditioned to believe that someone is going to help them get to an agreement, rather than having to bargain fairly and freely with the union at the table.

Kyle Seeback: These changes won't affect that at all.

Lana Payne: No. It will make it worse because the minister will be able to intervene at any time there's a challenging moment.

I ask you to consider the fact that multiple airlines operate in the Canadian economy. What happens if you get into a situation where you're intervening on behalf of one and not the others? That creates a dilemma. You will get more of this intervention from the minister occurring over time.

Kyle Seeback: It's not guardrails, and it won't lead to more labour stability. I think that's the summary of what you're saying.

Lana Payne: Yes...because people won't trust the rules or that people are acting in a way to get a collective agreement.

Kyle Seeback: One thing I noticed that doesn't get talked about a lot is the changes to the language of section 107. The original section says, “The Minister, where the Minister deems it expedient, may do such things as to the Minister seem likely to maintain or secure industrial peace”. That's the old section 107.

New section 107 is, “The Minister may take any measure that, in the Minister's opinion, is likely to maintain or secure industrial peace”. To me, this is a massive expansion of the minister's discretionary power.

Do you agree? What do you think of that?

Lana Payne: I believe the minister has a lot of power under this proposed legislation. I would add that we already have a test in the code. The code has a lot of tools. It's how they get used or don't get used.

There is already a test that has to be met under section 87.4, which means you have to develop maintenance of activities agreements with the employer. Lots of times no one agrees to maintenance of activities, because you want to bring it to a crisis period rather than having the service maintained during a dispute. We have tools that can help in the event of a strike, where some of the services—those things that are deemed essential—carry on. We actually beefed up that section of the code when the anti-scab legislation was introduced. We made that stronger.

There are already tools, I would say, within the code to address some of these things. This new test of “national interest”—and, on top of that, “social disruption”—is vague, ambiguous and left to someone's opinion about what those things are. That's why we're all having quite a bit of a challenge with this part of the code.

Other changes that have been made there, like getting parties together early if they have a difficult relationship, are very good things. A special mediator in itself can be a very good thing; we used them in the province of British Columbia. It's what happens after that. It's the powers that are given to the minister that are problematic here.

Kyle Seeback: That's correct.

I put this to the minister when she was here: What happens if your special mediator delivers a report that says the employer wasn't bargaining or was bargaining in bad faith? Surely then section 107 is off the table and cannot be used. She wouldn't answer the question, which, to me, means of course it can be used.

What's the point of the special mediator's report if it doesn't take something like that off the table?

● (1700)

Lana Payne: You lose both ways—workers do. You lose because an employer behaved unfairly, and then there's no repercussion for that.

Kyle Seeback: I think the special mediator should have special powers to help the parties get to a settlement. For example, would you agree that the special mediator should be able to set some times where the parties should sit down together? Would it be useful if the special mediator could bring anyone to the table who they think could end the dispute, for example, if the ILWU said it wanted the employer at the table and not some employer's group?

Do you think those powers would be useful in helping the special mediator?

Lana Payne: First of all, you have to have really good skills as a special mediator. Let's be clear about this. There are very few of these people in Canada right now, and they have a very long list of interventions that they've been working on.

I would have to see what you would add to his list of abilities, but for sure we don't want disputes. We want to be able to have the power of what comes with that. It's a hammer, for sure, but the reality is that workers don't want to be on strike. They want to be able to make improvements to their workplaces.

The Chair: Thank you.

Go ahead, Ms. Harrison.

Emma Harrison: Thank you, Mr. Chair.

My first time speaking in the House of Commons was in response to the Speech from the Throne, and it was in regard to major projects and how we have this really ambitious plan. More important to me was how skilled tradespeople will play a role in the building of these major projects.

My dad, before he passed in 2010, was a very proud member of the International Union of Operating Engineers. My childhood was shaped by travelling a lot of Canada to see him at his job sites. I wanted to talk a little bit about how much that and union jobs mean to me. My brother is actually in the same union, which is a story that I'm sure you hear a lot, Mr. Schumann.

I'd like to talk about not only the economic benefits of a major project, which we often focus on, but your members' experience. What is the broader impact of creating sustained, well-paying skilled trades employment in communities across Canada?

Steven Schumann: I think you answered my own question for me: It is a livelihood. It is an opportunity. It is to allow your kids to have jobs.

My former Canadian director, his family is fourth generation now with his son. One of my colleagues is fourth generation. It is an opportunity to give careers. Well-paying jobs, highly skilled jobs, give you the opportunity for your kids to go to university and other opportunities, but it is the long-term, big projects that make them.

As you mentioned, our members travel throughout the province and through the country. If you look at our pipeliners.... I know one pipeliner who worked on five projects in four provinces last summer. That's a lot of travel, but he loved it. It is his life. It provides for his family. The pride they take in their work is the pride you see when people come by and say to their kids, “I built that” or “Look at what we built.”

If you look at the human rights museum in Winnipeg, on the top floor, they actually have in the bricks the names of every person who worked to build that building. I was there with a colleague. He pointed out, “There's my name, right there. I get to show my family I built that.” It is a pride thing. We just need the opportunity to build things.

Emma Harrison: One of my dad's telltale signs that he had gotten a call to head off to another project was that he would get a single cigar and he would smoke it while he packed his truck and got ready to leave. Even when I was little, I didn't know what was happening, but I knew that my dad was really excited.

Bill C-39 includes measures related to successor rights. From the perspective of workers in construction, infrastructure and other federally regulated sectors, why are strong successor right protections important?

Steven Schumann: It's certainty. As Lana touched on earlier, these people have contracts through collective bargaining. It's there. It's continuous. It allows the workers to know that they're going to be treated with respect and dignity, get the fair wages they deserve and be compensated for the hard work they do. It's not easy work, and it's not for everybody.

We have a great relationship with most of our employers. It is important that they respect us as workers and we respect them to build these projects. I think it is a respect thing.

● (1705)

Emma Harrison: Ms. Payne, Unifor has often emphasized the importance of meaningful collective bargaining. Would you agree that measures encouraging parties to engage earlier in negotiations can improve the likelihood of reaching agreements without labour disruptions?

I'd like to touch on the transparency piece of the special mediator's report. I think, from the outside looking in, there's a lot of power in naming and shaming. People on the outside of these negotiations don't know what's happening. It's a really powerful tool to be able to name and shame someone who's not acting in good faith.

I'd love to know your opinion on that.

Lana Payne: We're actually in favour of all of that. We've expressed that we think the special mediator publishing the report is important.

On early intervention, I'll give you an example of when we did this on our own. We didn't wait for the government to introduce a piece of legislation.

In 2023, we had the first dispute in the seaway in 55 years. I could tell you a lot about what caused that eight-day dispute. When it was over, the CEO who was in charge at that time—they're no longer there—would not return the minister's phone call, would not return my phone call and was not involved in bargaining in any way. This will tell you why we ended up in a dispute. It was that we had many issues in that workplace. Once it was over, as a union, we told the federal government we would like to use its mediation services and make sure that when we go back into the workplace, we have a party from the government's labour program that meets with our union and the employer on an ongoing basis so that we can get this relationship back on track.

I think that tool has always been there to be used, and we have used it many times as a responsible union to say, yes, when you have a dispute, you still have to carry on. You have to have a relationship after that dispute. How do you make sure that can happen so that when the next round of bargaining occurs, you're not in a challenging spot?

Having these tools in the code, having early intervention and having a special mediator's report that is transparent are all good additions in Bill C-39.

The Chair: Thank you.

Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

My greetings to all the witnesses, and thank you for being here. This is very helpful.

My questions will first be for the representatives of United Steelworkers.

The government says it wants to strengthen collective bargaining, but it is amending section 107 of the Canada Labour Code in such a way that an employer could conclude, in the event of a strike, that the government will probably intervene to put an end to it once the economic consequences become more significant.

Therefore, my question is this: Wouldn't the new powers encourage employers to wait for the government to intervene rather than make the compromises necessary to reach an agreement?

François Soucy (Legislative Staff Representative, United Steelworkers): Thank you for the question. That's a really important question.

You're absolutely right. We think that's really the problem. Collective bargaining is built on a balance of power. If the employer doesn't feel that there are consequences for refusing to negotiate or if it expects the government to intervene, it has much less incentive to make concessions at the bargaining table.

Employers already control investment and production. They have the final say over our jobs. They effectively have the power of life and death over our jobs. We're seeing that at Stelco right now.

The main source of leverage that workers have—in fact, the only source of leverage—is to go on strike when they don't get what they're seeking at the bargaining table.

I think there's also an argument to the contrary. In 2024, Air Canada was negotiating with its pilots and asked the government to intervene to force arbitration. The government refused to do so. By refusing, it said that it was up to the parties to negotiate. Once the parties returned to the bargaining table, it took two days for them to reach an agreement in principle and ultimately reach a collective agreement. That is the purpose of collective bargaining.

Gabriel Ste-Marie: Thank you very much.

The minister says that the new powers set out in section 107 will help ensure greater stability in labour relations.

Does ending a strike through government intervention actually ensure that the dispute is resolved? Could these powers not instead create more instability and undermine workers' confidence in collective bargaining?

● (1710)

François Soucy: Once again, that is definitely a risk. There are a lot of issues that can't be resolved through binding arbitration. Today's fundamental problems are having our jobs replaced by automation or artificial intelligence. These are not taken into consideration during arbitration outside a collective agreement. Problems that are not included in the new collective agreement that becomes binding or in the arbitrator's ruling will persist and be passed on to the next collective bargaining process.

If these issues aren't resolved at the bargaining table, because they require a lot more negotiation and trade-offs on both sides of the table, employees will absolutely lose faith in the bargaining process and wonder what the point is of negotiating. The actual problems that they want to resolve are not resolved and are postponed once again.

Yes, we agree with your statement.

Gabriel Ste-Marie: Great, thank you.

The government says that the new guarantees set out in Bill C-39 will better regulate its powers to intervene in labour disputes. However, the minister would still have the power to end a legal strike by invoking the very broad and ill-defined concept of national interest.

Do these new powers raise constitutional risks, particularly with respect to the right to strike, which is protected by the Canadian Charter of Rights and Freedoms?

François Soucy: That's not something I can comment on. I'm not a judge. The courts will decide on the constitutionality of the legislation.

There are definite risks. I think the charter statement, which my union colleagues and I have read, mentions that there are risks associated with contravening paragraph 2(d) of the Canadian Charter of Rights and Freedoms, which includes the right to strike.

What was the second part of your question again? I'm sorry, I've lost track a bit.

Gabriel Ste-Marie: It was about constitutional risks.

François Soucy: Yes. I think there are examples of that. One of them is a poorly drafted piece of Quebec legislation, Bill 89, later known as Bill 14, which was recently overturned in court two weeks ago. As it happens, the concept on which ministerial intervention was based was too broad and not clear enough. The bill would have violated the right to strike by giving the minister too much power.

There is something that also needs to be taken into account, and I think it has been raised in other meetings by other stakeholders. The power the government is trying to give the minister here doesn't exist in other G7 countries. Even in the United States, under the very authoritarian Donald Trump, they don't have the power to force an end to a strike and force employees back to work. I think this is something that should send a signal. There are a lot of red flags being raised, and we hope that this committee will take them into account.

Gabriel Ste-Marie: Thank you.

I have 20 seconds. Ms. Payne, do you want to add a very quick comment?

[*English*]

Lana Payne: I think that you will have a constitutional challenge as soon as this law...or “the rubber hits the road”, as we say. That's likely to happen around the next dispute that could occur or when you have an example of something not working.

This could be avoided. I think we have to take into account here that Canada has been a beacon of labour rights for the world, and this infringes on that. We have to do everything we can to make sure that we're living up to the things that we've agreed to—ILO standards—and that is a minimum standard around the world. As a country, we've tried to raise the bar in that regard, so—

The Chair: Ms. Payne, I swear I'm not doing this to just you.

Lana Payne: —sober second thought is required here. That's what I'm saying.

The Chair: You just happen to get the last question every time. It's not you.

We'll start the five-minute round. We go back to Mr. Seeback.

Kyle Seeback: Thank you, Mr. Chair.

Ms. Payne, I want to go back to talk what I didn't get to last time: the changes to geographic certification. Again, this is a massive expansion. Now, any two employers can apply to geographically certify any union in any industry, in any place in the country. Talk about a massive expansion. It used to be very different.

In fact, I put this to the minister: If you look at the port of Montreal, for example, there are CUPE 375, CUPE 5598 and ILA 1657. What would happen if two employers there decided that they should all be merged into one union? They are two completely different unions. She seemed to say, “Yes, the CIRB will sort it out.” To me, this seems really bad.

● (1715)

Lana Payne: It can cause a fair bit of disruption. We have seen this happen in jurisdictions around the world, not necessarily around geographic certification. I think it's still very unclear how this is going to play out.

We don't operate in ports. I think the idea was that this would be something for ports, but the way it's worded in the legislation is that it could actually be wide open. We have to take that into account. If there is a common workplace in which you have multiple unions, there are many examples of how those unions will come together and bargain as a council, bargain together. There are lots of examples like that in health care and in other places. There's a way to get around this without creating what will end up being disputes among unions as well, because they'll each want to be protecting their own membership.

Kyle Seeback: It could create more instability, not—

Lana Payne: More disruption and more instability...yes.

Kyle Seeback: Thank you very much.

Mr. Warren, you said in your opening that Bill C-39 crosses a red line. I guess that has to do with the changes to section 107 coming up against the right to strike. I've been asking the same questions: Do you think these changes are going to create more stability or less stability, build better relationships between employers or make those relationships worse?

Marty Warren: I believe they'll make them worse, with less stability. I'll explain why.

It's really troubling. At a time when we talk about team Canada and the threats we face with tariffs coming from the U.S., this is just a reach too far. There is no reason to split up team Canada and go against labour when we're trying to come together to move forward, build big projects and get things done. That's one thing I'll say. It's just the wrong time. This is just totally wrong for team Canada.

As far as the relationship with employers goes, as was said, they'll sit by the side and they'll wait for somebody to come in and settle their disputes. In terms of labour relations, a lot of people forget that labour relations isn't only at the bargaining table. Lana spoke to this. It's the time between each collective agreement that needs to be worked on.

My point is that if you leave... If you don't feel your employer has heard you, you haven't had the ability to work through and resolve those problems with them and you're forced back to work under certain conditions, I think that rot, if I can call it that, will continue to grow and grow.

Kyle Seeback: There's been an unprecedented use of section 107 in the last two years. I don't have the number anymore—I used to know it. It was 13 times over 12 months or something like that. Has that frequent use of section 107 helped labour relations in the country, or do you think it's leading to more instability?

Ms. Payne, if you want, you can answer that as well.

Marty Warren: I'll just go. I don't think it has helped at all.

However, even more importantly, when you look at democracy, who we are as Canadians and what Canadians expect out of their elected MPs, anything like that should be debated. It's taking away somebody's right to strike. It should go to Parliament. It should be debated, and each MP should have to stand up and voice their yea or nay so their constituents can see how they voted.

I'll turn it over to Lana.

Kyle Seeback: As opposed to legislating—

Marty Warren: Yes...as opposed to the non-transparency of standing behind a minister's signature.

Lana Payne: What I also worry about here is that there is, I would say, a lack of understanding of how collective bargaining can transform not just workplaces but society. An arbitrator is not going to transform a workplace or a society. He's just going to split things down the middle and figure out all of these things.

The new, modern challenges that we're faced with now in our workplaces, whether it's AI or whether it's automation, all of these things are very difficult issues for an arbitrator to tackle. You would have to have very strong expertise in these areas. If you look at the history of labour relations and collective bargaining in our country, you will find that—

● (1720)

The Chair: Ms. Payne, I think somebody's doing this on purpose. I'm going to have to do it again.

Lana Payne: Okay.

Philip Lawrence (Northumberland—Clarke, CPC): I vote to remove the chair.

Voices: Oh, oh!

The Chair: I'd go voluntarily.

Mr. Bains, go ahead.

Parm Bains (Richmond East—Steveston, Lib.): Thank you, Mr. Chair.

Thank you to our witnesses for joining us today. Thank you all for your leadership and work on behalf of Canadian workers.

Canada is set to build major projects in my home province. I believe that over 40% of the projects are set to be built there. From the perspective of skilled trades and stability for skilled trades workers, my question to you, Mr. Schumann, is this: How important is it that employers and unions begin meaningful discussions earlier in the bargaining process and have access to the tools and supports they need to build positive labour-management relationships from the outset?

Steven Schumann: You first hit the nail on the head with "discussions" with unions. We need to make sure that these major projects are built by unions.

As you know, in your province, there were some issues around TMX and how it was going to originally be built. Union construction members were originally left out of it. We worked with the federal government and pushed hard and got nearly 50% of the work. We did some of the hardest and most necessary work to get it done.

It's very important. If you want to ensure stability, project labour agreements—or community benefit agreements, as they are in your province—show that they work. They create labour stability, ensure disenfranchised folks have an opportunity to work in these jobs—indigenous, women or other groups. The numbers speak for themselves. If you look at British Columbia, there was an increase in the number of indigenous workers who are there and the number of women in the trades. I would love to see more women in the trades, but we need some stability to get them into the workforce. Project labour agreements allow that opportunity to bring women into the trades.

I do think that, in negotiations at the beginning, getting a project labour agreement or a community benefit agreement would be essential to benefit not only the province but the citizens and the workers who are involved in those projects.

Parm Bains: Thank you.

I'll share the rest of my time with my colleague Ms. Church.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you.

Thank you Mr. Chair.

To the witnesses, thank you for a very good and in-depth discussion of a number of the elements of this bill.

Ms. Payne, you mentioned the need for more trained mediators. I just want to make sure that we have it here on the record that part of this is also about boosting the resources for the federal mediation and conciliation service, which I've also heard, across the country, is an important set of supports that we need to have in place.

I want to ask you—and maybe, subsequently, Mr. Warren—about that special mediator process, that period of time before parties are at the edge of a lockout. If part of the objective here is to reduce brinkmanship and to address challenges early in the process, can you just talk a bit about the measures in this bill that lay the groundwork to get to a deal earlier?

You mentioned a few of them in your opening remarks. Can you just touch on those leading into that special mediator process, the earlier conciliation period? Are those helpful, in your experience?

Lana Payne: Special mediators are very helpful when you're dealing with contentious issues. I would say that we often bargain collective agreements, by the way, when we don't take a strike vote. It can depend on the relationship with the employer. We just bargained a beautiful collective agreement with Air Canada. We didn't take a strike vote because it wasn't necessary.

If there's respect, then you can get to a good place. The challenges come in those rare occasions when there are contentious relationships. A special mediator can pressure both sides to try to come together.

I would say that the other thing that would be very helpful in that regard is making sure that we're not actually dragging the process out too long. We have an added time frame because we are bringing the special mediator into this now. We have another 21 days of, basically, conciliation that's been added to the period. We have another timeline in which we have to get maintenance of activities in place. In federal bargaining, it is already a prescribed, quite lengthy period of time. My concern would be that we don't get to a place where we're making it any longer, for sure.

The skills of the special mediator are obviously going to be needed, but we have this other issue. We're now going to give more decision-making and requirements to the CIRB. That means we have to consider the resources that will be required there in order for this to happen. We just had an unfair labour practice complaint that we launched in 2024 against a company here in Ottawa. The strike was seven months long. We got the decision on the unfair labour practice two weeks ago, so—

● (1725)

The Chair: Guess what, Ms. Payne: I'm going to have to stop you there.

Lana Payne: I'm just letting you know.

The Chair: Thank you.

Kyle Seeback: It wasn't us on this side.

The Chair: No. It's just bad luck on my part. It has nothing to—

Lana Payne: I think the chair is saying it's me.

Voices: Oh, oh!

The Chair: No, no. I don't make the rules. I just enforce them. That's the problem.

Ms. Larouche, the last word goes to you.

[*Translation*]

Andréanne Larouche (Shefford, BQ): Thank you, Mr. Chair.

Thank you to the witnesses for coming today for this important committee on this very major bill.

As the Bloc Québécois critic for employment and labour, I will put my first questions to Mr. Soucy.

You have, in fact, already raised a number of concerns about the powers that Bill C-39 would grant to the minister and their impact on collective bargaining. In concrete terms, then, what amendments is United Steelworkers asking the committee for to protect the right to strike?

François Soucy: We'll start with the first one: We call for the complete repeal of section 107. We think there may not be consensus around the table, so we're going to propose other things. We want to limit this section, which allows the minister to end a legal strike or lockout on her own. We propose three basic tiers.

We propose independent special mediators with genuine expertise in labour relations.

In addition, we propose adding an independent committee of experts to examine the concept of a national emergency, which could be better formulated or better defined and may look more like what we see for essential services or for the continuation of operations in the Canada Labour Code. That would be something more objective than the minister's opinion.

We also propose parliamentary oversight. After the matter has been reviewed by an independent panel of experts, what we propose is that the minister look at the independent panel's report and decide whether to introduce back-to-work legislation. The bill will be transparently debated by parliamentarians, which will force every member to rise in the House to speak out on behalf of or against workers.

Andréanne Larouche: I don't have much time left, so I'll continue quickly.

You said earlier that it would be an unfortunate first in the G7, particularly in terms of parliamentary accountability, to have something as major as this. That's not how it works elsewhere, either.

François Soucy: That's not how it works elsewhere. The Canadian Labour Congress published a comparative document that looks at the powers given to labour ministers in G7 countries. There is no other country where the Minister of Labour has such powers.

[*English*]

The Chair: Thank you.

[*Translation*]

François Soucy: It's too bad. We wouldn't want to go down that road in Canada.

[*English*]

The Chair: In a twisted sort of way, I take pleasure in having to cut somebody else off.

Voices: Oh, oh!

The Chair: Thank you, Ms. Larouche.

That's all the time we have for this panel. Thank you all very much. I very much appreciate your contribution.

We'll suspend for a few moments.

● (1725)

_____(Pause)_____

● (1735)

The Chair: Welcome back to meeting number four of the House of Commons Legislative Committee on Bill C-39.

I'd like to take a few moments...for the benefit of the witnesses and members.

Please wait until I recognize you before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you are not speaking. At the bottom of your screen, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you know how to use your earpiece. I would like to remind witnesses that committee members may ask questions in either French or English. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance in order to take full advantage of the time allotted for questions and answers. I remind you that all comments should be addressed through the chair.

I would now like to welcome our witnesses for today's third panel.

From Electricity Canada, we have Josée Guibord, president and chief executive officer. From the Macdonald-Laurier Institute, we have Heather Exner-Pirot, director of energy, natural resources and environment. From the Québec Mining Association, we have Emmanuelle Toussaint, president and chief executive officer, and Stéphanie Tremblay, lead, sustainability.

Each organization will have up to five minutes for their opening remarks, followed by questions.

I will start with Ms. Guibord.

Josée Guibord (President and Chief Executive Officer, Electricity Canada): Thank you, Mr. Chair, for inviting me to appear today to talk about this important bill.

My name is Josée Guibord. I am the president and CEO of Electricity Canada. We are the national voice for electricity in Canada. Our members generate, transmit and distribute power to homes and businesses in every province and territory.

I'm relatively new to this role. Before joining Electricity Canada, I spent many years working in the electricity industry on the generation side as an investor-owned producer—the side that develops, builds and operates projects. That gives me first-hand experience with the process issues that this bill aims to fix: overlapping reviews, permits issued one after another and timelines no one can predict that can add cost and risk to projects.

Canada's affordable, reliable and clean electricity system is a key strategic advantage. Our grid is a foundation that drives growth across the economy. It is 2% of our GDP, but that's the first 2% that enables the rest. Our electricity system is also a climate success story. Canada has one of the cleanest grids in the world, with more than 80% of electricity produced by non-emitting sources. We've reduced emissions by nearly 60% since 2005.

This clean energy advantage will drive emissions reductions across the economy, but we can't take it for granted. Canada must continue to grow the grid to keep this advantage. As outlined in the national electricity strategy, we need to double our electricity supply over the next 25 years to meet new demand from electrification, new technologies and population growth. This means building more generation, transmission and distribution infrastructure at pace and at scale. This is a $1-trillion opportunity for Canada, one that we have to get right.

Bill C-39 helps advance this objective. It simplifies decision-making processes and accelerates permits and approvals for the electricity projects that Canada needs.

The electricity sector is ready to build. The challenge is no longer a lack of ambition. It's the need for regulatory systems that can match the pace, scale and urgency of the required investment. Permitting delays are not cost-neutral. Excessive delays can create uncertainty and discourage investment. Every additional month of uncertainty increases development risk and ultimately raises costs for Canadians.

The building Canada strong act responds to this challenge. It would create a one-year federal review and decision timeline that would give utilities, investors, indigenous partners and governments the regulatory certainty they need to commit capital. Importantly, the bill and accompanying cabinet directive would extend this one-year commitment beyond major projects. This is essential. We can't double the grid through major projects alone. It will take thousands of smaller community-level investments.

We are also pleased to see the government move forward with the principle of one project, one review. Creating a single authority for nuclear projects and interjurisdictional transmission lines, as well as reducing duplication for offshore wind projects, would reduce the complexity of building the next wave of electricity infrastructure. The federal decision statement and a more coordinated federal approach to Crown consultations would further improve clarity for proponents.

Another important element of Bill C-39 is the requirement for decision-makers to consider whether permitting conditions are technically, economically and practically feasible.

All that being said, there are also opportunities to strengthen Bill C-39 with targeted amendments to streamline electricity permitting, especially under the Fisheries Act. At present, that act is a barrier to the efficient operations of existing electricity infrastructure, primarily the hydro facilities that are the backbone of our clean energy supply. Amending the Fisheries Act to allow for a significance-based authorization regime that focuses on protecting fisheries and fish populations is needed to provide regulatory certainty for the hydro sector.

Right now, the sector is ready. Investors are ready. Communities and indigenous partners are increasingly ready to move projects forward. What we need now are regulatory certainty and timely decision-making. Bill C-39 provides an important foundation for this to happen. With continued investments and improvements, it could help ensure that Canada seizes this once-in-a-generation opportunity.

Thank you for the opportunity to speak with the committee.

● (1740)

[*Translation*]

I look forward to your questions.

[*English*]

The Chair: Ms. Exner-Pirot, please go ahead.

Heather Exner-Pirot (Director of Energy, Natural Resources and Environment, Macdonald-Laurier Institute): Thank you, Mr. Chair and members of the committee, for the invitation to appear today.

I want to begin by expressing my strong support for the overall direction of Bill C-39. In my view, this legislation is necessary, long overdue and an important step toward restoring Canada's economic competitiveness.

There are three reasons I believe these reforms are so important.

First, Canada still needs to improve its ability to get things built and shipped. We are blessed with extraordinary natural resources, abundant energy, a skilled workforce, sophisticated industries and unhindered access to American, Asian and European markets, yet we have made it unnecessarily difficult, expensive and unpredictable to invest in major projects. Our regulatory system has been our Achilles heel. The problem has not been a lack of opportunities or international demand for what Canada produces; it has been our inability to translate those advantages into financeable projects, adequate infrastructure and exportable products quickly enough.

Meanwhile, the world has undergone dramatic changes recently. Geopolitical instability, trade tensions and concerns about supply chain security have made countries interested in diversifying their sources of energy, minerals and other strategic commodities. Canada should be an obvious beneficiary of these developments, but we cannot take the opportunity for granted. Investment capital is mobile, and our competitors are not standing still.

The proposed one-year timeline for federal decisions is therefore admirable. It establishes a much-needed expectation that government decisions should be timely, coordinated and predictable. I would encourage the committee to ensure that this ambition is fully reflected in the Canadian Nuclear Safety Commission's directives as well, in particular with regard to uranium and the additional hurdles it must overcome.

Second, I want to address the alarmist opposition to this legislation.

Some of the reactions to Bill C-39 would have Canadians believe that streamlining regulatory processes will inevitably lead to environmental destruction or the abandonment of indigenous rights. I reject that characterization. Canada has one of the most sophisticated systems of environmental regulation in the world. Our mining, energy and infrastructure industries operate under demanding environmental, safety and consultation requirements. Canadian companies have also developed considerable expertise in indigenous partnerships, impact benefit agreements and, increasingly, indigenous equity ownership.

These are strengths we should be proud of, not obstacles that we need to dismantle, but we must distinguish between maintaining high standards and maintaining unnecessarily burdensome processes. More paperwork does not produce better environmental outcomes. Multiple overlapping reviews do not produce better decisions. Taking three years to reach a decision does not necessarily make that decision more scientifically sound or socially legitimate than reaching it in one year.

The duty to consult indigenous peoples remains and environmental laws remain. Regulators retain their responsibilities. While the details of implementation matter, the suggestion that faster, better-coordinated decisions are inherently incompatible with environmental protection or indigenous rights is simply not credible. We cannot continue to allow the loudest opponents of development to exercise a disproportionate influence over Canada's economic future. There are broader public interests at stake: jobs, investment, government revenues, energy security and the prosperity of future generations.

Third, Canada must become a more reliable and trusted international trading partner.

In today's geopolitical environment, reliability is an increasingly valuable economic asset. Countries are looking for suppliers they can trust, politically stable jurisdictions, strong institutions and dependable access to commodities. Canada possesses these advantages in principle, but we have not always delivered them in practice.

Repeated labour disruptions at our ports and railways, transportation bottlenecks and inadequate export infrastructure have undermined our reputation for reliability. They have imposed costs on Canadian farmers, miners, manufacturers and energy producers while creating uncertainty for international customers. If we want to diversify our trade beyond the United States, particularly toward Asian and European markets, we must be able to deliver what we sell consistently and competitively.

The proposed changes to collective bargaining and dispute resolution recognize that disruptions to nationally significant transportation infrastructure have consequences extending far beyond the immediate parties to a labour dispute. While the rights of workers and the importance of collective bargaining must be respected, so too must the interests of the thousands of businesses, workers and communities whose livelihoods depend on functioning labour supply chains.

I'll conclude with this: Canada has spent too many years debating whether we should develop our resources, expand our infrastructure and compete more effectively in international markets. I am relieved that this debate is over. The question now is whether we can actually deliver. While Bill C-39 will not solve every problem, I believe it goes pretty far in addressing some of those things.

● (1745)

Thank you very much for your attention.

The Chair: Thank you. You are right on time.

We'll go over to you, Ms. Toussaint, for five minutes.

[*Translation*]

Emmanuelle Toussaint (President and Chief Executive Officer, Québec Mining Association): Mr. Chair, members of the committee, thank you for inviting our association to testify before you.

My name is Emmanuelle Toussaint. I am the president and chief executive officer of the Association minière du Québec, or AMQ. With me is Stéphanie Tremblay, who is the sustainability lead.

Founded in 1936, the Quebec Mining Association represents the entire mining ecosystem in Quebec, including all operating mines, exploration and development companies and suppliers of goods and services. The association's mission is to promote the development of a responsible, committed and innovative Quebec mining industry.

From the outset, I want to state clearly that the AMQ supports Bill C-39. The proposed measures to regulate time frames and decisions, to better coordinate the authorities of the various federal departments and to designate regions of national interest are important to our members and can have concrete effects on the ground.

In the current geopolitical context, we must focus on what we control. We don't control the tariffs, the price of minerals or the fact that the refining of several critical minerals is concentrated in the hands of a very small group of countries. What we control are our own rules, such as the time it takes to approve projects, the coordination between our governments and the predictability of our decisions. That is exactly what Bill C-39 aims for.

Let's not forget that our industry is already an economic pillar. The activities of AMQ member mining companies and their suppliers supported more than 15,000 direct jobs and more than 51,000 direct, indirect and induced jobs in 2022. The industry contributed $12 billion to the GDP in 2022 and relies on 3,800 suppliers. The industry's activities have also generated more than $2.6 billion in fiscal and parafiscal revenue for Quebec City and Ottawa.

These benefits are very real, and new projects could expand on them. According to a new study we recently conducted, 45 advanced mining projects would represent up to $609 billion in potential spending in Canada, including $577 billion in Quebec, if they were all carried out. Over 70% of these investments are in critical and strategic minerals, and the rest are primarily in gold and iron.

That's a decades-long potential. However, mining capital is mobile. A good, high-quality deposit does not guarantee that investment will be made here. I must stress that fast-tracking does not mean weakening environmental or social requirements. It means better organizing government work, avoiding duplication and making decisions within clear and predictable time frames. It typically takes 15 to 20 years from the discovery of a deposit to the development of a mine. We're talking about investments of $1 billion to $4 billion. Fast-tracking, simplification, transparency and accountability are essential for mining projects to move forward.

Our support comes with a few recommendations, which are contained in our brief.

First, the proposed one-year time frame must allow for measuring a project's actual progress. Clear criteria are needed to determine whether an application is complete. There has to be a follow-up of the preceding period. Suspensions must also be justified and limited to new, relevant and necessary information. Otherwise, the time frames may simply be moved upstream. Departments also need to have the resources to work in tandem.

Second, there is consultation with indigenous communities. Developing mining projects relies on good relationships with these communities. It is important to have a consultation plan specific to each project that is aligned from the outset with Quebec's process and that specifies the communities to be consulted, the purpose of the consultation and each party's responsibilities. This will prevent communities from being consulted several times on the same issues.

Third, there is coordinating with Quebec and ending overlap. Coordination among federal departments is great, but it doesn't resolve overlap between the two levels of government. That is why we are asking for a formal agreement between Canada and Quebec to implement the “one project, one assessment, one decision” approach while complying with the conventions.

Fourth, a mine cannot move forward without roads, power lines, railways and ports. Designating regions of national interest has to involve planning projects and infrastructure at the same time, for both mining projects and communities. More than three-quarters of the projects studied are in northern Quebec and Abitibi-Témiscamingue. There are also other significant projects on the Côte-Nord and in Saguenay—Lac-Saint-Jean. National interest must cover the entire value chain, not only extraction but also processing, refining and recycling.

Fifth is implementation. Habitat credit and offset regulations under the proposed Fisheries Act amendments need to be published quickly. Projects that are already under way must also be able to choose the new regime without repeating the steps that have already been taken.

● (1750)

In short, Bill C-39 is a step in the right direction. We're not asking for less rigour; we're asking for processes that are better organized, more predictable and better coordinated.

Thank you for your attention. We are available to answer your questions.

[*English*]

The Chair: Thank you very much.

Mr. Albas, you have six minutes.

Dan Albas (Okanagan Lake West—South Kelowna, CPC): Thank you, Mr. Chair.

Thank you to all our guests for being here. I'll start with Ms. Toussaint.

Ms. Toussaint, you said that making decisions within a clear time frame was important for you and for your association. We agree. Conservatives support Bill C-39's objectives of faster project decisions. However, the statutory one-year period that's found in part 1 only provides certainty if proponents know exactly when it begins. You said yourself that the incentives are to push much of the information collecting outside of the one-year timeline.

Under the so-called “Groundhog Day” proposed section 19, essentially it becomes an open-ended amount of time where the responsible authority gets to decide whether an application is complete. If that happens, the advertised one-year statutory promise is null and void. Would you support an amendment requiring government to determine, within a fixed period, whether an application is complete, so that the one-year timeline approval is actually meaningful?

[*Translation*]

Emmanuelle Toussaint: Yes, what we're asking for is that the government better regulate what is upstream and ensure that proponents know exactly whether their application is considered complete and what is expected of them. Afterwards, the time frame countdown can actually begin.

That is, in fact, one of our recommendations. We need to clarify what is upstream. It is all well and good to try and ensure that there is a predictable one-year time frame, but we have to make sure, once again, that it is not moved forward without proponents knowing more about whether their application is complete.

● (1755)

[*English*]

Dan Albas: Thank you very much.

Ms. Guibord, you mentioned earlier that there's an amendment you'd like to the Fisheries Act. Could you please submit that in writing to the committee, so we can take a look at it at length? I don't have time to do it right now.

I just asked the question about the Groundhog Day clause, where a proponent can go back to the responsible authority every day and say, "Here's another study," and the responsible authority can say, "We need another study before we decide that it's complete and begin the one-year clock."

Do you agree that this needs to be addressed, and would you support an amendment that would give a fixed timeline for that to begin?

Josée Guibord: For our members, and coming from an investor-owned developer, we see the importance largely around not having an open-ended end to the process. As a developer, we can control certain amounts of the development and the initial preparation in preparing for the application. We're more concerned that it not be open-ended and that we have a clear timeline from application, from acceptance, to delivery of the decision.

Dan Albas: Thank you very much.

Ms. Exner-Pirot, I have the same question for you. Right now, regarding that completeness clause, proposed subsection 19(4), where the responsible authority gets to decide when you can proceed on the clock, do you think that gives the responsible authority too much power?

Heather Exner-Pirot: Some of the concerns I've heard from various industry associations and companies were about how there's a lot of front-loading with this. Everyone appreciates the one-year timeline. Even if it were 14 or 16 months, it's such an improvement from before. It doesn't have to be exactly 365 days. However, there are some concerns about how much front-loading goes on the beginning. For some of the smaller projects, maybe particularly in mining, that get invested at different milestones and different stages, that may be an issue.

I think anything that provides that clarity for companies of what is completeness would be welcome.

Dan Albas: Thank you.

I would like to follow up with that. The BCA—the Building Canada Act—obviously gives the government a tremendous amount of power, but that process is very much a closed shop, meaning that no one knows how it gets on there. Is it a premier who makes the recommendation to the minister, or is it a lobbyist?

One of the strengths of Bill C-39 is that the regulator gets to be a single window. They do a review of it. It's almost the complete opposite of the BCA.

Could there not be a place, in your mind, where the responsible authority who sees the project in its totality could make a recommendation to have the minister responsible for the BCA look at it as a potential national interest project? Then, second to that, they could actually say that you could exempt certain parts of it to speed up that process even further. Now, the decision lies with the minister, but then you would have an expert regulator who would be somewhat away from the lobbyist and politics of the day.

Would you support an amendment that would allow that to happen?

Heather Exner-Pirot: I would say a lot of the concerns about Bill C-5 were that it allowed for picking winners and losers and political choices of what moves ahead. I think one of the advantages of Bill C-39 is that it makes it a bit more of a level playing field for everybody. I think, in general, across legislation, across time, we should be trying to depoliticize our regulatory processes. This has been at least a two-decades-long process of adding political oversight, vetoes and ministerial discretion. As much as we can make it depoliticized and just rules of the game, I think it's an improvement.

Dan Albas: Again, having a process where the regulator would just make a recommendation using their expertise and then the cabinet, obviously, where there is political accountability, would make the final decision.... Would that marry the two systems that don't exist right now with Bill C-5 and Bill C-39?

Heather Exner-Pirot: It may very well be better than what's currently on offer. I would go one step further. I'd rather not have nationally determined projects at all. I think you set the playing field. I think all projects, frankly, are in the national interest.

Dan Albas: That's fair.

The Chair: Thank you.

You're right on time, Mr. Albas. Well done.

Mr. Louis, go ahead.

● (1800)

Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Chair.

I want to thank the witnesses, all the amazing women, for your informative opening statements. I really appreciate that.

I will start with Ms. Exner-Pirot.

You talked about the need to get things built and shipped. You talked about being a strong international trading partner. You talked about Canada's competitiveness. We've heard from other witnesses and yourself about the investment challenges that proponents face, including duplication, sequencing and uncertainty around how long federal decisions will take. From the perspective of investment, how important is the time to a decision, whether it's a yes or a no?

How would a predictable one-year federal decision window change Canada's competitiveness for capital?

Heather Exner-Pirot: I would say obviously we have great geology. Everyone appreciates that. We have a pretty good workforce. Like I said, our Achilles heel has always been our regulatory system. Investors have said we're “uninvestable”. Like I said, I heard people call Bill C-69 the “Don't Invest in Canada Act”. It's slow. That is the general reputation—that it's slow.

I think we'll always be a little slower than some other jurisdictions, but as one colleague from Saskatchewan said to me, if you're going to be slow, you better be good. We need very good systems that are predictable and are transparent.

That one-year timeline is what has gotten everyone in the Canadian oil and gas industry particularly excited for pipelines, where that does feel like a huge improvement. We've seen so much capital flow to the United States because it does get deployed faster. You get a return on investment faster. Being able to compete with that is going to be a boon for our Canadian resource and energy sector.

Tim Louis: Thank you for that.

Following up on that, how about starting earlier when we're talking about regions of national interest? The bill proposes assessments that could examine cumulative environmental, social, economic, health and indigenous rights impacts across an entire region. That would help identify suitable development areas and even no-go zones in advance. Then, proponents have to enter a region with clear expectations, potentially reducing that regulatory uncertainty while supporting environmentally informed development planning.

How could doing regional assessments and cumulative-effect work, before individual proponents arrive, improve investment certainty and environmental planning in resource-rich industries?

Heather Exner-Pirot: I think it's a very interesting idea from the legislation. Everyone is trying to figure out what regions we're thinking about here and what kinds of projects.

One that is comparable is the Alberta heartland industrial zone, which is obviously not federal, but it may be a comparable situation where you have an area zoned for this. It's been able to attract a lot of petrochemical investment, a lot of data centres, precisely for that reason. It was already zoned. Investors already knew they could move in quite quickly. I think expanding that model to areas under federal jurisdiction is very promising.

Tim Louis: Thank you very much.

Turning to Electricity Canada, we talk about energy sovereignty and building our electrical grids east-west, as opposed to north-south with our southern neighbours. You've done research that found additional interprovincial interties could reduce outage risks by almost 70% during extreme weather.

Since Bill C-39 would make the Canada Energy Regulator the lead federal review authority for interprovincial transmission projects, how would those reforms help accelerate and construct the new interties and help build our energy independence?

Josée Guibord: Thank you.

As we said, we support the bill, and we think that it helps increase collaboration. It simplifies the processes, and it speeds up the approval of that transmission. Making the Canada Energy Regulator the single assessor for international and designated interprovincial power lines, with decisions due within one year of a complete application, is definitely an improvement.

We recognize, as you said, that there are benefits to transmission across the country. We recognize that building more transmission will create a better system and continue to maintain our clean, affordable and reliable electricity system. Building that transmission will help us achieve energy security—that reliability you mentioned—and the integration of renewables across the sector and across our country.

Tim Louis: Thank you very much.

I'll turn to the Québec Mining Association.

When we talk about critical minerals and how essential they are for transmission lines, batteries and nuclear supply chains, do you feel that this bill could enable mines that will help us build a cleaner economy as well?

Emmanuelle Toussaint: Critical minerals are essential for the energy transition and also for the social and economic transition. We know that there are many countries that have those resources.

I would add, however, that there are other projects that are not necessarily for critical minerals—like for iron and gold. Those projects are also important. Quite often, those mines are polymetallic. That means that it's possible to have silver, copper and many other minerals.

● (1805)

[*Translation*]

Once again, I think that Bill C-39 will fast-track projects, reassure investors and ensure that projects can get off the ground. This is extremely important. The fact is that only a small number of projects manage to see the light of day. For example, there are currently more than 1,100 exploration projects in Quebec, but only about 50 projects are sufficiently advanced, and there is no certainty that they will be realized.

Having available infrastructure, whether for transportation or electricity, is a major component. One of the really attractive aspects of Bill C-39 is having regions of national interest. It's clear that we have large mining regions. Being able to truly facilitate the completion of these projects, but also ensure that the mines that are already in operation can continue to operate, is really essential, especially if clean electricity is available.

[*English*]

Tim Louis: Thank you.

The Chair: Go ahead, Mr. Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

Greetings to all the witnesses and thank you for being here.

My first question is for Ms. Toussaint.

You said it would be better to have stronger alignment between Quebec City and Ottawa to limit overlap. If, as the government says, an assessment could be conducted within one year, would it suit your industry if the Quebec Bureau d'audiences publiques sur l'environnement, or BAPE, conducted the impact analysis?

Emmanuelle Toussaint: Yes. We're not asking for a new organization to conduct these analyses. The processes already in place work well. We also remind you that this must be done in compliance with existing agreements on territories where there are indigenous communities.

Ultimately, once a proponent's project has passed the BAPE stage and so forth, Canada needs to quickly approve the project afterwards.

Gabriel Ste-Marie: Okay. Thank you.

For my next question, I'll give a long introduction. This question is for you and Ms. Guibord.

During the first hour of today's meeting, we were joined by constitutional expert Maxime St-Hilaire. He expressed concern about the path that the government is taking to speed up projects. The Barreau du Québec has just submitted a brief on Bill C-39 that makes the same point. Mr. St-Hilaire told us that Bill C-39 is basically emergency legislation, just like Bill C-5. Yet if we want to uphold the rule of law, emergency legislation must be temporary and subject to strict parliamentary oversight. This isn't happening here. He told us that speeding up assessments and reducing paperwork is different from overriding the legislation. These are two different things. He reminded us of the need to uphold the rule of law.

I'll now quote two excerpts from the Barreau du Québec's brief. It states the following:

> The Barreau du Québec's main concern regarding the bill lies less in the one-time acceleration of certain projects than in the establishment of permanent and exceptional mechanisms that would exempt these projects from legal regimes specifically designed to ensure the legitimacy, transparency and legality of government action.

The bottom line is that legislation exists and must be adhered to.

I'll quote the end of the introduction:

> The Barreau du Québec believes that, if environmental assessment processes or mechanisms for consulting indigenous communities do indeed contain shortcomings that cause delays or leave blind spots, the appropriate response is to reform these regimes rather than to create parallel workarounds.

The constitutional expert Maxime St-Hilaire and the Barreau du Québec argue that, if problems arise with the current legislation and it's too long or too difficult to uphold, it would be better to amend the legislation rather than to enact emergency legislation—as we're doing here—that circumvents the legislation.

I wanted to hear what you both think about this.

Ms. Guibord, let's take the example of Hydro-Québec and the Fisheries Act. Hydro-Québec was told that it couldn’t change the water levels in its dams because doing so would harm the fish. Yet the whole point of a dam is to vary the water level. Wouldn't it be better to amend the legislation on this matter and make the change permanent, rather than talking about circumventing the current legislation and creating two regimes for temporary projects?

Ms. Guibord, please go first. Ms. Toussaint can speak next. I would like to hear your thoughts on this.

● (1810)

Josée Guibord: I won't comment on the constitutionality of this matter. In short, the bill amends a number of pieces of legislation, including the Fisheries Act. The bill, as currently drafted, doesn't change this concept. However, we recommend that this aspect be changed in the Fisheries Act.

Now let's talk about the environment and indigenous communities.

In terms of the environment, we can see that the goal is to make it easier to obtain approvals. This doesn't necessarily mean that the processes or standards will be changed.

Regarding the goal related to indigenous people, we can see that indigenous people are increasingly participating in our projects and becoming owners more often, for example. Generally speaking, simplifying and speeding up the processes also benefits them. The bill won't affect the involvement of indigenous people or the consultation process with them.

When it comes to the Fisheries Act, once again, the goal concerns the current assets and hydroelectric facilities. This legislation applies to hydroelectric facilities built at a time when the legislation allowed for certain regimes. The impact of rectifying the permitted practices at these hydroelectric facilities would be astronomical.

Gabriel Ste-Marie: Thank you.

Ms. Toussaint, you have one minute left.

Emmanuelle Toussaint: As I said at the start, we have no intention of circumventing any legislation or regulations. The mining industry is truly responsible. We believe that all environmental legislation matters, as do the relationships with indigenous communities. The consultation and accommodation processes are in place and they matter. However, there are ways to speed up the process by changing the method for handling cases and by designating regions of national interest. The goal is to better align infrastructure needs with the existing communities. Multiple mining projects could benefit from this improved alignment.

We have no intention of circumventing any legislation. We really want to work together more effectively and to collaborate better.

Gabriel Ste-Marie: Thank you.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

Mr. Lawrence, we'll go to you for five minutes.

Philip Lawrence: I'm going to go to Ms. Exner-Pirot from the Macdonald-Laurier Institute first.

In my riding is Wesleyville, which will be the largest new nuclear facility built in North America, if in fact it goes forward.

You had mentioned in your earlier statement that you'd like to see greater streamlining when it comes to the nuclear approval process. I was wondering if you could expand upon that.

Heather Exner-Pirot: It is primarily to do with uranium mining. Obviously, nuclear needs a lot of social licence to survive, so there's maybe more of a process. For nuclear projects, that makes sense. I think everyone's very pleased that the Impact Assessment Act has been taken out of the CNSC. That's very good streamlining.

In terms of uranium mining, if you're a uranium miner, you think you're just a miner. Of course, then you have the CNSC overlay. In terms of some of the additional burdens, I think of public hearings, for example. Normally a mine would not have to do public hearings, but it has to do CNSC public hearings. To the extent possible, treat uranium mining as mining and then treat nuclear projects as nuclear projects. Don't impose all the CNSC requirements onto mining that rewire them for nuclear projects.

Philip Lawrence: Thank you very much.

This is for the same witness but on a slightly different topic.

In my seven years here, and I'm now approaching 50 years old, I've become a little skeptical. I've seen that all that glitters is not gold, it turns out. Unlike my colleagues on both sides of the aisle who are a little more optimistic, I'm a bit of a stick-in-the-mud.

Specifically, I'm talking about the accountability under this act. Could you tell me what consequences the government or any regulator would face if, in fact, they don't meet the 300-day standard?

Heather Exner-Pirot: I think it's difficult to hold them accountable, and I think there are some loopholes. I like the legislation because it would create an expectation of one project, one review, one year. It's a strong political signal to the bureaucracy. For a lot of industry, there is skepticism, like you have, of the willingness or the ability of the bureaucracy to do things faster. With that expectation of a year, if you go over a year, people will be asking questions and pointing at it. Even a dashboard....

There is some transparency, if you look now, on projects going through and the stage that they're at. That's very helpful. Having more metrics to show people how long it takes to go through the IAA process or the CER,, for example, would help to enhance that accountability.

● (1815)

Philip Lawrence: I think those are all fine points, but here is my fear. I've been at the public accounts committee and I've heard senior government officials say, “Yes, I failed to deliver, but we have a plan.” They come back a year later and say, yes, they failed again, but now they have a plan to get on the plan again.

Here's what I think will happen. I hope I'm wrong, I really do. I think they will fail consistently to meet this standard. We'll be back again in a year or two, and we'll have the “building Canada stronger” plan, which once again will fail to get projects built, and we won't see shovels go into the ground.

Would you support, for example, an amendment highlighting that where regulators or the government fails, they'd have to publish or, in other words, name and shame those regulators, agencies or government officials who are failing to meet these deadlines?

Heather Exner-Pirot: I would resist using the word “shame”, but I think, like I said, that having a dashboard.... There are many regulatory agencies that are looking at improving permitting and that have introduced the concept of dashboards, or maybe something even more transparent or more accessible to the average Canadian, showing how long it takes projects to get through each stage and where maybe there are some agencies or some regulators that are taking a lot longer than others. I always think that sunshine is the best form of accountability.

Philip Lawrence: I agree that sunshine is the best disinfectant. Once again, my fear is that if we don't really shine this light and we don't put in law the requirement to highlight the facts to the public.... Most folks are busy trying to get their kids to school, trying to get to work and back, and trying to earn a living. It won't come to their attention that regulator X23 has missed project 456. I think we really need to shine a light on that. Don't you think that's a reasonable approach?

Heather Exner-Pirot: I think it's reasonable to ask for accountability from the regulators on the amount of time it takes them to grant permits and approve projects.

Philip Lawrence: Thank you very much. I appreciate your time.

The Chair: Thank you, Mr. Lawrence.

Ms. Desrochers is next.

[*Translation*]

Caroline Desrochers: Thank you, Mr. Chair.

I would like to thank the witnesses for joining us today to continue this discussion.

I'll start with the Québec Mining Association.

You already spoke briefly earlier about how Bill C-39 will truly help Quebec's industry improve its competitiveness. I believe that we were discussing a loss of competitiveness that mainly stems from the bureaucratic burden.

Of course, the Prime Minister has pledged to make Canada an energy superpower, both in the traditional energy sector and in the clean energy sector.

Can you talk about the role that Quebec's critical minerals can play in this energy transition? You touched on this earlier, but I would like you to elaborate on it. How can this help move projects forward more quickly?

Emmanuelle Toussaint: Yes. Absolutely.

Critical and strategic minerals are important for the energy transition, particularly in the transportation sector. We aren't just talking about the electrification of transportation. All vehicles require various components that contain critical and strategic minerals. These minerals are also important for renewable energy. For example, to transmit electricity and build distribution lines, we need critical and strategic minerals, particularly copper. To use solar or wind energy, we need batteries to store the energy. All these batteries require critical and strategic minerals.

One other thing is worth mentioning. We talk a great deal about the energy transition, and rightly so. However, there are also all the important national security considerations. We really need these minerals in our daily lives. We can also talk about the medical field. We can really talk about all the aspects of our lives that depend on these minerals.

Caroline Desrochers: I gather that we're in a race and we need to catch up given our lag in resource development. However, we need to do this properly. We must do it the right way.

I think that a historic meeting took place today involving the Prime Minister, the provincial and territorial premiers and the first nations chiefs. I think that this shows that we're listening.

I would like you to talk a bit about your members' experience and how the bill will make it possible to carry out coordinated federal consultations with the first nations and the Innu people. Do you think that this is a positive development?

● (1820)

Emmanuelle Toussaint: Yes, it's definitely a positive development. The crown already has an obligation to consult and accommodate. We at the Québec Mining Association really hope to be able to fully uphold this commitment. Our members consistently recommend and adhere to the practice of ensuring that consultations take place from the outset.

My colleague, Ms. Tremblay, may want to weigh in.

Stéphanie Tremblay (Lead, Sustainability, Québec Mining Association): Yes. We also need a consultation plan that aligns with Quebec's procedures in order to avoid duplication in consultations with indigenous people. We know about consultation fatigue. The process will be much easier if we can avoid asking the same question multiple times or repeatedly asking communities about the same issues.

Caroline Desrochers: Thank you.

I'll now turn to Ms. Guibord.

Our government is also committed to doubling Canada's electricity capacity by 2050. This is absolutely vital to attracting investment. We're seeing this in Quebec, where some projects are stalling or falling behind schedule given the lack of electricity capacity. The interconnection between provinces will obviously play a key role in this.

Can you give us a little insight into how having a single assessment by the Canada Energy Regulator will help us speed up the completion of this east-west connection that my colleague brought up earlier?

Josée Guibord: Yes. I'll respond in English, if you don't mind.

[*English*]

Making the Canada Energy Regulator the single assessor for international and designated interprovincial lines is really important. That the decisions are due within one year of a complete application is important. As your colleague mentioned, what we saw with our studies and how that coordination would facilitate a reduction of outages, etc. is really important. Again, our members believe that additional transmission across our sector would allow for better energy security and achieve better reliability and integration of renewables over time.

[*Translation*]

Caroline Desrochers: Thank you.

[*English*]

The Chair: Thank you, Ms. Desrochers.

Mr. Albas, the last five minutes go to you.

Dan Albas: Thank you, Mr. Chair.

I'd like to speak in terms of certainty after approval. Conservatives support rigorous review before a project is approved, but once government has approved a project and investment begins in reliance on its conditions, those rules should not simply change because political preferences change. Government would still need to respond to material new information, non-compliance or serious risk, but in part 1, division 2 of Bill C-39, there is an issue where the minister can unilaterally amend a project, surprising everyone.

Would you support an amendment allowing established project conditions to be reopened only for an objective reason such as material new information, non-compliance or serious new risk with reasons required for the changes?

I'll start with Ms. Guibord.

Josée Guibord: Our industry's primary need is certainty and predictability. We want a transparent and well-defined process and decision-making criteria for investor confidence. That's what investors require. That's how I viewed it as an investor. We support those clear rules. We support predictable timelines with stable regulatory frameworks across the governments.

The long-term electricity infrastructure requires investments measured in decades, not in electoral cycles. Whatever mechanism Parliament adopts should provide the confidence that project requirements will remain clear and predictable throughout the development.

[*Translation*]

Dan Albas: Ms. Toussaint, what are your thoughts on this?

Emmanuelle Toussaint: In the mining sector, it's exactly the same. We need predictability and clarity. We don't want a series of requests. Ideally, a single consultation will take place. The proponents will then know exactly what's expected of them.

Once again, in a competitive environment, multiple jurisdictions have already adopted various pieces of legislation or different regulations. We must be able to ensure that everything remains as predictable as possible for investors and proponents.

● (1825)

[*English*]

Dan Albas: Ms. Exner-Pirot, I have the same question for you.

Heather Exner-Pirot: I have never considered your amendment but, in principle, it sounds very good to me. In our federal regulatory system, we have a bad habit of turning a blind eye to ministerial overreach when we think it's a government that's conducive to that overreach and then having to pay the price when maybe it's a government where the overreach goes against projects. Like I said, depoliticizing things to the extent possible and introducing accountability to the extent possible sound very good. Having a reason why a minister might make a new decision or intervene in the process sounds like sound policy.

Dan Albas: Ms. Guibord, in regard to east-west transmission, one of the other members mentioned the importance of that.

At some point with electrical projects and transmission, there is a marginal utility function where the further out you go, the less power you can share. This is typically why we have north-south energy transmission, which is partly addressed here in Bill C-39, to coordinate with a regulatory agency outside of Canada.

Just how realistic is east-west transmission? Is it case-specific, where there are certain projects where it makes absolute sense? What are the physics behind longer transmission?

Josée Guibord: There are definitely physics behind longer transmission. Our members are keen on evaluating those as they come, and they're specific to regions. They're not something that we can just blanket opine on. They will be specific. They will be at the provincial level, and they will be something that each proponent and the various utilities will address.

Dan Albas: I don't think we're going to be going anywhere outside of Canada except the United States. Bill C-39 seems to specifically have that in mind. Do you get that same intention?

Josée Guibord: I'm sorry. Do you mean that we're not going to go anywhere but the United States?

Dan Albas: No, it's just that it makes changes to allow the Canada Energy Regulator to work with a foreign jurisdiction. To me, that's the United States.

Josée Guibord: You mean when they're talking about international.... When we're speaking about electricity, that's our closest jurisdiction, yes.

Dan Albas: Thank you.

The Chair: Thanks, Mr. Albas.

We do have a couple of minutes left.

Mr. Louis, I'll give you two or three minutes.

Tim Louis: Thank you.

Maybe I'll turn to Ms. Exner-Pirot.

We talked about timelines and investments. Can you speak from, let's say, an investor perspective? Can a timely no be sometimes preferable to spending years without knowing the decision on a project? Can you tell us about that certainty for investments' sake?

Heather Exner-Pirot: I would think so. I said that every project is in the national interest but, of course, it's only those that pass our regulations and can meet our standards. One of the problems in the past was that there was not a willingness to make a hard political decision, or maybe there was not the justification to make a hard political decision. If there is a project that clearly won't be passing standards and clearly won't be getting social licence, then I think to be able to justify a no early on is much preferable to dragging it out.

Tim Louis: Thank you very much.

Ms. Toussaint, I didn't get a chance to ask you about those regions of national interest. You mentioned the need to sometimes study an area before. Can you explain the importance of that to your industry, how those cumulative effects work and the regional assessments that work ahead of time so that, when a project comes, there's more certainty as to what they need to do to continue to get that work done?

Emmanuelle Toussaint: Exactly, it is really important to de-risk those projects because, as I mentioned at the beginning, the investment for a mining project, from the discovery of a deposit until the opening of a new mine, is $1 billion to $4 billion. It's also somewhere between 15 to 20 years. There's a lot of risk for investors. Anything that can be done to help and support is important. For an investor, knowing that there will be electricity, a road, a port or a railroad is extremely important. One thing, also, is for the local communities.... It's not only to look at one project. The ask is really to make sure to look at the different projects and make sure that we are able to plan all together.

Tim Louis: Thank you, all.

The Chair: That's all the time we have for this panel.

Thank you very much to our witnesses. We appreciate your contribution.

We will suspend now and get set up for our next panel.

● (1830)

_____(Pause)_____

● (1840)

The Chair: I call the meeting back to order.

Welcome back to meeting number four of the House of Commons Legislative Committee on Bill C-39.

I would like to take a few moments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you are not speaking. For those on Zoom, at the bottom of the screen, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you can use the earpiece and select the desired channel. I'd like to remind the witnesses that committee members may ask questions in either French or English. If you will need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance in order to take full advantage of the time allotted for questions and answers.

Please direct all questions and comments through the chair.

I would now like to welcome our witnesses for today's fourth panel.

As individuals, we have Mr. Stewart Elgie, the Jarislowsky chair in clean economy at the University of Ottawa, and Brian Hong, a member of the federal government's expert task force on natural capital accounting and nature financing. From Ecojustice, we have Isabel McMurray, government relations and campaign specialist. From the Nature Conservancy of Canada, we have Lisa McLaughlin, vice-president of conservation strategy.

Each organization will have up to five minutes for their opening statements, followed by questions.

We're starting with Mr. Elgie.

[*Translation*]

Stewart Elgie (Jarislowsky Chair in Clean Economy, University of Ottawa, As an Individual): Thank you, Mr. Chair and committee members.

I'll speak in English today.

[*English*]

I've had the privilege of helping to build many of Canada's environmental laws over the past 35 years, as my grey hair shows, and working with governments of all stripes. I'm the co-chair of the Prime Minister's task force on nature financing, together with Brian.

I'm here today to say we support the goals of this bill. Canada needs to attract investment and build faster. We also need to build well. That's the commitment in the Prime Minister's recent nature strategy. It says, “Canada will integrate its nature and economic agendas to support timely development decisions while protecting nature.” To do that, the government will encourage and “drive private investment in nature positive outcomes”.

This bill can deliver on that commitment. It requires just one modest change.

Project approvals must ensure positive outcomes for nature. That means they must mitigate and use offsets to address environmental impacts to leave nature better off. Our written submission gives detailed suggestions for how to do that, but let me briefly explain why I think this makes sense for the economy and the environment.

First, our three major competitors for investment—the U.K., the U.S. and Australia—all do exactly what we're proposing already. They legally require all major projects to offset their impacts and achieve net gain for nature or, at least, no net loss.

Second, there's wide support among business for this goal. All of Canada's major banks have committed to it, as have most major mining companies and many resource and pipeline companies, including Pembina Pipeline, the Pacific link partner. That's a lot of Ps.

Third, well-designed offset systems are also good for proponents. They speed up approval by about 50%, based on 30 years of U.S. evidence. The key is having efficient offset options, like habitat banks and conservation funds. Canada already requires offsets for some projects, but our approach is fragmented and unpredictable. Proponents often don't know until the last minute what's required, and they're left scrambling to find suitable conservation instead of focusing on their core business. Setting clear requirements up front provides certainty, reduces delays and attracts investment.

Fourth, that certainty also gives better outcomes for nature. It gives time up front to identify large, high-quality habitat areas in priority places instead of small, last-minute offsets where they happen to be available, which often happens today.

Fifth, private investment is vital to meeting our biodiversity commitments, such as protecting 30% of Canada. That's why the Prime Minister created the nature financing task force. It's to grow investment in nature-smart farming, forestry, restoration and conservation. What we've learned is that regulated offset systems mobilize far more investment than voluntary ones. It's about 500 times more. The U.S. habitat offset market generates about $5 billion a year. It's the world's largest single source of private finance for nature and it attracts large institutional investors. Many international investors, like the European Investment Bank, require all of their projects to achieve net gain for biodiversity.

Sixth, offsets can also build indigenous partnerships. They can provide significant funding for indigenous-led restoration, conservation, stewardship and guardians and build alignment with nations around responsible development.

Seventh, it can also help build a strong brand for Canada as being “nature strong”, which can be a competitive advantage for us. With our strong resource sectors and our vast intact areas, we can show the world how to deliver nature-positive growth and strengthen demand for our products and investment.

Nature is a deep source of pride for Canadians. It brings us together. The bottom line is that we can build fast and we can build well by embedding nature-positive offsets in this bill.

I'll turn it over to Brian for the rest of my time.

● (1845)

Brian Hong (Member of Federal Government Expert Taskforce, Natural Capital Accounting and Nature Financing, As an Individual): Thanks, everyone, for the time today.

First off, I agree with all the points provided by Stewart. I've seen those become growing trends during my career in banking.

I want to add one additional remark. Nature risk is financial risk. When nature is degraded, it increasingly shows up on the balance sheets of corporations, investors and governments. We've seen this play out in Canada with wildfires that shut down Fort McMurray or burned down entire towns, and flooding that paralyzes our big cities. These aren't just environmental events. They're economic disruptions with real costs to infrastructure, supply chains, workers and communities.

That's why protecting nature is also a matter of national security. The World Economic Forum ranks ecosystem harm and biodiversity loss as the second-greatest global risk over the next decade. Adding nature-positive outcomes in our project approvals ensures that we don't add further risk to our country, infrastructure and economy, and that the major projects we build can stand the test of time.

Thank you.

The Chair: Thank you.

Ms. McMurray, you have the floor.

Isabel McMurray (Government Relations and Campaign Specialist, Ecojustice Canada): Thank you, Mr. Chair.

Good evening, honourable committee members. My name is Isabel McMurray. I am a lawyer and government relations and campaign specialist at Ecojustice. Ecojustice is Canada's largest environmental law charity.

I appreciate the opportunity to appear before you today to share our concerns about part 1 of Bill C-39, the building Canada strong act.

Our environmental laws are a safety net that protect Canadians from the harmful impacts of industrial development. They prevent and reduce pollution of our lands, waters and air to keep us healthy. They work to keep the species we love, like the orca, safe for generations to come. They are not red tape.

Despite what you have heard in this chamber, the bill as proposed would fundamentally weaken environmental laws and protections in Canada. It would drastically reduce their application. It would change how decisions are made and by whom. It would turn predictable, transparent, science-based reviews into selectively applied permitting processes. Our written submissions offer more detail.

Here I will direct your attention to three key changes. The first is that Bill C-39 would remove the sunset clauses in the Building Canada Act, making it permanent. The second is that it would allow cabinet to pre-approve projects in regions of national interest without assessment under the Building Canada Act. Third, it would allow ministers to remove or alter project conditions under the Impact Assessment Act and the Building Canada Act, even if doing so would make the project's impact on the environment worse or threaten species at risk.

Let me explain.

First, Bill C-39 would make the extraordinary, undemocratic powers under the Building Canada Act permanent. As you know, the BCA gives cabinet unprecedented discretionary powers. Cabinet may pre-approve a project before assessment by designating it as being in the national interest. This designation allows cabinet to choose which environmental laws the project is subject to and to exempt it from others.

At the committee stage, some parliamentarians in this room amended the BCA to include a five-year sunset clause on these powers. The intention was to limit their use to respond to the extraordinary times that we find ourselves in today. Bill C-39 deliberately ignores parliamentary intention and would remove these sunset clauses. This would permanently grant the government of the day the ability to circumvent the laws of Parliament for any project it deems to be in the national interest, regardless of the environmental cost.

Second, Bill C-39 would give cabinet the ability to pre-approve projects within regions of national interest. If a regional assessment has been conducted in an area, cabinet would be able to designate that region as being in the national interest and could name types of projects that are eligible within that region. If your project is eligible, it is deemed to have met all requirements necessary. It is issued an approval document without thorough assessment, and it may proceed.

Our main concern is that this power allows for the blanket pre-approval of projects without adequate environmental assessment, public oversight or ongoing evaluation of cumulative effects within the region.

Last, Bill C-39 expands the ability to amend conditions. When government issues a permit for a major project, it issues conditions that a proponent must meet. These conditions are not arbitrary. They are based in rigorous science and indigenous knowledge. They strive to mitigate the worst impacts of the project.

As proposed, Bill C-39 would expand the power to amend conditions. It would allow conditions under the Impact Assessment Act to be amended, even if that would make the impact of the project on the environment worse. It allows the President of the King's Privy Council to amend authorizations granted to a project before it is listed in schedule 1 of the Building Canada Act, which is an order of operations problem. These powers allow governments to weaken the protections deliberately put in place to ensure that major projects do not, for example, make a species go extinct.

Ecojustice urges this committee to reject Bill C-39. It is irredeemable and will eviscerate the environmental legislative framework that governs major projects. The bill enacts environmental review processes that risk causing irreversible environmental harm. Canada can build a strong economy without sacrificing our natural heritage. Faster project approvals should not come at the expense of environmental safeguards, wildlife or public participation in a healthy democracy.

Should the committee choose to move Bill C-39 forward, we ask that you amend the legislation to delete the clauses that I have described above—reintroduce the sunset clause in the Building Canada Act, remove the ability to create regions of national interest and limit the ability to amend conditions.

Environmental laws are not red tape. They are the means by which we protect our shared natural heritage and our ecological future.

Thank you for your time. I look forward to your questions.

● (1850)

The Chair: Thank you very much.

Ms. McLaughlin is next.

Lisa McLaughlin (Vice-President, Conservation Strategy, Nature Conservancy of Canada): Thank you, Mr. Chair and members of the committee, for the opportunity to appear here today.

My name is Lisa McLaughlin. I'm the vice-president of conservation strategy with the Nature Conservancy of Canada. Since 1962, NCC and our partners have helped conserve more than 20 million hectares of ecologically important lands across Canada for nature and for people.

I'll open today by reflecting on that and noting that my comments are to be taken within the context of the federal jurisdictions and the authorities. In that regard, NCC supports the objectives of Bill C-39, but we recommend one integrated change delivered through two linked elements: first, a net positive outcome for nature as an explicit objective of streamlining the federal project pathway; and second, to enable a broader approach to addressing unavoidable residual impacts, including proponent-led offsets, habitat banking and in-lieu fee mechanisms.

A net gain for nature positioning matters because it defines where we want to end up, not simply how we manage the impacts along the way. The mitigation hierarchy is an important method for addressing the project impacts, but assessments, permits and conditions do not on their own guarantee an overall positive outcome for nature.

An explicit nature-positive objective would establish that expectation: As Canada builds more and faster, development should contribute to reversing nature loss rather than adding to it. It would also strengthen confidence amongst stakeholders and rights holders that accelerating development will not accelerate nature loss.

The second element provides practical pathways. Today, addressing residual-impact requirements is handled differently across federal statutes and authorities, and important costs may be negotiated after project design and capital planning are well under way. Clearer pathways with a broader suite of qualified offsetting tools, including third-party habitat banking and fee-in-lieu mechanisms, provide development proponents with more ways to meet their regulatory responsibilities, increasing the opportunity to address those residual impacts with the best available conservation solution rather than the solution that can be assembled in the moment.

Normalizing a broader suite of tools can reduce bespoke negotiations and late-stage redesign schedule risks, while also connecting projects with land conservation specialists and stewardship and land management capacity. It's also an opportunity to leverage development-related funding into a much larger conservation investment. Rather than a proponent's offset dollars funding stand-alone projects, mechanisms like habitat banking and in-lieu funds can allow dollars to become the foundation of a larger conservation project. The required funding can be combined with philanthropic, private and other public dollars to expand the scale of land protection and restoration. The proponent would still meet its regulatory obligations, but the investment can help unlock conservation outcomes at a significantly larger scale than the offset alone.

We have seen this in action. We have done many of these projects across the country with development and industry partners. I'll provide an example for you here today from working with Elk Valley Resources. They contributed $20 million towards NCC's $90-million conservation project, with a pathway for their investment to potentially address their company's future regulatory offset needs. The company's regulatory offset obligations are not being displaced. Rather, the investment became a part of a larger conservation initiative, alongside funding from other sources, enabling a nature-positive outcome at a scale that neither the offset investment nor the conservation funding alone could achieve by themselves.

The opportunity within Bill C-39 is to make pathways like this more routine, rather than more exceptional. In that project, nature really did get a positive outcome. This project has protected more than 450 square kilometres in southeastern British Columbia, further connecting a network of 7,000 square kilometres of protected areas linking Alberta, B.C. and Montana. These lands have provided habitat for grizzly bears, wolves, wolverines and lynx and protect critical habitat for two federally listed species at risk.

This is what a nature-positive objective could look like if we were using all the tools on the ground. In taking this approach, Canada would not be starting from scratch. As the panellists already mentioned, England, the United States and Australia have already adopted different forms of reaching net-positive outcomes for nature.

● (1855)

Canada could build on this experience while designing a system suited to our regulatory framework, our landscapes, our nature and our business needs. We believe Bill C-39 could help Canada build these projects while also creating conditions for better outcomes for nature, which leads to better outcomes for people.

Thank you.

The Chair: Thank you very much.

Mr. Leslie, I understand you're going to start us off for six minutes.

Branden Leslie: Thank you, Mr. Chair.

I'd like to start with you, Ms. McMurray.

If Parliament were to pass Bill C-39 unchanged, what specific environmental consequences are you most concerned about over the next five or 10 years?

Isabel McMurray: Thank you for the question.

I'm particularly concerned about the pre-approval powers that would be granted to the Canada Energy Regulator.

Section 214 is being amended so that the Canada Energy Regulator can pre-approve a pipeline of any length—or, more specifically, it can exempt a pipeline of any length from the need to obtain a certificate. Due to changes made to fiscal activities regulations by cabinet in September 2026, this means that a pipeline would not undergo an impact assessment at all, and an exempted pipeline would not undergo an evaluation by the Canada Energy Regulator. A pipeline could be approved without any rigorous environmental assessment.

There are other pre-approval powers that I'm concerned about as well, but I'll focus specifically on that.

Branden Leslie: Thank you for that.

Minister Dabrusin told this committee that Bill C-39 only changes the approval process, not environmental protections. However, clause 5 allows certain work to begin before final approval, as you just outlined, while clause 100 and clause 101 expand ministerial powers to change conditions attached to major projects.

In your view, aren't those conditions and approval requirements part of what is, in fact, aimed at protecting our environment?

Isabel McMurray: Absolutely. The ability to start construction before the full impacts of the project are understood, before consultation is completed and before indigenous communities may have disclosed impacts on their rights.... We'd get ahead of ourselves.

The precautionary principle guides environmental legislation internationally and in Canada. It says that we must look before we leap. We must understand what we're doing before we do it. By authorizing early construction, we'd permit environmental consequences without fully understanding the scale and scope of what they would mean for us in the future.

Branden Leslie: The minister has made these assurances on the record before this committee. I would make the assumption that you and your organization are not exactly believing her in that.

Isabel McMurray: We certainly disagree.

Branden Leslie: Okay.

Is there anything in this legislation that could prevent the government from using these new powers to weaken some of these protections, in practice?

● (1900)

Isabel McMurray: I think things could be added to early construction, for example. A requirement to issue reasons would be very important. That particular guiding context, in which early construction could or couldn't be permitted, would be very helpful. The ability to amend conditions issued under the Impact Assessment Act, even if it would increase adverse effects on areas of federal jurisdiction, is particularly concerning. Introducing a requirement that this cannot specifically be done in a way that would lead to a jeopardy finding under section 73 of the Species at Risk Act would be helpful.

There's an immense amount of discretion in the legislation. I think you are well placed in this committee to recommend guardrails on the use of that discretion to ensure that environmental standards can be maintained.

Branden Leslie: What are your thoughts about the minister's expanded powers of permitting, beyond what would typically fall under the environment department's purview? This is proposed schedule 5, specifically.

Isabel McMurray: It's difficult. As you know, the Impact Assessment Act was passed with the goal of one review, one assessment. Failures of implementation have led us to a multiplicity of reviews and a multiplicity of assessments.

The problem with the process within proposed schedule 5 is that the proponent is not obliged to provide the agency with all the information. There's an exemption in section 20-something, I believe, where the proponent could issue a notice to the agency saying, “We will not provide all the information required to receive all these federal authorizations”, and that would be permitted to proceed. There's a concern that permitting could go ahead without fully understanding what the impacts would be on particular areas of federal jurisdiction—fish and fish habitat, migratory birds, species at risk and those things.

The other difficulty is that these things are done sequentially for a reason. We need to understand the impacts of a project on the environment before we can decide whether or not these impacts on a fish-bearing stream can be justified or mitigated. Any part of the mitigation hierarchy can be applied. It's concerning.

Branden Leslie: Thank you for that.

Your organization, Ecojustice, has been.... We've received hundreds of emails, or at least I have. I'm sure everybody on this committee has received hundreds of emails in the past number of hours with the subject line “Bulldoze Nature Bill”, which is how your organization has described the legislation. Ecojustice said that “extinction could be the price” for passing this legislation. I assume you mean the extinction of a certain species and maybe not the entirety of humanity.

You're clearly a technical expert. Have you addressed these concerns directly with the government, or is this the first opportunity? In your view, assuming you've done so over the past number of days and weeks since the bill was tabled, are the Liberals taking the concerns that you're outlining today seriously?

Isabel McMurray: Since the discussion paper was tabled in the spring that outlined the proposal in this legislation, the government has taken the key message to not give the ability to amend the Species at Risk Act or issue exemptions to the jeopardy clause quite seriously. They've removed that from the proposal.

The legislation as written would still allow a project listed under the building Canada strong act to lead to a jeopardy finding with no restraint. The project could still go ahead even if it would cause the extinction of a species.

The government has attempted to assuage these concerns, but I'm not feeling particularly comforted that the way this bill is being passed will protect, for example, the southern resident killer whale or, in Manitoba, the woodland caribou, which are being protected through impact assessment conditions issued to the Lynn Lake gold project.

The Chair: Thank you. We're out of time in that round. I'm sorry.

Dr. Martin, go ahead.

[*Translation*]

Danielle Martin (University—Rosedale, Lib.): Thank you, Mr. Chair.

I want to thank all the witnesses.

I'll start with a question for either Mr. Elgie or Mr. Hong.

[*English*]

Mr. Hong, you're a leader at RBC. You're the head of capital markets or something like that. This is a bit of a banking type of question.

Is the notion of nature positivity...? I think we're all positive about nature. You've told us, though, that Canadian banks already endorse this concept. We heard, I think, from Mr. Elgie that resource companies already support the notion of nature positivity and offsets, and that, in fact, government often requires it.

This is for either of you. Why is it necessary to put those into law? What's the purpose of that?

● (1905)

Stewart Elgie: Brian, why don't I lead off and you can chime in?

Brian Hong: Sure. Go ahead, Stewart.

Stewart Elgie: Obviously, nobody wants to see us weakening environmental laws here. The real issue is whether we can strengthen them. Can we strengthen our laws and also build faster at the same time? That's what this is about.

The reason that it's important to put this into law is that, first of all, Canada does not consistently require environmental offsets right now, and we do not consistently require that projects do no net harm to nature. We do that sometimes, but you don't know as a proponent when you start what the requirement is going to be.

The previous panel talked about the need for certainty and predictability to attract investment. We don't have that right now. The U.S., the U.K. and Australia do have it. They have clear rules up front, which is why they have billions of dollars flowing into offsets and conservation, and their projects are achieving net-positive outcomes for nature. Really, this is a chance to show that we can have faster economic development and better economic development and lead the world in doing that.

I'll turn it over to Brian, because he knows more about this from the banking and investment side than I do.

Danielle Martin: I'm sorry, Mr. Hong. Because I have a few questions, I'm going to barrel ahead here, so to speak.

This bill uses the concept of regions of national interest to better coordinate major project development. How do you see the parameters used in this concept, like regional assessments, for example, as beneficial or potentially beneficial to the preservation of nature?

That's for either Mr. Hong or Mr. Elgie.

Stewart Elgie: I'm probably better placed to handle that one. You don't know a lot about regional assessments as a banker, probably.

Regional assessments are critical to good development. In the same way as urban planning is critical to urban development, regional planning is critical to regional development. We don't have it right now. Right now, it means that every project approval has to figure out all the cumulative landscape issues in that whole region, and it's really hard on a proponent. They can't do it. Getting ahead of that by looking at the landscape-level questions, to me, is one of the things I'm most excited about in this bill.

The problem is that, right now, it only talks about the economic side of that planning. It only talks about planning for economic development. A true integrated plan would look at what the conservation, infrastructure and social needs are. If you had that, it would give you the certainty for investment to know where the best places are for development and where the best places are for infrastructure.

If these regions of national interest and the assessments that go into them incorporated all parts of good planning, it would be a huge advantage for development and investment, and it would really speed things up.

Danielle Martin: Thank you.

My next questions are for Ms. McLaughlin.

I want to focus on this notion of keeping our standards high and moving quickly, which we acknowledge are shared joint goals, though at times they can be in tension. Our goal here is to accelerate and to coordinate, importantly, because I think we all can acknowledge that we don't always coordinate our assessments as well as we could in government.

What tools do you think are in place now or could be in place under Bill C-39 to ensure that high-value habitats are protected when we look ahead, for example, through this process of regional planning that we were just discussing? When you look ahead at something far into the future, is that an opportunity, for example, to make sure that we route projects away from high-value habitats where species might be at risk, etc.? Can you talk about that?

Lisa McLaughlin: Yes, certainly.

Those regional planning zones provide that opportunity if, as Stewart mentioned, we bring the conservation angle into it. Not only can we be looking today at where the species are and what their habitat needs are for their whole life cycle; we also have, in Canada, the ability to project out even further. We can be looking 80 to 100 years into the future as we look at the effects of a changing climate and as we look at the effects of where development and infrastructure are going today and into the future. We can then use many of our conservation planning tools, which my organization uses, to optimize both where nature can be held and any offsetting might be able to be done.

Danielle Martin: That's helpful.

I want to make sure that we touch on the question of land trusts. They're something I'm quite passionate about in the urban environment, but I understand that we're talking about land trusts as they relate to this bill. Can you say a bit about how you see land trusts fitting into that long-term regional planning?

Lisa McLaughlin: Absolutely.

This is an opportunity for Canada's nature strategy and our building Canada strategy to come together. One of the places land trusts, which are organizations whose mission is land conservation, could be working with proponents.... These are the people who know the land better than most people. They wake up every day thinking about what needs to be done to help support biodiversity outcomes. By working with these local land trusts, they can be part of your team on the ground identifying the optimal places to work, both with proponents and with governments.

● (1910)

Danielle Martin: Thank you.

The Chair: Thank you, Dr. Martin.

Mr. Ste-Marie, go ahead.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

I would like to extend my greetings to all the witnesses.

Mr. Chair, I provided two quotes from the Barreau du Québec's brief. I just want to remind the committee members that the Barreau du Québec sent this brief to the committee and that it will be available on the committee's website once the translation is complete.

My questions are for Ms. McMurray.

First, clauses 5 and 49 of the bill grant the minister the discretion to authorize measures that affect the environment even before the approval of a project. This means that the proposed amendments to the Impact Assessment Act would make it possible for the Minister of the Environment or the Canadian Nuclear Safety Commission to authorize a proponent to begin construction on a project before obtaining final authorization based on the impact assessment.

Would the requirement to impose restoration conditions, under the proposed new subsection 7(6), provide sufficient protection against the negative effects of premature construction?

Isabel McMurray: Thank you for the question. I will answer in English to be as precise as possible.

[*English*]

In a word, no. If the full extent of a project's impacts on an area of federal jurisdiction is not fully assessed or not fully understood, we can't mitigate harms we don't know about yet. We can't foresee all potential harms if we haven't completed the assessment.

Early construction activities can still have significant adverse environmental effects. I believe last week the minister suggested examples of building culverts or roads. These have significant adverse environmental effects. We don't know what the effect will be on a fish-bearing stream if we haven't done the assessment yet. We don't know what the impact will be on a species at risk if we're not fully sure whether a species is in the area.

Building roads, for example, causes increased predation by wolves on large ungulates, such as caribou, because they create linear corridors that are faster and more efficient to travel. If we don't know about the endangered status of a herd of caribou in the area before we issue these conditions, how can we know how to protect these caribou who may be a keystone species for an indigenous community that may not yet have disclosed that they practise their rights in this area?

We're putting the cart far before the horse in this situation.

[*Translation*]

Thank you.

Gabriel Ste-Marie: Yes, it's very concerning.

Thank you very much. You could have given your short answer in French. I'm teasing you.

There are clauses in the bill—several of them—that require decision-makers to consider what is called the technical, economic and practical feasibility of the conditions set out in the authorization before issuing it to the proponent. In practice, these amendments might discourage decision-makers from approving conditions that would increase costs or extend the construction time of a project. It's a bit technical, but the wording of this requirement contains no indication, which means it is entirely up to ministers to determine the feasibility of the conditions set out in their authorization. That could slow down the enforcement of strict conditions to protect the environment. It will always be more expensive, more difficult and take more time to protect the environment, threatened species, fish and their habitat than to carry out a project with no strings attached.

What guarantees are there that decision-makers will take into account the technical, economic and operational feasibility of the conditions imposed on projects in the authorization documents before determining whether they can move forward?

Isabel McMurray: Thank you. I will answer again in English. We'll try next time.

[*English*]

There are a couple ways to do this. The first thing would be to remove the requirement to assess the “technical, economic and practical feasibility of the conditions.” Something else would be to introduce a reverse onus provision that would make it the job of the proponent to prove that a condition wasn't technically, economically or practically feasible. As it stands right now, the discretion means that the minister could pre-empt the strength of their own conditions in issuing them, because they would worry that it would be too onerous on a proponent, but introducing a reverse onus provision would mean that the proponent would have to say, “No, I can't do this, and here are the practical reasons.”

Introducing a measure of a burden of proof would be helpful. For example, the Impact Assessment Agency of Canada has this requirement in section 22 of the Impact Assessment Act. What happens in practice is that the decision statements team at the agency has a dialogue with the proponent, and the proponent has to do that proving. That's a policy that's in place, but there's no guarantee that this policy would be put in place at the Canada Energy Regulator for the Canadian Navigable Waters Act, etc. I think a reverse onus provision would be very helpful.

● (1915)

Stewart Elgie: The other thing you can do, in addition to looking at the technical and economic feasibility, is to look at all feasible measures to mitigate environmental harm and offset impacts. Look at the environmental feasibility and make sure everything feasible is being done to minimize, avoid and offset the impacts of the project. That's the kind of balance we want in this bill.

[*Translation*]

Gabriel Ste-Marie: Thank you very much.

My next question is about the Canadian Energy Regulator, which is being granted an exemption power. You talked about it earlier when answering another question.

Could you explain again what that is? In some cases, pipelines could be built without an environmental impact assessment being done. In some situations, it is the minister and his team who will give the authorization, and in others, it will be the regulator, when a project requires at least 300 kilometres. That said, with an exemption, there would no longer be any assessment.

I don't have much time left. You have 30 seconds to answer, but I can come back to it in the next round, in 10 minutes.

[*English*]

Isabel McMurray: The Canada Energy Regulator would have the ability to exempt a pipeline of any length, over or under 300 kilometres, from the need to obtain a certificate. It would take away cabinet's power of approval for a project of over 300 kilometres and would remove any need for assessment at all. Because there would be no requirement at all for a pipeline to undergo an impact assessment, a pipeline could be approved prior to any environmental evaluation.

The Chair: Thank you.

Mr. Leslie, it's over to you for five minutes.

Branden Leslie: Thank you, Mr. Chair.

I'll continue with you, Ms. McMurray.

Ecojustice has also said that Bill C-39 “tears apart Canada's key environmental regulatory safeguards”. I sit on the environment committee, and last week I heard the Liberal chair of our environment committee say in the House that this bill has been subject to a “wild disinformation campaign”.

Do you think that the government is dismissing legitimate environmental concerns, or as Liberal MPs are claiming, are you and your organization in fact deliberately offering a wild disinformation campaign?

Isabel McMurray: I sincerely hope that I am being entirely honest with you. I intend to be entirely honest with you.

All jokes aside, this work that my colleagues and I are doing is not mis- or disinformation. We are interpreting the legislation as it stands to explain what its impacts would be on the environment and on projects. We are looking at what the legislation says and not just what the legislative intent is. The legislative intent may be that a region of national interest could never be an entire province, as you exchanged last week with Minister LeBlanc, but the legislation as it stands does permit that.

If Liberal MPs are talking about what the bill does and doesn't do, while the legislation offers so much discretion, I think there is a need for this committee to introduce guardrails on that discretion to ensure that the legislative intent of the bill matches the wording and the powers that are possible under it.

Stewart Elgie: That's pretty much what we're proposing.

Branden Leslie: Thank you for that.

Just quickly, because you touched on the region of national interest, both in your intro and in that answer, it's very unclear what that means. Maybe it's a good idea, but none of the ministers could really offer any clarity, and there seems to be no willingness to put any sorts of guardrails in that space.

In your view, if cabinet were to designate a very large area, what could go wrong?

Isabel McMurray: I think we have to take one step upstream. In order to have a region of national interest, we must have a regional assessment. Regional assessments are conducted under the Impact Assessment Act or under the relevant territorial legislation.

Let's take the Impact Assessment Act. Section 92 gives absolutely no guidance as to what a regional assessment must be. There's no required purpose. There are no required factors to consider. There are no required outcomes. A regional assessment could be a six-month study of offshore exploration drilling in Nova Scotia, or it could be an ongoing six-year regional assessment in the Ring of Fire in partnership with first nations and indigenous communities.

The risk of designating a large area on the basis of a regional assessment that was done without clear guidance, without clear requirements for what it must be, means that cabinet could designate a region of national interest based on very thin regulatory requirements, which could lead to high-risk environmental harms.

Branden Leslie: Thank you.

Five years ago, the Liberals passed the Net-Zero Emissions Accountability Act, which I know you're aware of, which legally committed to certain emissions reductions. Now, Bill C-39 is intended to accelerate major energy projects, including new oil pipelines.

Do you believe those two laws could possibly be working towards the same goal?

● (1920)

Isabel McMurray: With deliberate and careful amendments introduced in this committee—some of the amendments proposed by my colleagues here—I think it's potentially possible.

The Prime Minister has already said that we're going to miss our goals under the Canadian Net-Zero Emissions Accountability Act. We are going to miss our goals under the Paris Agreement. I worry that if Bill C-39 passes as is, we run the risk of losing ground on climate change entirely.

Branden Leslie: My understanding is that your organization is representing a number of groups and students who are taking the government to court over failing to meet its obligations under that Net-Zero Emissions Accountability Act.

How can Canadians have confidence when we hear ministerial assurances while we have an organization, like yourself, currently taking the government to court over their unwillingness to update their existing emissions reduction plan and while the environment committee hasn't had any sort of statutory review undertaken after the five years have been up?

Isabel McMurray: Are you asking me how Canadians can have confidence in the government taking these actions?

Branden Leslie: Yes.

Isabel McMurray: I think the comfort that Canadians can take is that organizations like mine, and like West Coast Environmental Law, East Coast Environmental Law and the Canadian Environmental Law Association, are there, on the ground, trying to ensure that the government implements the legislation as it was promised and to ensure that we get the outcomes that we wanted to achieve when we passed this legislation in the first place.

Branden Leslie: Why, in your view, is the government...? They tried to dismiss that court case, and that failed. They tried to use the fact that they built “may” into that legislation, rather than “shall”. Why is it that the government is resisting the actual review being undertaken and updating their emissions plan?

Isabel McMurray: I wouldn't presume to speak for the government's intent in doing so.

Thank you.

Branden Leslie: Okay.

The Chair: Thank you, Mr. Leslie.

Mr. Kelloway.

Mike Kelloway (Sydney—Glace Bay, Lib.): Thank you, Mr. Chair.

Thanks to the witnesses for being here today.

I'm going to try to get to everyone, but I only have five minutes, I believe. I'm going to get right to it.

Mr. Elgie, your work has examined how environmental policy and economic competitiveness can be tied together. You talked about seeking investment in major projects, and that the investors—I'm paraphrasing—need it to be predictable and have a line of sight on that, while at the same time meeting environmental standards. I think everyone agrees with that.

I'm wondering if you can unpack, in the short period of time that we have, the elements of a regulatory framework that are most important to attracting investment while maintaining those environmental standards. Can you provide an example or the top-tier items that would need to be in there to suffice and to focus on the investment piece and the environment piece?

Stewart Elgie: That's a really critical question. You want to have both. What you need are stringency, predictability and speed. If you have those three ingredients, you can actually get to a win-win outcome.

This bill is mainly about the speed aspect, and that's part of the equation. We also need the predictability and the stringency part in there. We've talked a lot about this bill giving more flexibility and more discretion, and it does. The key safeguard on that discretion is ensuring the outcome. If the outcome has to be a net gain for nature, then the flexibility is still going to end up with a good result. That's why this, to us, is zeroing in on how you marry stringency with speed. Yes, you can go faster, as long as the law says you have to end up with a good outcome. If that outcome is a project that's developed quickly, this is where the certainty part comes in.

These three countries—the ones that are listed as our major competitors for capital in the discussion paper on this bill—all have exactly what we're looking for. They already have it. We're not doing anything new. We're just raising ourselves to their level to get the stringency part to go with the speed.

Does that help? I would say to look at what the U.S., the U.K. and Australia already do. That is the answer to your question.

Mike Kelloway: That helps a great deal.

Brian Hong: Can I add on one point there?

Mike Kelloway: I was coming to you.

Brian Hong: It's just that one missing element on that is long-term clarity on that legislation.

One of the challenges we faced in the OBPS and the industrial carbon pricing system is that there have been a lot of changes, which reduces investability. Making that very clear over the long term is what investors want to see before putting dollars into these projects.

Mike Kelloway: Mr. Hong, I want to stay with you, actually, because I wanted you to just unpack these words for me if you could: natural capital accounting. You highlighted it in your opening statement, but can you unpack what that is? It does tie into what Mr. Elgie was talking about in terms of that greater integration of the economy and the environment.

I'm wondering about it both for me and for people at home. We're introducing—I think to a large number of people—some new concepts that need to be unpacked in terms of the definition and the intent. Can you provide that for us and maybe shed some light on it?

● (1925)

Brian Hong: Sure. The simplest way is that nature provides value. It holds value for communities, businesses and government. It's simply accounting for the value it provides and trying to protect it or increase it over time. If you're able to put nature on the balance sheet through natural capital accounting, it would actually increase the assets you have.

Mike Kelloway: That's very helpful.

Maybe I'll go to Ms. McLaughlin.

Your organization has extensive experience working with landowners, businesses, indigenous communities and different levels of government to protect ecologically significant areas.

In the same vein as my first two questions, can you talk a bit about the conservation planning and how that docks up to the economic development side and the environment side, or the environment side to the economic development side?

Lisa McLaughlin: Absolutely. It's where, actually, the magic can happen.

My organization uses all the available information to look at where the most important places are to do conservation work for the outcomes we want. When we work with our industry partners, we already know that they also want to have good outcomes in the communities they're working in. They have some financial requirements that they're going to have to invest in offsetting in some cases, and in other cases, they just know it's good business sense. They're actually going above regulatory requirements in order to make sure they're doing the right thing in their communities.

What we can do together, though, is to take that and blend financing. This is something that we really have not unlocked in this country: being able to take philanthropic dollars from private donors who want conservation outcomes. If they can get it through blending finance of public dollars and other private investments, and having a big conservation outcome, that is a fabulous way to leverage financing.

Mike Kelloway: Okay. I'm out of time.

The Chair: You're in the negative, but nevertheless....

Mr. Ste-Marie, you have two and a half minutes.

[*Translation*]

Gabriel Ste-Marie: Ms. McMurray, I'd like to talk about the Species at Risk Act. Bill C-39 is an extension of Bill C-5, and the laws Bill C-5 enacted allow nation-building projects to bypass the Species at Risk Act.

Do you think the national interest regions that will be established by Bill C-39 will endanger species such as the beluga whale, killer whale, copper redhorse and the 300 or so other endangered species listed in schedule 1 of the Species at Risk Act? My question is about regions of national interest.

Isabel McMurray: I would say mostly yes.

[*English*]

The legislation as proposed would allow the creation of regions of national interest and would exempt eligible projects from assessment. This means that there could be projects in place.

There's a study right now, a regional assessment, of the St. Lawrence River. It is assessing the region. If a regional assessment leads to a region of national interest on the St. Lawrence River, there could be negative consequences for the copper redhorse, which is endemic to Quebec. That could lead to the extinction of the species in the world, so yes, to answer your question.

[*Translation*]

Gabriel Ste-Marie: That's very concerning. Thank you very much.

You talked about it, but I would like more details about the five-year sunset clause. The final version of Bill C-5 provided that, given these were extraordinary powers conferred on the government, they absolutely had to be limited in time. In Bill C-39, that has been removed.

Could you tell us more about the importance of putting a time limit on these extraordinary powers that make it possible to circumvent the laws?

[*English*]

Isabel McMurray: You heard from an earlier panel that these laws are enacting emergency powers. These are extraordinary measures to circumvent the laws of Parliament and to usurp decision-making from elected officials to public servants. These must necessarily be temporary. We have a democracy in place that is elected, and this legislation prevents our democracy from operating as such because it removes power from elected officials. It allows government to circumvent laws that have been put in place by generations of parliamentarians.

When Bill C-5 was enacted, we were assured that these powers were temporary, but these powers were necessary to address the economic issues in place given the trade war with the U.S. By making these permanent, we admit either that there is no emergency or that the emergency is ongoing and our tools are inadequate.

If our tools are inadequate, then let us not amend the laws piecemeal. Let us introduce a new law. Let us repeal and introduce new laws that address the problem in a way that allows us to build sustainably so that we can still have the copper redhorse in the St. Lawrence River.

● (1930)

[*Translation*]

Gabriel Ste-Marie: Thank you very much.

[*English*]

The Chair: Thank you to our witnesses. I appreciate the time and the contribution. It's very valuable, but we just don't have enough time. It's a commodity we could use more of around here.

We will suspend and get ready for the next panel.

● (1930)

_____(Pause)_____

● (1940)

The Chair: For the last time, welcome back to the Legislative Committee on Bill C-39.

I would like to make a few comments for the benefit of witnesses and members.

Please wait until I recognize you by name before speaking. For those participating.... No, we don't have anybody on video conference. Okay.

Please make sure that your earpiece is available to you. If you need interpretation, make sure that you're comfortable with the settings. People will be speaking both French and English and could be asking you questions in either official language. I will remind you that all comments should be addressed through the chair.

Now I would like to welcome our three panellists for our last panel.

From the Chiefs of Ontario, we have Abram Benedict, Ontario regional chief. From Liard First Nation, we have Chief Harlan Schilling. From First Nations Summit, we have Robert Phillips, political executive.

Thank you, all. Each of you will be given up to five minutes for an opening statement. Those will be followed by questions.

Chief Benedict, I will start with you.

Regional Chief Abram Benedict (Ontario Regional Chief, Chiefs of Ontario): Thank you very much, Mr. Chair.

Good evening to all of you. *Aanii. Boozhoo.Shé:kon. Watkwanonweraton.*

I hope that this committee is saving the best for last in the work that everybody's been doing. Yes, I got the notification from the chair. It's like presenting before lunch, between you and the end of the evening or between you and your dinner.

I'm Abram Benedict, the Ontario regional chief, a position that supports the 133 first nations across this great region. I have the pleasure of supporting them and advocating for them.

Today, with my colleague here, I participated in the first ministers meeting with all of the premiers—or many of the premiers—and the Prime Minister, talking about some important matters that impact our nations across Canada, including ours in this region. Much of that discussion focused around the current changes that are happening in the economy and around the geopolitical situation in which we find ourselves in this country. More importantly, it focused around a call for constitutional conversations, on defining the relationship between first nations and the Government of Canada, and also the UNDRIP legislation and the government upholding the United Nations declaration as well as free, prior and informed consent.

Today is a fitting conversation to continue that conversation, which is so fundamentally important to us. The Chiefs of Ontario are asking this committee to support our call to slow this bill down and have its parts studied by the relevant committees. As we know, in the process that it's going through, there are many changes in the legislation that impact us and that through a normal legislative process would be studied by a number of committees. We are asking that this bill be diverted into that democratic process.

Fundamentally important, it gives first nations, not only across my region but also all across Canada, the opportunity to voice their justifiable concerns and to participate in meaningful consultation. We believe that for any legislation brought forward pertaining to major projects, we must have equal consideration in the legislation, including the economic benefits, the impacts of that legislation and the environmental sustainability of any legislation—and also around protecting first nations protocol, respecting our decision-making and respecting the treaty and inherent rights that our nations have across the region I represent.

As it currently stands, Bill C-39 does not provide adequate consideration for any of these matters. We are aware of the growing economic and trade uncertainty this country is facing, and this is something that's not lost on us. These changes in the economy impact all of our nations.

However, Canada's using this backdrop to introduce vast changes to federal project assessments and authorization systems cannot be taken lightly or without extreme caution. Regional or economic development designations must never be interpreted as blanket consent by first nations for projects within their territories. Every project carries distinct potential impacts, and the impact on first nations must remain at the centre of every decision taken. We cannot legislate these responsibilities away.

We have also submitted a written piece to the supplementary verbal presentation that I am doing, a written piece in which we have many specific current concerns within the legislation outlined in greater detail.

However, most fundamentally, I'll be speaking today about the lack of the alignment with UNDRIP and free, prior and informed consent, and about the risk that Bill C-39 imposes not only to Canada but also to us as a nation and potentially to others.

Bill C-39 was introduced the minute the federal government returned this fall. Now it's being rushed through the concurrent legislative and Senate committees at extreme speeds, with extraordinarily limited opportunities for all of us to make our cases. Bill C-39 as it stands right now makes absolutely no mention of compliance with UNDRIP or FPIC, in direct contravention of Canada's commitment, which they have continued to publicly state. This is not respectful of the Crown's duty to consult and Canada's requirement to align the bill with the United Nations declaration act.

As well, the bill provides little opportunity for first nations to actually say no to a project or to a region being deemed of interest. Instead, the focus is on how this project will proceed—whether or not. It entirely undermines the principle of free, prior and informed consent.

While Bill C-39 tends to further expedite the approval process of major projects, in reality it makes it harder to build these projects in Canada. Bill C-39 has the potential to erode first nations' certainty and trust by circumventing processes that already exist with first nations—I must underline that: these already exist—and that first nations, Canada and proponents have historically used to create trust and advance mutually beneficial outcomes. There are a number of processes that exist in project development already that work well.

● (1945)

The bill makes enforceable project conditions arbitrary and subject to the whims of government, even though those conditions are critical for first nations to make informed decisions that impact their territories and their rights. As the federal government attempts to attract investments on major projects, Bill C-39 will create uncertainty for all. If Canada continues to pursue this legislation in the manner in which it currently stands, there is imminent risk that respectful development will not move towards harmony and a balanced approach.

While there still remains time to present amendments to this bill, we believe that Bill C-39 presents far too many risks to proceed towards royal assent. We're asking that this committee consider and recommend that its legislative pathway be altered as I have described and that a new process be enacted where first nations are involved from the very beginning.

Our communities are not barriers to this economy that Canada is looking for—

The Chair: Chief, I'm going to have to ask you to wrap up.

Regional Chief Abram Benedict: I appreciate the opportunity. I must reiterate that first nations are rights holders, governments, title holders and treaty partners, and are essential to building a strong, sustainable economy in this country.

Niawen'kó:wa.

The Chair: Thank you very much.

Chief Schilling, you have the floor.

Chief Harlan Schilling (Liard First Nation): Thanks for the opportunity to speak with you today. I acknowledge that we meet on the unceded territory of the Algonquin Anishinabe people.

My name is Harlan Schilling. I am also the CEO for the First Nations Centre of Excellence for Economic Development and was recently elected chief of Liard First Nation, one of the five Kaska first nations in Canada. Our territory spans northern British Columbia, the Yukon and the Northwest Territories. I was previously deputy chief of Daylu Dena Council for nine years, so I have led on both sides of the B.C. and Yukon border.

I am here because of the north. Much of what Canada now wants to build, from critical minerals to roads and power, lies in the north, yet the north is barely visible in Bill C-39.

Our communities are small and remote, and our field seasons are short. Our lands are among the last large intact landscapes on earth, and they are warming faster than almost anywhere else. The Kaska have no treaty, so protections written for northern treaty regimes do not reach us. A law that is to shape the north should be built with the north.

The Kaska are here to be partners in building Canada. I speak for both the health of our lands and my nation's economic future. For the Kaska, one cannot thrive without the other. We want the northern jobs and careers at home for our young people. In Lower Post, we showed that development and land protection can be balanced.

The Kaska and British Columbia have built a land use plan for our territory. At its heart is Dene K'éh Kusān, meaning "always will be there". It's a proposed conservation area of about 3.1 million hectares co-managed by the Kaska with the Province of British Columbia and possibly the neighbouring first nations. The plan also identifies where reasonable development may be considered.

Canada and B.C. committed to the northwest critical conservation corridor together with the protected areas of our Tahltan and Taku River Tlingit brothers and sisters. The DKK is the conservation heart, what the Prime Minister called an area the size of Greece and the premier called equal to 12,000 Stanley Parks. The DKK is a large part of what makes those comparisons possible. Both governments are also funding mineral and infrastructure projects within the region. In our territory, conservation and development must happen together. That is the heart of our message.

For the Kaska, conservation is the foundation for any approval of critical minerals and related development in our territory. That is not negotiable. It begins at the planning table, not after permits are signed, with the Kaska as partners from the first conversation. Companies must first avoid and minimize harm. Where damage remains, they must contribute meaningfully to conservation, restoration and long-term stewardship at a scale that reflects our land use plan. Canada should set a clear framework so development is nature-positive, and the exact model we will work out together.

Healthy lands are good business. They make communities and companies resilient against drought, floods and damaged infrastructure. Our elders say healthy lands make healthy people, and I would add healthy economies.

Certainty comes from agreements, not speed. A project forced through over our nation's objections is headed to court, and that would be the slowest path of all.

I ask three things.

First, support and respect the land use plans and conservation agreements that we are working together on in good faith with British Columbia and the Yukon.

Second, make decisions with indigenous nations as true partners, consistent with our rights and the UN declaration, with the time and resources to take part.

Last, make conservation and restoration, especially indigenous-led conservation, part of nation building from the very start so that it delivers a net gain for nature and, at the very least, no net loss.

Picture what is possible. First, a vast boreal landscape permanently protected, where caribou move freely, grizzly bears and stone sheep roam, millions of migratory birds return each spring and the Kaska guardians on the land and young people with good careers in the industry live at home rather than in distant camps. That is nation building, and we hope you will take this path with us.

With that being said and now being in the Yukon, understand that the Kaska have three large mining sites within our territory that need an abundance of work. We have Faro, which is one of the world's largest known man-made mining disasters. That is federally held by the federal government, and two are held by the Yukon.

Again, with the Kaska being leaders in conservation, I think it's only fair to be a part of the laws that are made within our territory. For years we have worked on this conservation project. Again, it's not if; it's when. We are the corridor of the north, and projects will be coming to my territory. Again, it is laws like this that will have a dramatic effect on the next seven generations, so I ask the committee to make those considerations and keep the DKK in your thoughts when you're making your decisions.

● (1950)

Thank you.

The Chair: Thank you, Chief.

Mr. Phillips.

Robert Phillips (Political Executive, First Nations Summit): [*Witness spoke in Secwepemctsín*]

[*English*]

I'm Robert Phillips, with the First Nations Summit. We are a provincial body in British Columbia. Basically, our motto is treaties, agreements and other constructive arrangements. As you know, modern treaties are creeping along slowly, but we're surely getting there.

We're into agreements of all types. When we look at what the Prime Minister is now talking about, with over $1 trillion of investment into Canada and then with all of the projects that are coming into B.C. as well, going into the billions.... There are a couple of sides to the story that we really want to have a discussion on. Of course, it can't be at all costs. That's very important.

At the First Nations Summit, we're basically advocates for first nations in British Columbia that are in the modern treaty process.

One of the things that are very important to us is DRIPA, the declaration act in British Columbia. As you know, the new B.C. Conservatives will be coming in and may attempt to abolish that, so we're certainly going to have our discussions with the B.C. Conservatives as well. Of course, you have the United Nations declaration here in Ottawa. That is very important, because the United Nations Declaration on the Rights of Indigenous Peoples is basic human rights, with one of those being the article I mentioned before, which is article 37 on treaties.

Reconciliation is a story that needs to be told. It will take a lot more than five minutes, but I'm respecting you, Mr. Chair, and the committee members and the questions that will come up. We look at it from this perspective. The federal colonial government, by order of the Crown, pursued treaty-making. This endeavour wasn't completed in British Columbia. There are about eight treaties in British Columbia. In addition, there are the Douglas treaties on Vancouver Island and Treaty 8 in northeastern British Columbia.

It all started in 1992. Back in the day, I think it was then Progressive Conservative Brian Mulroney and Mr. Harcourt with the NDP. Some say those were the good old days, because we got off to a very good start, but there have been many implications, many slowdowns and now many court cases that have come up.

Delgamuukw, Tsilhqot'in and Calder started it all off to recognize aboriginal title in British Columbia. It's on the ground. It's very real and you can't wish it away. It is something that's in British Columbia because there's a lack of treaties, so it's something that we're dealing with there. There have been decades and decades of litigation.

For Bill C-39 to seek to accelerate resource projects in first nation territories, there are necessary requirements. There has to be free, prior and informed consent. There also has to be meaningful consultation that has to take place around our Canadian Constitution, which we all uphold. I believe—and we heard the speakers before—if we're going to do something, let's do something else that will combat both things and be complementary.

I believe first nations carry a great responsibility. We have been stewards of the land for thousands and thousands of years. These are our lands, resources and territories. Of course, now that we're in this position of being stewards, we want to make sure that with all of this resource development and these projects that will be coming into British Columbia and throughout Canada, we look at them very meaningfully and we have that consultation and the consent of first nations.

The Government of Canada, of course, has touted Bill C-39 as "the most comprehensive and ambitious reform to Canada's ability to get big things built in a generation." It also stated that it's pursuing this legislation while maintaining strong environmental standards and upholding the rights of indigenous peoples. In talks with the Prime Minister, he tells us he will have that consultation and he will have that dialogue. As you know, first nations are built around oral history, and that history is very important, so when you say something, it means a lot to first nations.

We have written this submission to explain, in particular, the legal and historical contexts in B.C. and to identify priority changes needed to mitigate harm and support durable, rights-respecting economic development.

In conclusion, Bill C-39 must be amended to reflect a rights-based framework that upholds first nations' constitutional and human rights, advances the implementation of UNDRIP, strengthens environmental protections and ensures that first nations are meaningful participants in decisions affecting their territories, right and well-being. With these changes, it can be improved as a path to responsible, sustainable economic development.

● (1955)

I give you thanks for the opportunity to speak. *Kukstsélp*.

The Chair: Thank you very much.

Mr. Lawrence, you're going to start us off for six minutes.

Philip Lawrence: That's perfect.

Meegwetch. Thanks for being here.

I'll start out with a survey with respect to the origins of Bill C-39. I'm going to ask you all the same question.

I'll start with you, Chief Benedict.

Were you or your organization meaningfully consulted before the drafting and introduction of Bill C-39?

Regional Chief Abram Benedict: Thanks for the question.

No. The discussion paper that was released to all Canadians via a post on the website was similar. It was at the same time. We may have heard at different points that this was coming, but we weren't consulted.

I must say, though, that consultation varies for our nations. The indication that "we're going to do something" is not consultation.

Philip Lawrence: Thank you. I appreciate that.

It's the same question for you, Mr. Phillips.

Robert Phillips: Quite simply, again, it's no.

As you know, there's accommodation with consultation. It can be very complex, as mentioned, with protocols and relationship building. We had the new Prime Minister, and he came out with guns blazing: "Let's get on with the projects."

I believe we need to sit down with first nations not only in British Columbia but also throughout Canada. For example, that table today should be a permanent table, where first nations and ministers sit with the Prime Minister every year before you have your first ministers meetings. We need a table to have these discussions at, like we have here. If we do that, it takes care of the consultation. That's one solution.

Philip Lawrence: I think that's a very reasonable and sensible suggestion, Mr. Phillips.

Chief Schilling, it's the same question for you. Were you meaningfully consulted before the introduction of Bill C-39?

Chief Harlan Schilling: No, it was not before—not in my previous office in British Columbia with Daylu Dena Council. I can't speak to whether the Liard First Nation's administration was consulted before my time there.

Philip Lawrence: Thank you very much.

I'll go back to you, Chief Benedict.

You talked a bit in your opening statement about perhaps taking a step back and looking at a more open and democratic process for this legislation. I take it that you would support a pause on this piece of legislation and perhaps greater time for study.

● (2000)

Regional Chief Abram Benedict: Absolutely. Thank you, MP Lawrence, for that.

We are requesting that the bill be broken up for the relevant committees where it would normally go through the process and be studied in. It would be a more fulsome opportunity for rights holders to make submissions through the processes that this institution has used for a very long time.

Philip Lawrence: I'm going to paraphrase some of the words of some of the Liberal ministers who were before our committee. I think it was pretty clear that it was their belief that the introduction of Bill C-39 would not in any way erode, diminish or interfere with the rights of indigenous peoples.

Would you join me in disagreeing with that statement?

I'll start with you, Chief Benedict, if that's okay.

Regional Chief Abram Benedict: I don't know what particular phrases were said by the ministers, but we have always taken the position that when legislation is introduced that could impact or adversely affect the inherent treaty rights of the first nations, which I represent, consultation needs to occur.

Philip Lawrence: Mr. Phillips.

Robert Phillips: Again, I look for solutions. Whenever I hear concerns, I try to go to whatever meeting with whomever to find those solutions. Whether it's a Liberal government, a Conservative government or whatever, I go to the table. I serve no colour. It's beyond first nations, so I think it's very important that we have that dialogue.

I believe we can have it now. We're having it now. This is the start.

Philip Lawrence: Go ahead, Chief Schilling.

Chief Harlan Schilling: My feather does not have a colour.

Again, it's about understanding the situation our country is in. With my background being...I served my country. It's about being proactive. I take great honour in being a very young chief and in having great people mentor me, but I understand that we are in tough times. We see these things coming. Again, with the office I have and the team I have, we try to be proactive in order to find the routes that best serve not just the Kaska but also our country.

Philip Lawrence: Actually, that's a great transition for me. All three of you are open to answering the question.

Contained within Bill C-39 is the fact that the legislation is making Bill C-5 permanent, so it's going to outlive any particular presidency or otherwise. Do you think this is a wise move?

Regional Chief Abram Benedict: We had grave reservations about Bill C-5.

I believe that at this current time we have not seen the maximum strength of Bill C-5. I would concur with the previous panel that it was done under the auspice of its being an emergency and had to be put forward. In our region, Bill C-5 has not been used to develop anything. Therefore, it really is hard to say what those impacts will be, but based on everything we have done in an analysis of it, we are not supportive of it becoming permanent legislation.

Philip Lawrence: Mr. Phillips or Chief Schilling, is there anything you'd like to add to that?

Robert Phillips: Of course in British Columbia, we had big discussions on the pipelines. The pipelines were a big one.

The Prime Minister did go and meet with the Coastal First Nations. They had those discussions and found a remedy, which was to not continue through the north coast. I know that the federal Conservatives are making a push, and I can understand that under the situation.

Again, when you talk with the government, you have to come to the table with the first nations as well.

Philip Lawrence: Thank you very much.

It wouldn't be right if I didn't say that I'm very pleased that within the riding of Northumberland—Clarke is Alderville First Nation and Chief Simpson. It is perhaps the best first nation in all the world.

Some hon. members: Oh, oh!

The Chair: You were doing so well there, Mr. Lawrence.

Thank you.

Mr. Bains, it's over to you.

Parm Bains: Thank you, Mr. Chair.

Thank you to our guests who have joined us today. Again, thank you for your leadership and stewardship of your traditional territories.

Chief Schilling, thank you for your service. On the Major Projects Office, I'll start with you.

Major projects are often interconnected and interdependent. For example, I know that we talked a bit about the Yukon and northwestern British Columbia transmission infrastructure needed to support critical mineral development and industrial electrification. How do regional assessments support the incorporation of indigenous knowledge across multiple projects?

● (2005)

Chief Harlan Schilling: That's just more coming in and dialoguing back and forth. Within the Kaska, we have the Dena Kayeh Institute, which has a lot of information and does research on all of the things within our area.

Again, understanding that the Yukon government hit 96.4%, I believe, of its power grid capacity this last winter, that goes back to my comment that it's not if a project; it's when.

Again, it's about working with the locals on the ground and putting at the forefront the economic specialists we have within these small, local, rural first nation communities in helping with planning and making these projects. Nobody knows the north like the people in the north.

Parm Bains: Further to that, Bill C-39 proposes establishing a Crown consultation hub to deliver one coordinated process per project per indigenous community across departments.

How could that coordination prevent complicated consultation processes and support more effective engagement?

Chief Harlan Schilling: Again, the farther north you go, the bigger the landscape gets. There are 204 first nations within British Columbia, and there are 14 in the Yukon, 11 which have settled.

Building and partnerships are key to success in the north. As we have done with the Dene K'éh Kusān, we have reached out to all of our neighbouring first nations, because, again, we can't succeed unless we do it together.

Parm Bains: For Mr. Phillips, how will advancing projects like the north coast transmission line support regional economic development and create opportunities for remote communities through employment and access to cleaner energy?

Robert Phillips: Even the announcement today in regard to Red Seal employment skills and training and looking at, again, jobs that have meaning to them...I think we all grew up that way. We all either went to work or went to school. You had to do one or the other. That's what we have to instill in our young people, and they have to get to work.

On a lot of these projects.... I just came from Upper Nicola and Lower Nicola, where they're doing wind turbine projects. There are many projects happening right now in British Columbia in green energy, and we hope that continues. The wind turbine projects have 51% equity with first nations. I think that's really key and important. Let's throw aside this 10% or 15% talk. Let's talk 25% or 50%.

Parm Bains: In your work with the First Nations Summit, are you seeing some success in reaching out to the next generation of skilled workers in those communities?

Robert Phillips: I think we definitely have to do more. The fastest-growing population in Canada is first nations. We have a lot of young people. Unfortunately, our death rate has worsened for men and is down to 66 years old. That's probably because of the COVID pandemic and things of that nature.

I believe that you keep people busy, you get them to work and you find the affordability that we all talk about. I think that's a big start to it.

I give the other side of the story, too, in regard to projects. It's very important. A lot of the first nations that have been starting the projects are not the ones going to the forefront and saying, “We're starting projects.” They're the ones at the table and negotiating agreements.

Parm Bains: Absolutely.

Did you want to add something?

Chief Harlan Schilling: It just starts, again, with the relationship and building it up. I'm very proud to say that we're at six years of zero unemployment in my community because of true partnerships with the British Columbia government.

Again, it is the next generation that we have to work on. I probably have six younger brothers. I could probably give two of them a job and say, “Your job is to lay right there,” and they will stand up to quit. It does take time to work at them.

Communities know the north. That's the work. Getting down to the root of a partnership and knowing exactly who our people are and how they work are what success is in Lower Post. Working with Robert Phillips here, that's what we do with the centre of excellence. We try to build those relationships with government and industry to make sure it is done right, and it's done right by the people who know it best.

Parm Bains: Thank you so much.

The Chair: Go ahead, Monsieur Ste-Marie.

[*Translation*]

Gabriel Ste-Marie: Thank you, Mr. Chair.

Good evening, gentlemen. Thank you very much for joining us. It's important to hear first nations voices on Bill C-39. You are the first panel this evening where first nations are represented and heard. I hope your comments will be taken into account.

My questions will be for Chief Benedict.

I would have liked to have representatives here from the Assembly of First Nations Quebec-Labrador, but I understand it wasn't possible given the short delays, the new government in Quebec City, the connections needed, and all that. What they have told me, though, Chief Benedict, is that your organization and theirs share the same position on Bill C-39, and that's why I will direct my questions to you.

First, I would like to hear your thoughts on the one-year assessment limit for each national interest project, based on the “one consultation, one year” principle. What are your concerns about first nations' rights and the Crown's duties when it comes to holding consultations and finding agreements? What is your reaction to what's in Bill C-39 on the matter?

● (2010)

[*English*]

Regional Chief Abram Benedict: I can't speak directly to the position of Quebec, but what I can say is that we work very closely with them. I'm a member of the national executive through the Assembly of First Nations. Also, being the neighbouring region to Quebec, we obviously communicate very much on this. Regional Chief Verreault-Paul and I have had a direct communication about this, and our positions are quite aligned on it, in that we have the same concerns that I put into my submission earlier about Bill C-39. Hopefully, there's an opportunity for him and other Quebec nations to make presentations to this committee.

In relation to the other part of your question, I apologize. You'll have to repeat it.

[*Translation*]

Gabriel Ste-Marie: What is your critique of Bill C-39 with respect to the one-year deadline for assessments of major projects? What risks does this pose to the Crown's duty?

[*English*]

Regional Chief Abram Benedict: On the one-year timeline, I spend a lot of time talking about consultation in the work that I do as the regional chief in supporting my nations, as well as in committees like this or with proponents or stakeholders. Consultation is determined by the communities themselves, based on the assessment by the nations themselves on the impact to their aboriginal treaty rights. There can be processes that are longer or shorter than others, and that is purely determined by the nation.

Some communities go into ceremony. Other communities go into robust processes. Some communities do smaller processes. It's all based on the community's consultation protocols and the impact to the land. The one-year time frame for large projects that has been talked about to protect and build the nation's economy is not enough for most of our communities that will be affected by large projects.

[*Translation*]

Gabriel Ste-Marie: Mr. Schilling, do you want to add anything?

[*English*]

Chief Harlan Schilling: One thing that I noted in my presentation is that this bill does not correctly reflect the north. We do have very short timelines. For six months, it's winter. To do a proper assessment of how this is going to affect everything.... We're not the same as the south. You cannot get a true image of how it's going to affect something when it's under 10 feet of snow.

Again, the timeline in this bill does not reflect the true realities of the environment that we live with in northern Canada.

[*Translation*]

Gabriel Ste-Marie: Thank you very much, Mr. Schilling.

Chief Benedict, Bill C-5 talked about projects of national interest. Now we have the regions of national interest. Do you have any comments on that? Could it limit the first nations' ability to intervene in a particular project or to negotiate?

I would like to hear your thoughts on that.

[*English*]

Regional Chief Abram Benedict: Absolutely. Thank you for that.

As the Ontario regional chief, I represent 133 first nations. To go back to my comments earlier about consultation, my region is very diverse. There are the northern communities—which Chief Schilling has talked about. There are communities that are central, and there are southern communities. The consultation is different all across the region. People ask me, "How can I consult nationally? How can I consult regionally?" Regional approaches for consultation are very different.

● (2015)

When we talk about the regional assessments, there definitely can be geographical regions that have several consultation processes within themselves. I would point to a project that's ongoing, the deep repository that's being proposed for northern Ontario. Although the communities directly impacted have gone through a process, many of my other nations who are signatories to the treaty in that area have not been consulted on that. If you were to designate a regional area for impact, it does not take into consideration the treaty obligations and the territorial impacts that many of our nations are a part of.

[*Translation*]

Gabriel Ste-Marie: I'll move on very quickly.

Let's talk about the fact that the government would allow projects to begin before the assessment has been done. You have a few seconds left, if you want to comment on that.

[*English*]

Regional Chief Abram Benedict: That is, obviously, a risk being taken. There's a lot of uncertainty around this, and part of our messaging has been very clear around this: It's building relationships, building trust. When we have proponents...or preliminary approvals happening, it creates a lot of uncertainty for our nations. That does not uphold the principles of free, prior and informed consent, everything that's in UNDRIP and everything about the treaty relationship, which is a historic relationship between our first nations and the Government of Canada. This is not a good step.

[*Translation*]

Gabriel Ste-Marie: Thank you, *meegwetch*.

[*English*]

The Chair: Thank you.

We have Mr. Albas for five minutes.

Dan Albas: Thank you, Mr. Chair.

Thank you to our witnesses for being here and for sharing how this legislation affects your communities and what you believe needs to happen.

I'd like to speak a bit about the Building Canada Act changes in Bill C-39 as well as to follow up on my colleague's questions, in particular on the "regions of national interest" designation.

The regions of national interest designation would still require a preliminary Impact Assessment Act review, essentially, community by community. If, let's say, it's the Ring of Fire—in the case of Chief Benedict in Ontario—it's well known that there are lots of first nations there. There's lots of interest in that region. There would be community by community initial assessments, but essentially what would happen is that once this becomes designated as a region of national interest, the minister can materially change what was originally consulted on, which essentially changes the final parameters before cabinet decides to schedule it, and then designate it on schedule 1, allowing those exemptions to take effect.

Is this a concern for you, Chief Benedict? Maybe we'll start with you.

Regional Chief Abram Benedict: Absolutely. Thank you for that.

To build upon my earlier comments around the assessments and the importance of collaboration, respect, understanding and upholding the treaty and the Crown obligations around that, the one thing that is quite concerning and you have to understand is that all of our nations have been impacted by colonial legislation for a very long time. In fact, the colonial piece of legislation, the Indian Act, determines how first nations can and can't do certain things. We have seen many of the negative impacts of legislation, including the Indian Act. To have legislation that gives the government the ability to do what it wants, when it wants, is very concerning to our people because this is what has been done to our people for a very long time.

Dan Albas: If the Impact Assessment Agency, in total good faith, went community by community on this project and gave you meaningful consultation and engagement, answered all of your questions and got, let's say, theoretically, a sign-off, it would then go to one minister who could change it, at their discretion. A cabinet could then place those materially changed parameters into law. Is that a possibility?

Do you see, possibly, where it could be either abused or, even if it were to happen that the government was working in good faith, that we could end up seeing this go to the Federal Court?

Regional Chief Abram Benedict: It's very unfortunate, but what you have described continues to be in existence today. There actually still continue to be the powers vested to the Minister of Crown–Indigenous Relations, whoever it is, to approve or disallow certain actions on first nation territories. These are the lives and the impacts on first nations. Additional legislation that gives the government the ability to do whatever it wants after it has done perhaps a fulsome process—or so they would believe—but still comes down to a single department or person, is very concerning to us.

Dan Albas: Again, this would not be the Minister of Crown–Indigenous Relations. This would be the minister responsible for the Building Canada Act. I appreciate that.

We've been asking this of other groups. Would you support amendments to Bill C-39 that would limit the discretion to fundamentally change a program so that, if new information became available or there were non-compliance issues, the minister could respond to those things, but there would need to be objective criteria and public disclosure?

● (2020)

Regional Chief Abram Benedict: I would go back to my earlier submissions talking about the process for studying this bill. It needs to be more fulsome so that our nations can absolutely have the ability to say what they're comfortable with and what they're not.

Dan Albas: I want to thank the three of you for being here.

Chief Schilling and Mr. Phillips, if you could say whether you're in concurrence or not, I would like to have you on the record regarding an amendment that would limit the authority that the minister would have.

Chief Harlan Schilling: I would absolutely agree with that. Again, it's about coming together. It really is. Again, the fact that one person could veto.... Again, we're going in and saying this is what we've agreed on and then to have a minister able to change that...it's 2026. We have rights. It's known.

Yes, I would have a problem with that.

Robert Phillips: I concur.

Dan Albas: I appreciate that. I wish I were more succinct.

The Chair: Thank you, Mr. Albas.

We now go over to Dr. Martin.

Danielle Martin: Thank you.

Thank you, all three of you, for being here this evening. You honour us with your presence. I've been really listening to what you've been saying. I think we've all heard about the importance of true partnership and relationships from each of you. We've heard about the importance of true economic benefits, not just for Canada as a whole but for first nations, and about the importance of protecting nature. I'd like to dive into each of those three themes in my limited time, if I may.

I want to start with you, Chief Schilling.

You painted a beautiful picture that we could imagine about the north. I think we all know, although you do understand it more deeply than most of us, that in order to have any reasonable economic development that protects nature in the north, there's other infrastructure that needs to be built to allow that. You spoke about electrical grids. There is obviously road and telecommunications infrastructure and so on.

Can you speak from your perspective about what kinds of infrastructure you've heard from your communities would be important and would have additional benefits to the communities beyond just the benefits of enabling a particular project?

Chief Harlan Schilling: I've had the benefit of travelling a good portion of the world on behalf of Canada on trade missions. One thing I can say is that the world's only getting smaller. These areas, again, are disappearing.

Right now, we're cutting 322 kilometres of trail within the DKK with campsites every 10 kilometres and cabins every 20 kilometres. Adventure tourism is a thing with the amount of economic development we bring in just with hunting and fishing within that area.

I sometimes disagree with the words “indigenous protected area” because the DKK is an area that we are trying to protect, but we're trying to open it to the entire world. Northern British Columbia is one of the last untouched boreal forests that we have of 3.1 million hectares. It's what the world deserves to see. It really is. Every time these areas get unprotected status, they're gone. You see it in South America. You see it all over the world. Canada can and should be the leading factor in that type of space. We have the space for it. We have the government for it, and we have the first nation indigenous people who just want to be a part of it and can lead it.

Danielle Martin: That's exciting to imagine.

You made reference to the previous panel, in which our panellists talked about the importance of protecting nature and trying to find a route to projects that would be not just okay or not harmful but actually potentially positive for nature.

From your perspective, can you speak about what that means to the communities you represent?

Chief Harlan Schilling: Again, I'm very honoured that our DKK project is a part of the Y2Y—Yellowstone to Yukon—initiative. It was just selected as a finalist for the Earthshot Prize next month in Mumbai, which the Prime Minister and I were invited to for projects of global significance. If this is won, it will be the first time a Canadian project has ever won the Earthshot Prize. I couldn't be more proud to have it be something that we have worked on in western Canada.

These are things that we need to show the world. With the diverse things happening within our economy, they cannot change who we are as Canadians or who we are as northerners. Yes, we need economic development, but we also need to do it with balance. We have the landscape. We have the people. We can do it.

● (2025)

Danielle Martin: Thank you.

This comes back to something that I heard Mr. Phillips say, I think, that conservation and development must happen together. I'm wondering if you can speak a bit about your strong words related to equity ownership and how you see first nations being able to come to the table, for example, through the planning process. These regional development areas are intended as a planning tool so that this kind of consultation can occur.

How do you see first nations engaging on those questions?

Robert Phillips: When you build something, you also have to fix something. There's an impact on the land, the water and the resources. It's a restoration vision. In British Columbia, it's an indigenous-led, first nations-led restoration. I believe that's an economy on its own.

We have Kevin Scott, the president of Resolve Canada, who I work with. He's going all around the world talking to pension funds and billionaires so that they will invest. We're projecting in British Columbia-led.... The best way I can explain it is that it's a B.C. pilot project for restoration. These are not just small projects that we do all over the place. It's the whole province. It would be $150 billion over 10 years. That would mean jobs, employment, skills and training. It's all of the fires and impacts you talked about, the impact on tourism when fires happen, financing, policy, procedure, risk, opportunities and remedies on the land.

The Chair: Thank you, Dr. Martin.

Mr. Lemire, you're the last one up tonight.

[*Translation*]

Sébastien Lemire (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chair.

Thank you to my colleagues for welcoming me.

Kwe, Chief Abram Benedict. It's good to see you again. We participated in a number of demonstrations together on the Chalk River issue. The Canadian Nuclear Safety Commission was widely criticized for its lack of consultation with first nations in this case. This finding was confirmed by the Federal Court, but the Federal Court of Appeal has just overturned this ruling.

Among the factors the Federal Court of Appeal can take into account are current political events. However, the only thing that has changed politically, in my opinion, is the introduction of Bill C-39.

Do you think the introduction of this bill, particularly the part on first nations consultations and the power of the Canadian Nuclear Safety Commission, may have had an impact on the judges and created precedents that will completely exclude first nations from using their fundamental right to claim protection of their lands?

[*English*]

Regional Chief Abram Benedict: Thank you for the question. It's quite loaded, I would say.

There still should be some judicial independence in this country that we can stand behind, because we have seen very clearly what happens when it is not very close to us, including in my community, which is a border community. I believe that is why it's fundamentally important that the legislation is clear, that the principles that I've described are enshrined in legislation and that the principles that continue to exist—not only a treaty relationship between our nations and the Crown, but also in the international conventions—continue to be embraced.

On building meaningful relationships based on the principles and respecting the inherent jurisdiction that our nations have, perhaps we wouldn't have decisions being made like that, because the tone starts from the top. That's all I can add on that.

[*Translation*]

Sébastien Lemire: The Kebaowek community, which is in my riding and took this case to court, also lamented the fact that many fake indigenous people are often used to portray first nations' consensus.

Are you concerned this will happen more often if we give full power to the Canadian Nuclear Safety Commission? Are you concerned the commission will repeat what it did in 2015 when it authorized the Chalk River site?

[*English*]

Regional Chief Abram Benedict: Again, to what I've already stated around process, consultation and building upon the United Nations declaration, I think there are some risks associated with large project development, specifically around what you've talked about. I know that specifically for my region, when we talk about nuclear, this is a very sensitive subject that will have an impact on everybody in this room long after we're all gone.

Therefore, I think ensuring that any legislation and the processes moving forward continue to embrace those fundamental principles and the responsibility that our people have to the land, territory and waters for the next seven generations.... This is something we have done since prior to contact. All of our nations embrace and take seriously our responsibility to the lands.

● (2030)

[*Translation*]

Sébastien Lemire: *Meegwetch*, thank you.

[*English*]

The Chair: Thank you to our panellists.

That was a very important and interesting discussion and much appreciated. Unfortunately, we don't have any more time this evening.

I will thank all the members and wish you a good evening. We'll see you very soon.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: https://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : https://www.noscommunes.ca