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Chair

Mr. Kevin Sorenson

Standing Committee on Foreign Affairs and International Development

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● (0900)

[*English*]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good morning, colleagues. Good morning all. This is meeting number 42 of the Standing Committee on Foreign Affairs and International Development on Thursday, November 26, 2009. The orders of the day today include a return to our committee study of Bill C-300, An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries.

As witnesses on our panel today we have, from Barrick Gold Corporation, Peter Sinclair, senior director, corporate social responsibility; from Goldcorp Inc., Dina Aloi, vice-president for corporate social responsibility; and from Kinross Gold Corporation, Mac Penney, director of government relations. As well, appearing from the law firm Fasken Martineau DuMoulin, we have Michael Bourassa, partner; Raymond Chrétien, partner and strategic advisor; and the Honourable James Peterson, counsel to that law firm.

We have invited the guests today to share the panel for the full two hours so as to accommodate as many questions as possible from our members. I invite each of you to make brief opening statements, and then we'll proceed to the first round of questioning.

I believe I have a point of order from Madame Lalonde.

[*Translation*]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Mr. Chair, I appreciate the presence here of these eminent counsels and lawyers this morning. They are top-notch lawyers from the mining companies in Canada. But we do not have on our side lawyers and experts who could disprove what they say much better than we could. I am not a lawyer or a specialist in this area. I will find myself in a position of presenting objections they will immediately tear to pieces. I will not be able to say that, as a committee, we have done all we could, as we hope to do, before we pass this bill. Mr. Chair, I am really sorry things are turning out this way, and I fear this will make this two-hour sitting much less valuable.

[*English*]

The Chair: Madame Lalonde, let me just say a couple of things.

First of all, I think you're giving these lawyers way too much credit. I have sat with you on committee for many years, and I have a lot of confidence in your ability to question the witnesses and to find out. The idea, I think, of committee is to take in information and to ask questions. It is not necessarily to cross-examine and knock down every argument everyone brings. I have a lot of confidence in you.

Let me also say that we did try to bring in today someone from the other perspective. The Sierra Club was scheduled to come last Tuesday. They were fogged in, in Toronto, and just that morning I found out that they were unable to be here, so we reshuffled. We invited them today, and our understanding is that they could be here Thursday. Then last night we found out that they couldn't be here.

We do have others who want to appear Tuesday. We'll bring them in. On the other side of it, there will be those from the other perspective who will perhaps want to appear on Tuesday, and they may, again, be alone unless we find someone. We will try. We have tried. I know you'll do, as all our committee members do, a fine job.

Go ahead, Mr. Obhrai.

● (0905)

Mr. Deepak Obhrai (Calgary East, CPC): A point of order.

This is a democracy. We hear from everyone. You either like it or you don't.

Ms. Francine Lalonde: That's my point. Thank you for supporting me.

The Chair: We have had lawyers on the other side of the issue as well.

I'm just going to invite you to begin.

I'm sorry, go ahead, Madam Brown.

Ms. Lois Brown (Newmarket—Aurora, CPC): A point of order, Mr. Chair.

I believe that the woman we heard from via video conference on Tuesday morning identified herself as a lawyer.

The Chair: And there was the former environment minister and....

Ms. Lois Brown: We are hearing from both sides.

The Chair: Yes, that's correct.

Let's proceed. Usually I like to invite the ladies first.

Mr. Mac Penney (Director, Government Relations, Kinross Gold Corporation): We gave Ms. Aloi that option, sir, and she respectfully declined.

The Chair: All right.

We'll have Mr. Penney.

Mr. Mac Penney: Mr. Chairman, honourable members, my name is Mac Penney, and I am with Kinross Gold Corporation. I'm joined here today by Dina Aloi, the vice-president of corporate social responsibility for Goldcorp, and by Peter Sinclair, a senior director of corporate social responsibility for Barrick Gold.

As representatives of three of Canada's largest international gold mining companies, we appreciate the opportunity to share with the committee some of our concerns with Bill C-300, a bill that we believe is trying to do a good thing but in a very bad way. As companies, we have a fundamental problem with this bill because it proposes a model for corporate social responsibility that, based on our experience in the field, we believe simply will not work.

In our experience, CSR requires a collaborative, flexible, and multi-faceted approach, which is antithetical to the model proposed in Bill C-300. The committee has already heard from the Department of Foreign Affairs and International Trade, Export Development Canada, the Canada Pension Plan, the Mining Association of Canada, the Prospectors and Developers Association of Canada, the Canadian Chamber of Commerce, and a number of legal experts who have spoken about the bill's many substantive deficiencies.

We agree with these submissions, which highlighted among other things the absence of due process, the lack of procedural fairness, the problem of extraterritorial application, constitutional deficiencies, duplication and confusion of rules and processes, the neglect of capacity building, lack of remediation, the impact of targeting Canadian companies, and the lack of consultation with the mining industry.

You will be relieved to know we do not intend to revisit all these points this morning, but we'll focus on some of the practical problems this bill will cause for Canadian companies that deal with CSR every day. Let me make three points to set the context for our presentations.

First, mining companies operate under a very high level of scrutiny and accountability. Mining itself is a very heavily legislated and regulated activity, subject to high levels of oversight by lawmakers, regulators, special interest groups, CSOs, and the media in both the developed and the developing world. Scrutiny and accountability are part of our operating reality.

Second, the companies appearing before you today and Canadian miners generally are recognized internationally as industry leaders in CSR. For us, CSR is a core competency, as important to the success of our business as operational efficiency and safety. CSR is vital to securing and maintaining our social licence to operate. Any member who wants to review our CSR records can consult our CSR reports, which are appended to our formal written submission to the committee.

You will find that our records provide concrete evidence that we agree that Canadian companies should be held accountable for their business practices in conduct abroad. We accept and support the promotion of sustainable development in international human rights, and our support goes well beyond good intentions and rhetoric.

Third, our comments today are based on our collective experience in meeting the complex social, legal, and environmental responsibilities and challenges that confront companies operating in many different countries at many different stages of development with different legal and political systems and different cultures and values. Collectively, we operate some 45 mines in 16 different countries on five continents and directly employ more than 36,000 people, so this is a business we know something about.

Based on that experience, we believe the relatively simplistic, one-dimensional, and punitive approach to CSR proposed by this bill will not work. We believe the bill to be fatally flawed in its conception and in its construction. We believe the bill is prejudicial and harmful in its effects, not only on and to Canadian mining companies but also to the countries and communities in which we operate. Critically, we do not believe the bill will achieve its stated objectives.

To illustrate these points and illustrate why, in our view, the bill is counterproductive, unamendable, and should not be passed into law, Peter will focus on the guidelines, which are at the heart of the bill, and how they will expose even the most socially responsible Canadian company to undue legal risk. I will touch briefly on the financing implications of the legislation, not only in terms of project financing, but the impact on the role of the EDC and the broader implications of the bill on Canada's status as a leader in resource finance. Dina will conclude by speaking to the unfair and unwarranted impact of this bill on the industry in general.

With that, Mr. Chair, I would ask Mr. Peter Sinclair to contribute to the conversation.

● (0910)

Mr. Peter Sinclair (Senior Director, Corporate Social Responsability, Barrick Gold Corporation): Good morning, everyone. My name is Peter Sinclair. I'm the senior director for corporate social responsibility for Barrick Gold. Just to give you a little bit about my background, I've spent the last 20 years working with communities in the developing world, most recently with the mining industry, but prior to that I worked for 15 years for international development and humanitarian aid NGOs.

I lived and worked in Africa for over seven years, in Rwanda, Ghana, Swaziland, and the Congo, and I've worked as a consultant with the World Bank, European Union, and NGOs such as World Vision.

Let me just start by reiterating that we agree with the objectives in the bill. No one would argue that Canadian companies should not apply the highest CSR standards, wherever they operate. However, we do not believe this bill will achieve that goal. It also has the potential to seriously harm the Canadian mining industry and the countries in which we invest.

As Mac indicated, I'd like to focus on just one practical problem with the bill: the guidelines the minister would use to assess the culpability of Canadian companies.

As you know, the intent is for the guidelines to be drafted within 12 months after the bill has been passed. The guidelines would incorporate publications by the IFC's voluntary principles on security and human rights, as well as unspecified international human rights standards.

At a previous hearing, we heard from Professor Janda, who clearly told the committee that these guidelines do not lend themselves easily to direct and literal incorporation into the bill. He believes, though, that this is just a drafting issue that can simply be worked through. However, anyone with a detailed knowledge of and experience with implementing the guidelines will know that it will require much more than artful drafting to transform the guidelines into hard and fast rules for the industry.

To use the analogy from a previous submission, from a legal perspective the difference between these publications and legally binding instruments is the same as that between a manual on safe driving and the Highway Traffic Act. The guidelines were designed for a particular purpose, to offer guidance to banks and companies to enhance their performance in the area of CSR. For this purpose, the guidelines are well suited, but they lack the clarity that legislation demands and cannot be shoehorned to further the legislative purposes of this bill. The proposed process fails to recognize that successful CSR policies and programs are context-specific and responsive to local conditions and priorities. This bill proposes a one-size-fits-all model that would have companies apply one set of rules in a thousand different situations.

Let me give you a practical example to help illustrate this. Community engagement is a key part of what we do as a mining company. There's an IFC guideline on community engagement that states, “The nature and frequency of community engagement will reflect the project's risk and adverse impacts on affected communities.”

A mining company does not engage with a community without taking on board its unique cultural, political, and social characteristics. This is a general principle of engagement and a critical part of best practice. No mining company today would argue against a well-tailored community engagement program, or they do so at their peril. However—and this is the key—while the principle of engagement is universal, the specifics are as varied as the communities in which we operate. To make a determination as to what is sufficient and appropriate requires a detailed understanding of the project and the local dynamics and a high degree of expertise in community engagement. This is not the type of determination that can be made by a minister's office.

Given how hard it would be to determine consistency with the guidelines, and without a fair, transparent, and well-resourced investigative process, even the most socially responsible companies could be exposed to unfair determinations. The consequence is clearly unintended but nevertheless real. Due to the additional risk posed by the bill, responsible companies may be deterred from investing in developing countries. This outcome would deprive developing countries of much-needed foreign investments and jobs.

● (0915)

Thanks very much for your attention. I'll now turn back to Mac, who will address the negative impacts this bill will have on any future financing for exploration and development projects.

Mr. Mac Penney: Thanks, Peter.

One of the many sanctions of the bill is the withdrawal of EDC financing. It's been said variously that this is a modest or a mild sanction. Somewhat paradoxically, however, proponents of the bill say that what makes this bill and the model approach to CSR superior to any alternative is that it has sanctions with real teeth. One of the toothy parts of the bill is meant to be the withdrawal of EDC financing.

I'd like to talk a little bit about the risk that creates for Canadian business, about how the way in which companies will actually operate to manage that risk will likely put the EDC on the sidelines for financing of Canadian projects overseas, and, paradoxically, how the bill in fact declaws itself because of the risk management strategy it will incent companies to follow.

The fact is that no extraction or development project or any joint venture between a Canadian company and another Canadian company, or between a Canadian company and a foreign company, can proceed without adequate and secure financing, and, in some cases, depending on the location, political risk insurance. Typically, Canadian companies will rely both on export development agencies, such as the EDC, and traditional commercial lenders, traditional banks, as sources for financing. The bill will clearly create a new financing risk by creating a sanction directly tied to one of those sources of financing, that being the Export Development Corporation. The severity of the risk will depend on a number of interrelated factors, such as the overall health of the credit markets and the creditworthiness of the companies involved. In constrained, risk-averse credit markets, such as those that our country and its businesses have experienced over the past year or so, access to credit agency financing becomes far more important and, in some cases, the most important source of financing, so loss of access or the threat of loss of access to this source of financing is a serious issue for business.

Because of these risks and uncertainties, Canadian mining companies and oil and gas companies overseas will find it difficult to rely on EDC financing for any of their projects. The risk created by this bill is that if we have EDC financing as part of a syndicate and we are found to be offside or inconsistent with these guidelines, which are yet to be developed, then we lose the financing. In that case, we're in trouble with our partners, and the project itself will be in trouble, because we don't have the secure financing to proceed.

To manage that risk, we'll have to turn elsewhere for financing, and the EDC may find itself riding the pine in terms of overseas development for Canadian mining going forward. The result is that either we'll have an investment that doesn't proceed at all, and Canada and the host country will be deprived of the value of that investment, or the project will be developed by a foreign competitor, or the project may proceed with the greater portion of its financing sourced outside Canada.

In all these cases, the project would fall outside the ambit of this bill in terms of the sanctions, since there's no EDC financing involved. Therefore we have now sidelined the EDC, defanged the bill, and done nothing to advance CSR. We see this as being a peculiar paradox inside the legislation.

I would also say that the bill would offer some threat—and I wouldn't want to overemphasize, but I'll just table it for the committee's attention—to Canada's status as a world leader in global financing. Recently the Toronto financial services working group reported that listings on mines, energy, and minerals in Canada create and support 7,000 financial services jobs. They've recommended a pretty ambitious goal: that Canada should try to achieve 70% of world listings in this particular market share by the year 2015. By their estimates—and these estimates were done for them by the Boston Consulting Group—a 70% share in this area would create an additional 4,000 to 6,000 direct jobs, create 10,000 to 15,000 indirect jobs, and generate GD impact somewhere between $1 billion to $1.5 billion.

We suggest to the committee that the sentiments expressed in Bill C-300 actually run contrary to, and would actually conflict with, what we see as a pretty ambitious goal to leverage an area in which Canada definitely has a competitive advantage and expertise.

We think that rather than signing on to the Bill C-300 approach to financing, Canada would be better advised to subscribe to and support, as the EDC does, the Equator Principles. These are principles of financing that were agreed to by multilateral and traditional lenders. Some 40 major institutions representing lenders that provide 80% of global financing in the sector subscribe to these, and as companies, if we want financing to do these projects, we have to ensure that we comply with those guidelines. We think the multilateral approach is a far better approach in this area.

● (0920)

With that, I'll ask Dina to conclude our presentation.

Ms. Dina Aloi (Vice-President, Corporate Social Responsibility, Goldcorp Inc.): Thank you, Mac.

Honourable members, thank you for this opportunity to address you today.

I am Dina Aloi. I'm the vice-president responsible for corporate social responsibility for Goldcorp.

As background, I have a degree in rural sociology and I have a master's degree in anthropology. I became involved in the mining industry and joined Goldcorp after 15 years of working on human rights and international development issues with NGOs. My dedication to these important issues is unchanged, and I'm pleased to have the opportunity to bring my experience to a company where my commitment to human rights is mirrored.

This committee has repeatedly heard the rhetorical question: if it's true that Canadian mining companies conduct their operations in accordance with the highest standards of corporate social responsibility and are held to account for their mining practices abroad, why are they opposed to this bill? Our comments today will answer that question. The short answer is Bill C-300 will not actually get at companies that operate with low CSR standards, but will, instead, do serious harm to responsible Canadian companies. In all of our submissions today, we want to outline how and why this bill will harm responsible Canadian mining companies.

This bill does nothing to improve CSR or build capacity in foreign countries, something that we believe is critical to long-term success. This bill would create a new adversarial complaint and investigation process that is sure to be exploited by traditional opponents of mining. It would also expose responsible Canadian mining companies to stigma and reputational damage from a poorly conceived investigation process through a ministerial office ill-equipped for this purpose.

In order for the committee to understand why this bill is so harmful, it's critical for the committee to understand the environment in which we operate globally. Our industry is often confronted with false allegations of misconduct in countries in which we operate. Regardless of merit, once made, allegations have lasting impacts on our industry's reputation. In my experience, evidence that proves an allegation is false, or a retraction of a false allegation, is often ignored.

For example, an extraordinarily serious claim was made that a Canadian mining company was involved in the murder of 50 artisanal miners in Tanzania, all of whom were said to have been buried alive. At the request of an NGO, these claims were extensively investigated by credible independent sources, including the World Bank. The company acquired the property in 1999, three years after the incident was alleged to have occurred. In 2002, the ombudsman of the World Bank undertook to assess these allegations. A comprehensive investigation into these allegations was made and they were found to be completely without foundation. Although it was completely cleared, and indeed the ombudsman was highly critical of the lack of accountability of the NGOs that made the allegations, these serious and extraordinary allegations continue to be made against this Canadian company, including at these committee hearings.

I have two further examples of untrue allegations that, if this bill were in effect, would likely have ended up on the minister's desk and had to have been investigated. We were recently accused by a Canadian NGO of organizing a coup. We were also accused of contaminating water in another country with a chemical we didn't even use. Both allegations were completely false. If they had been subject to this bill and investigated by the crown, they would have been provided with false credibility, causing undue harm and alarm with our stakeholders and shareholders, our employees and our community partners, and it would have harmed our corporate reputation.

At this point, it's easy to accuse Canadian mining companies operating abroad of all manner of unethical and outrageous behaviour. Correcting the record, however, is very difficult. You may ask then, if we're already operating in an environment in which complaints get made and can live on in perpetuity, why would the complaints process under this bill cause us particular concern?

To be unfairly accused by an individual or an NGO in a press release or a blog causes harm. This harm is of an entirely different magnitude when this complaint is investigated by the minister of the crown, which suggests that the complaint has some merit, and, under this bill, requires an investigation by our own government.

● (0925)

The bill does provide a mechanism for the minister to dismiss a complaint without investigation if it is determined to be false, frivolous, vexatious or made in bad faith. However, for a serious accusation coming from a remote foreign country, it is impossible to conceive that a minister could dismiss the complaint without an investigation and the expenditure of resources. Equally troubling is that this bill does not contemplate any consequences whatsoever for an individual or organization that makes frivolous, vexatious, or untrue allegations, or which does so repeatedly. At best, a retraction from the minister will be printed in the *Gazette* many months later, not a widely read publication in many circles, after the harm is done, which will go entirely unnoticed.

The relationship between Canadian mining companies and host countries relies on mutual respect. This would be seriously strained through the complaints and investigation process. Canadian companies operating abroad strive to build respectful relationships with local stakeholders and the governments of the host countries. Weakening these positive relationships will only harm our competitiveness in the mining industry and our ability to influence non-Canadian companies to adopt high standards of CSR. Our non-Canadian competitors, many of whom operate at lower CSR standards, would be more than happy to take advantage of a decline in our reputation as good corporate citizens and to dislodge us from our assets abroad.

I want to emphasize that the Canadian mining industry is not afraid of scrutiny when it comes to being held to account for the way in which we operate at home and abroad, but we are concerned by this bill because it will damage us even as we operate at the highest global standards of corporate social responsibility. Each of the companies presenting today is fully committed to operating in an environmentally and socially responsible manner, to protecting human rights, and to making a positive difference in the communities in which we operate. As Mac said, we support the objectives of this bill, and we take seriously the demands and the complexities of corporate social responsibility. We expect to be and are held accountable. What we do not expect is to be subject to legislation that harms us, irrespective of how we conduct ourselves.

Thank you very much for listening to our submissions today.

The Chair: Thank you very much to all three of you.

We'll move now to the Honourable James Peterson. Again, we welcome you back to the Hill and to our committee.

Hon. James Peterson (Counsel, Fasken Martineau DuMoulin LLP): Mr. Chairman and honourable members, thank you very much. It's indeed a pleasure to be here. I had the privilege of serving some 23 years, and also as Minister of International Trade. I am now very pleased to be counsel to Fasken Martineau. With me today are two of my colleagues, Raymond Chrétien and Michael Bourassa.

Before joining Fasken's as a partner and strategic advisor, Raymond Chrétien served with great distinction in Canada's public service for 38 years. He was Canadian ambassador to France, the United States, Belgium, Mexico, and the Democratic Republic of Congo. He served as Associate Under-Secretary of State for External Affairs from 1988 to 1991.

Michael Bourassa is the coordinator and co-leader of our firm's Global Mining Group. He is also a director of the Prospectors and Developers Association of Canada and sits on the executive committee of the mining law section of the International Bar Association.

For the past five years, Fasken's has been recognized by the *International Who's Who of Business Lawyers*, a publication based in London, England, as the number one law firm in the world for mining. It is without question that Canadian companies must operate in a responsible and accountable manner. The federal government has been working with companies on this aim for several years. In 2005, the then Liberal government, of which I was a part, commissioned a report from this very committee. It instigated a consultative process that culminated in the release by the federal government last March of *Building the Canadian Advantage*.

The intentions behind Bill C-300 are laudable, as they focus on corporate social responsibility. We submit, however, that the bill is flawed in its construction and highly prejudicial to Canada's mining sector. As many of you know, mining and exploration are very important to our economy. They comprise 5% of our GDP, employ 351,000 Canadians, and in 2008 the industry paid $11.5 billion in taxes and royalties to the three levels of government. The industry also contributes significantly to R and D. In 2006, mining companies invested $648 million in Canada in R and D alone.

Canadian mining companies have exported their expertise to all comers of the globe, and Canada is now the world leader in the global mining sector. In 2008, over 75% of the world's exploration and mining companies were headquartered in Canada, operating in 100 countries around the world. As Mac Penney has indicated, Canada has emerged as a centre of mining finance globally.

The Boston Consulting Group reported that we now have a leading concentration of expertise required to finance mining, metals, and energy in Canada. Financing mining in Canada employs 7,000 financial sector people. Core to this activity are our stock exchanges. Of the world's public mining companies, 57% are listed on the TSX or the TSX Venture Exchange. Along with Vancouver, Toronto constitutes the world's largest source of equity capital for mining companies undertaking exploration and development.

Canadian mining companies, including the juniors, employ many Canadians and engage numerous industries and service providers in support of our international mining activities. These include equipment manufacturers, contractors, consultants, accountants, financial legal advisors, and our financial institutions.

There are 3,140 Canadian goods and services firms supplying our mining sector. We have centres of mining excellence across the country, in Bathurst, Quebec City, Montreal, Val d'Or, Rouyn-Noranda, Sudbury, North Bay, Timmins, Toronto, Mississauga, Yellowknife, Saskatoon, Edmonton, Kelowna, Kamloops, and Vancouver.

● (0930)

In conclusion, given the importance of mining to Canada, and given the country's leadership and expertise in mining activities abroad, we submit that a primary focus of the Canadian government and the Ministry of Foreign Affairs and International Trade, in particular, should be promoting our mining industry, both domestically and internationally, and working collaboratively with Canadian companies to continually enhance CSR standards.

Thank you.

Raymond.

[*Translation*]

Mr. Raymond Chrétien (Partner and Strategic Advisor, Fasken Martineau DuMoulin LLP): Mr. Chair, distinguished members of the committee, it is a pleasure to appear again before this committee. This is the first time since I left the public service in 2003.

Here are a few comments on the subject on the order of the day. Like other witnesses already said, Canadian mining companies should be accountable and they should thus act responsibly throughout the world. But the concern my colleagues and I share is that this bill takes a punitive approach rather than a multilateral one, based on cooperation. I would like it better if the bill were designed to help the resource industry improve its performance in the area of corporate social responsibility and, by the same token, improve the competitive advantage of Canada in the world in the area of mining.

● (0935)

[*English*]

Mining in developing countries is often accompanied by unpredictability and difficulty, especially if a company is operating in a weak governance zone. In such uncertain environments, CSR challenges can arise and do arise. If passed, this bill could deter companies from working in less stable developing countries. This bill, in my view, does not provide companies with any opportunity to address and remedy an issue without immediately being subject to a complaint, possible investigation, and sanctions.

If responsible Canadian companies are deterred from investing abroad, it could negatively impact important foreign development opportunities. In my time serving as Canada's ambassador to a number of developing countries that have mining sectors, including, *inter alia*, Mexico and the Democratic Republic of the Congo, I've observed many times that Canadian mining companies very often contributed to improved health, education, and infrastructure in those countries. They were thus welcomed and well regarded for such investments.

The Chair: Thank you.

We'll go to Mr. Bourassa.

Mr. Michael J. Bourassa (Partner, Fasken Martineau DuMoulin LLP): Thank you, Raymond.

Mr. Chairman, ladies and gentlemen, my name is Michael Bourassa. It's a privilege to be here today.

I feel very strongly about this issue. Canada has excelled in international exploration and mining. We are recognized by our competitors for that success. I'm concerned that this bill could jeopardize Canada's continued competitive position, might do very little for improved accountability in the CSR realm, and could harm economic activity in Canada and in developing countries.

The Honourable Jim Peterson has told you about Canada's strength and leadership in the global mining sector. In order for the Canadian mining industry to remain successful, companies need to be able to compete in the global market. If passed, Bill C-300 will undermine the competitive position of Canadian companies. It could cause an exodus of mining companies from Canada and could potentially render Canada a less attractive jurisdiction for mining investment.

The bill will apply only to Canadian companies that operate in developing countries. As such, Canadian companies will find themselves at a disadvantage compared to their competitors. Let me provide you with a hypothetical example. A Canadian company and a foreign company are both interested in acquiring a mine that has had some historical community relations issues. The Canadian company has a strong corporate social responsibility program and known successes working with local communities and governments to remedy such problems. However, the Canadian company would be subject to a bill that is retroactive in its application and is non-remedial in nature. If the Canadian company acquires the mine, it could immediately become subject to a complaint, possible investigation, and sanctions, including the loss of financing. The foreign competitor would not face the same risks and uncertainties. The competitive disadvantage to the Canadian company is obvious.

The bill could also disadvantage Canada as a mining investment jurisdiction of choice. So many mining companies headquarter and list in Canada because of the country's vast expertise in this sector. This is an expertise that is actively promoted by most provinces and the federal government. For example, over the past four years, I've attended an international mining conference in Vancouver, and every year the Premier of British Columbia has remarked that mining is the most important industry in that province. Quebec also actively promotes itself as a jurisdiction of choice for mining investment and is ranked, in a 2009 survey, as the top jurisdiction in the world for encouraging mining investment. Newfoundland and Labrador, Alberta, New Brunswick, Manitoba, Saskatchewan, and Ontario are all highly ranked.

If this bill becomes law, every Canadian company, or any company contemplating setting up in Canada, will have to undertake a serious risk- and cost-benefit analysis to decide whether to locate here.

Mr. Raymond Chrétien: Thank you very much, Michael.

In addition to some of the concerns just noted by Michael Bourassa, this bill would also place an investigative burden, a huge one, on the Minister of Foreign Affairs and the Minister of International Trade, a burden that could create severe financial pressures for those ministries.

How could a minister investigate multiple complaints in countries abroad without incurring significant costs and without establishing a new agency just for that purpose? The present department of external affairs is simply not equipped to deal with the challenges of this bill.

This bill could also cause diplomatic pressures for Canada. A Canadian mining company's ability to work with its own government to remedy a situation would be impaired. Often in situations that arise currently, our ambassadors, our trade commissioners, liaise with host governments and provide guidance to Canadian companies. But once a complaint is filed, the role of our foreign service would change from a collaborative problem-solving mode to that of investigator. A Canadian mining company would be cut loose and left to fend for itself. We would be doing a disservice to our citizens abroad and to our own economic interest.

Also, investigations abroad have the potential to strain relations with other sovereign states. In my view, this bill is simply not workable. A minister may be placed in the highly awkward diplomatic situation of carrying out investigations in the absence of consent or trying to duplicate the efforts of a host country. This, in my view, would impact Canada's relationship and influence with other countries, especially those with whom Canada is working to advance CSR.

The Chair: Mr. Bourassa.

● (0940)

Mr. Michael J. Bourassa: I would like to conclude by describing two different scenarios. The current economic environment in Canada in our successful mining sector is embodied in the following invitation to mining companies and investors: “Come to Canada, or stay in Canada, because we have developed mineral centres of excellence, and we'll help you obtain financing and provide you with technical support.”

Let's look at scenario A if Bill C-300 is passed. In addition to the invitation that I just mentioned, we'd be saying to them: “However, if you have a CSR problem, or if you have in the past, you could be the subject of complaints to the Government of Canada. If you are named in a complaint, you will not be given an opportunity to remedy or resolve your problems. The government will not work to help you to improve your performance. Instead, they could investigate you for your activities and you would be subject to serious sanctions, including the loss of financing and damage to your reputation.”

Let's look at the alternative, scenario B, one that is currently proposed by the government. In addition to the invitation I mentioned at the beginning of this conclusion, we'd be saying: “The government will help you when CSR difficulties arise by offering mediation and support and possibly by offering capacity-building expertise in the areas of the world that are having difficulties.”

Which scenario is going to result in a stronger and more vibrant industry for Canada? Which scenario is going to achieve higher CSR standards? Which scenario is going to result in more economic activity in Canada and developing countries?

Our respectful submission is that the collaborative approach proposed is the best option. This bill is well intentioned, but in our submission it's unworkable and will do significant harm to Canada's investment climate and Canadian mining companies.

Thank you very much for giving us the opportunity to present today. We'd be happy to take any questions you have.

The Chair: Thank you very much to all our witnesses.

We'll move into the first round of questioning. We'll go to Mr. Rae.

Hon. Bob Rae (Toronto Centre, Lib.): Welcome, everyone. It's nice to see some old friends and new friends.

Mr. Peterson, on pages 6 and 7 of your Fasken Martineau presentation, you go down the list of all the things that are being done with respect to CSR. You've done a very good job today of doing what Lord Denning used to refer to as “parading the horrors” of what the potential consequences of legislation would be. Correct me if I'm wrong, but both the EDC and the International Finance Corporation have to take compliance with CSR into account before they make any financing decisions. The government—I think, Mr. Peterson, you may have been a member of the government at the time—insisted that the EDC take environmental compliance and environmental standards into account before making its financing decisions.

Madam Aloi spoke to the report of the ombudsman of the World Bank, which would seem to indicate that the World Bank has now created a process for compliance with CSR before making its financing and other decisions. The newspapers are filled with stories of activities of mining companies and allegations that are made by various individuals. The government has set up a counselling office that will now receive complaints, which will become very public and will become very significant matters of public concern.

You're already looking at a world in which many unfair things will be said about the companies that you represent and you're having to respond to them, and at the same time major international organizations as well as our own EDC are having to take into account specifically environmental regulations before they make financing decisions. I think you may be somewhat exaggerating the impact of the legislation if it were to become law even in its current form. It seems to me that your attempt to describe a huge gap between what the legislation sets out and what is in fact currently the case is really not that compelling. You are still going to face a serious set of issues that you're currently having to deal with.

You could say, we have these issues, other countries have these similar questions, but a lot of what you're describing seems to me is.... As much as I understand why you're doing it and your desire to make this bill just go away, it seems to me that you can't make CSR go away, and you can't make accountability go away, and you can't ask public institutions not to take CSR into account in making their decisions.

● (0945)

The Chair: Mr. Bourassa.

Mr. Michael J. Bourassa: I'm happy to start with that.

I think, Mr. Rae, what you've described with some of those institutions, EDC or the IFC, are processes that of course every company would take seriously. Those institutions would have their due diligence processes to go through, CSR standards, and the companies would have the opportunity to respond. It's a process. It possibly even could be a remedial process.

With Bill C-300, the damage is that it's basically a complaint to a minister that elevates it to such a high level. Once a minister has received a complaint—and you can refer to some of the news in the last few days—the ramping up of that rhetoric is huge. These are all allegations against companies. They're serious allegations. These are not fact, and nobody is—

Hon. Bob Rae: I understand that.

Mr. Michael J. Bourassa: To add to what's in the newspapers now, to be able to say that that particular company is now subject to a complaint before a minister, elevates to a whole new level how it will be perceived in the rest of the world.

Hon. Bob Rae: As opposed to a complaint to a counsellor?

Mr. Michael J. Bourassa: This bill doesn't propose any sort of counsellor.

Hon. Bob Rae: No, there is a counsellor. The government has instituted one.

Mr. Michael J. Bourassa: Yes, there is a counsellor with the government, but I'm talking about the bill.

The counsellor process now probably needs to be further designed, but at least it's a remedial process. It's a mediated process in which both parties can come together to discuss the issue. It's a way to rectify a problem.

I don't see the bill as providing any opportunity to rectify a situation. A complaint is made. Either the company has been determined to be inconsistent or not inconsistent with a guideline or a CSR standard.

The point I want to make as well is that, given that it's elevated to a ministerial level, it will be used against those companies elsewhere. You had a witness from Argentina a couple of days ago. I looked at some of her submissions. She said that if this had been in effect when she was minister, she would have been able to use it.

Companies face very difficult situations in many countries. They have licences that could be subject to revocation or extinguishment. There's nothing better for some of these countries than saying you've been named—it's not even that you've been found to be inconsistent, but that you've been named—in a complaint. That can be used against Canadian interests, and it will be very damaging.

The point Mr. Raymond Chrétien makes is, in a situation in which a complain has been raised, how is our foreign affairs department able to work with those companies from that point forward? How can they help and collaborate and help them improve and possibly rectify the situation? These are very difficult situations; the companies take these very seriously. I think our foreign affairs department, instead of being there to help in a conciliatory manner and perhaps negotiate with the government or the communities and provide advice, would have to say, "Sorry, we can't touch this. You're subject to investigation."

● (0950)

[*Translation*]

Mr. Bernard Patry (Pierrefonds—Dollard, Lib.): Thank you.

Thank you very much to our witnesses.

It is our pleasure to welcome you this morning. I read the documents which—

[*English*]

The Chair: Go very quickly, Mr. Patry.

Mr. Bernard Patry: Yes, fine.

[*Translation*]

My first comment is for Mr. Bourassa. You said you support scenario B. You know very well that the only thing the government gave us is a counsellor position without any power, an empty shell in the sense that the counsellor could not—

[*English*]

undertake a review with the express written consent of the parties involved.

[*Translation*]

It means it is an empty shell. I do not think your companies need any counsellor. They are very large companies.

You talked a lot about EDC. In any given country, what is the percentage of financing coming from EDC for any given project?

My other question is this. Are there any countries where you cannot operate a mine without having a partner? What happens then?

[*English*]

Mr. Michael J. Bourassa: I think the question was directed to me. There was a series of questions there.

Mr. Bernard Patry: It's to anyone.

Mr. Michael J. Bourassa: I'll take perhaps the first part of it. I think one part dealt with the counsellor and one dealt with EDC percentage of financing. Maybe one of the companies can talk about that. I think the last point was dealing with....

Mr. Bernard Patry: Do you have any partners in some other countries, and what would be the consequences with the partnerships that you have in some other countries?

Mr. Mac Penney: Just speaking for ourselves, we currently have three different financial arrangements with the EDC. Two are specifically related to projects; one is a general environmental line of credit.

In terms of partnerships in other countries, we have joint venture arrangements with one other Canadian mining company in one of our mines. Also, in our Kupol mine in Russia, the autonomous government of the Chukotka region is a 25% equity holder in the project, and we own the other 75%.

As I said, we have a joint venture partner. It happens to be Barrick, at Round Mountain, which is a mine in Nevada in the United States.

Our concern for joint venturing under the bill with respect to the EDC issue or the financing issue generally is that when you enter into a joint venture partnership, the partners agree to take on certain financial responsibilities for the development and operation of the project. If one of our partners knew that we had exposure to EDC financing that was at risk, they would likely not be very happy about it. They would not be happy with the thought that there was a possibility that, halfway through the development of the $2 billion project, if something happens and we are found to be operating in a manner inconsistent with guidelines, the EDC is required to pull either its financing, its credit, or in some cases its political risk insurance.

That would cause tremendous complications for the partnership. We've now lost our financing. We could end up being sued by our partner, which would not be the case we'd want to be in. It would also make other mining companies look twice and look hard at Canadian mining companies as potential partners for joint venture developments.

The Chair: Thank you, Mr. Penney.

I'm going to have to cut you off there. We will have a second round today, hopefully.

[*Translation*]

Ms. Lalonde, you have the floor.

Ms. Francine Lalonde: We will share our time.

The Chair: Ms. Deschamps.

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Good morning, ladies and gentlemen.

First, I want to tell you I am impressed to be addressing such a panel of experts. I will dare make my comments anyway.

I do not think anybody here is against mining companies. But personally, if there is one thing I am against, it is impunity. The situation is somewhat uncomfortable. For several weeks now, we have been examining Bill C-300. We hear many individuals and NGOs who talk to us about horrible things happening in Africa, in South America, and the Philippines. Whether we like it or not, we can relate very much to this evidence. It is not like it is anything new for the Standing Committee on Foreign Affairs and International Trade to make this kind of investigation. As early as 2005, it looked into this issue.

Its 14th report was entitled “Mining in Developing Countries and Corporate Social Responsibility”. The government responded to the report, and here is what it had to say, “Consequently, issues of the type raised by the Committee are likely to increase in both intensity and volume in the coming years—”.

We are in 2009, just before 2010, and we are still debating this same issue. Since 2005, we had extensive consultations over a period of two years, and the result was a report with a number of recommendations. A wide consensus emerged between members of the civil society, experts, and people from mining companies.

Do you think we could design a bill that would include these recommendations from the report resulting from roundtables? Would that be better than Bill C-300? I gather from what you said that this bill is—

● (0955)

[*English*]

Mr. Michael J. Bourassa: Thank you.

I guess the question really relates to what's currently on the table with *Building the Canadian Advantage* as compared to Bill C-300. I think that's what it comes down to.

I just think the current bill is not workable. I don't know how you could even make amendments to make it workable without having to make drastic changes to the bill and make it a completely new bill. If you're talking about putting in some form of counsellor or ombudsman, you'd have to frame that in terms of abilities to do certain things. Of course, there would be expenditures relating to that, which you can't do with a private member's bill.

Fundamentally, the way the bill is now, having the complaints go to a minister under that whole process—that part's not amendable, from our point of view. We are completely against that.

In terms of *Building the Canadian Advantage*, which is what the government has put on the table, we think it's a very workable situation. It's a good start. It provides lots of other things besides the counsellor. It talks about centres of excellence and about programs to build some of the capacity within the countries where some of the Canadian companies are operating.

From our point of view, *Building the Canadian Advantage* is a far better approach. We think it will result in better practices. It will be better for the industry and better for CSR standards.

[*Translation*]

Mr. Raymond Chrétien: I would like to supplement Michael Bourassa's answer.

Ms. Deschamps, you are right to raise the issue of the accountability of big mining companies. They should be held to account for what they do, and they should be perfect in terms of their corporate social responsibility. But let me tell you about some of my concerns about this bill. The situation we would find ourselves in is this.

Canada has a Department of Foreign Affairs and International Trade one of the main goals of which is to promote Canada's interests abroad, including commercial and economic interests. All our trade commissioners and embassies are working very hard toward this goal. If this bill becomes law, another section in this department would be established and it would do the exact opposite, that is investigating companies we should instead be assisting under the department's mandate.

If this bill is put into force, I wonder if the legislation on the foreign affairs department should not be amended. I do not know if you are interested, but I would like to explain what would in fact happen, should a serious complaint be made to our Minister of Foreign Affairs. I would really like to explain that to you.

Ms. Francine Lalonde: My turn?

[*English*]

The Chair: Yes.

[*Translation*]

Ms. Francine Lalonde: A number of companies earned a very bad reputation. Do you not think this growing problem will be much more harmful to the development of Canada's mining industry than would be a legislation like this one which provides that companies should abide by certain standards? Companies are intelligent and know where their interest is. They can adjust swiftly.

● (1000)

[*English*]

Mr. Mac Penney: Thank you.

I can understand, if you were to believe everything you'd heard at this committee and read in the press for the last two weeks about Canadian mining companies overseas, that you would be thinking that Canadian mining is at a state of war overseas, that we're doing bad things. I can tell you, Member, that any allegations that are made against any company up here we take very seriously.

The other thing I can tell you is that Canadian mining overseas is currently involved in I believe 5,000 different projects. The vast majority of those projects are well and responsibly managed and are fully supported by the local community.

[*Translation*]

Ms. Francine Lalonde: Answer my question. I am talking to you about Canada's bad reputation.

[*English*]

Mr. Mac Penney: I'm just saying that I think we need to have a solution that's commensurate with the problem. Whether you call it a counsellor, an ombudsman, or whatever you want to call it, what this bill lacks and what we require is a clear process, with clear standards, due process, procedural protections, and we would need some sort of assurance that there will be consequences for people who bring absolutely unsubstantiated and untrue claims.

In what the committee heard over the last week—I haven't read the record, but the members were here—I heard a lot of allegations, but I heard no substantiation. Our concern is that it was a preview of what we can expect, as Canadian mining companies, if this legislation is adopted.

The Chair: Thank you, Mr. Penny.

Mr. Sinclair, were you trying to get in there?

Mr. Peter Sinclair: Thank you. It was just to reiterate Mac's point.

I think this bill has a potential for much more reputational damage for Canadian mining companies because of the lack of clear, transparent guidelines, standards on which we could make a fair determination, and the resources by means of which we could investigate complaints. It's open to abuse, and we believe that abuse will increase and the reputation of the industry will suffer much greater damage.

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

We'll move to the government side.

Ms. Brown.

Ms. Lois Brown: Thank you, Mr. Chair.

Thank you very much for being here, ladies and gentlemen.

I first want to make a comment.

Given the two submissions we have here about the lack of consultation with the mining industry, and given, Mr. Peterson, your and Mr. Chrétien's expertise, both in government service and now in the mining industry, I am horrified that there's been so little consultation.

Both of you say here, “To our knowledge not one...company was consulted with respect of [the drafting of] the bill”, and the executive summary says, “We respectfully submit, however, that the Bill...was proposed without any consultation of any sort with any extractive company or industry association....” I find that disturbing, to say the least.

But what I want to ask is this. The other day we started on this in a way, but Mr. Chrétien, perhaps you can go on. The other day we heard what I would say were some damning accusations about Barrick Gold from one of the witnesses. They said the company was standoffish, resistant, aggressive, and dangerous:

> I and my closest staff were personally and physically threatened.... My children were threatened, my office was wiretapped, my staff was bought, and the public officials who once controlled Barrick for me became paid employees of Barrick Gold.

It's inflammatory towards the companies, but my question is, if Bill C-300 were in place, what would happen to a mining industry wherein those accusations were brought forward?

Mr. Chrétien, perhaps you could go on to say what you wanted to say to Ms. Lalonde.

● (1005)

Mr. Raymond Chrétien: It's a very good point. Let me try to run you through the process of what would happen today.

If a serious complaint were made to the minister's office, whether the Minister of International Trade or the Minister of Foreign Affairs, what would the minister do today? He would turn to his deputy minister, as all good ministers do, and then the deputy minister would tell his minister, “Minister, what are the standards, what are the laws by which a team of inspectors from this department could make proper determination? What are the clear procedures to protect the parties involved? What is the legitimacy? What authority do we have as Canadians, as the Department of Foreign Affairs, to investigate in foreign countries? Minister, I have to tell you, I simply don't have the resources to conduct those investigations. The department is strained, we have our own inspectorate that carries three major trips a year, probably down to two right now. I'm simply not equipped, Minister, to do this.” Finally, he would ask the minister—accountability for those who abuse the system.

That's a very good point. These companies have to be accountable. My view is simply that this bill does not provide this accountability.

In practice, also, I'm worried about the inspections to carry a visit to Sudan or the Kivu in the Congo to investigate a mining company. What will happen? The department doesn't have resources. It would probably have to hire consultants, lawyers, accountants, make them a team, try to give them some kind of proper security clearance, try to get them a visa to go to the Congo. The Congolese would say, "Listen, you're coming here to investigate a Canadian company employing Congolese. We have a say in this. We want to be part of that investigation."

That takes months, just to get it going. These guys would arrive at the embassy in Kinshasa. What would happen there? Our ambassador would take them to the foreign ministry to meet their counterparts. The Congolese would have to be part of that team. Then they would head towards the Kivu. How do you go to the Kivu? There's a flight a week. There's a civil war there, people are dying. You're going to carry out an investigation in the Kivu, in a mine. Suppose you can do it—I'll give you the credit for this. Then what do you do? You come back to Kinshasa, back to Ottawa. You try to write a report out of the chaotic situation you have faced down there. Then what do you do with this report? The report will go from the inspectorate to the deputy minister to the minister. Then the minister will say, "What's this? I agree." Or "I don't agree." If he were to agree with that report, what will he do with it?

All of this, Mr. Chairman, is not at all clear. That's why I'm worried about the huge confusion, the kind of huge snafu that would be created if the guidelines were not much better than they are right now.

The Chair: Thank you.

Mr. Lunney.

Mr. James Lunney (Nanaimo—Alberni, CPC): Thank you very much. I appreciate your presentation.

Look, this whole CSR thing has been developing over the last decade or so in a significant way, and everybody agrees that there is a need for CSR principles. But we have UN principles for responsible investigating that have been developing. You have the IMF guidelines, out of which come the Equator Principles.

Canada, I think, is recognized as a leader in these realms, but because we are probably the largest participant, we're also, I suppose, a target for those with grievances, shall we say.

But Canada's approach—I wanted to ask you to comment on that. We have the four approaches here that we're taking right now and that we alluded to just briefly here. With the four approaches, there's the new centre of excellence that's being developed; ongoing assistance to CIDA to develop governance in the developing countries, governance capacity and regulatory capacity, which is lacking in many developing countries, obviously. There is promotion of these internationally recognized standards. We're interested in continuing to promote that. And finally there is our CSR counsellor. She was just here at our last meeting, has just been appointed, Marketa Evans, a very skilled, knowledgeable person in this area of CSR development.

But one of the criticisms is that it's voluntary participation in this process. You know, your participation is voluntary, and that somehow is portrayed as a severe weakness. Can you imagine a scenario where a company refused to participate with a conflict, with a situation that was attracting attention, where there is a significant problem? Can you imagine a scenario where a company would not be interested in participating in that CSR process, at the risk of public censure when results of her reports are made public? Obviously that would be a very significant incentive, I would think, to participation. Would you care to comment on that?

● (1010)

Ms. Dina Aloi: I would like to, yes. Thank you.

We have looked at the government's response. As my colleague stated, it's a workable response. What's positive about the response is that it is multi-stakeholder. It's a collaborative approach to improving CSR. Your CIDA example is a perfect example of a multi-stakeholder approach where industry could work with CIDA, and that's the approach we're looking at, a very transparent, multi-stakeholder approach.

You mentioned the voluntary nature of the counsellor's position. I find it interesting: my understanding is that actually the NGOs were asked if they would waive consent to participate in an investigation, and they said no. So how would this approach be accountable to both sides?

Another interesting point about the whole voluntary aspect of participating in an investigation is that DFAIT, when they actually testified at this committee, made the statement that they did a study, and 100% of companies that were asked to participate in investigations participated. They gave their consent because it makes sense. When there's a clear, transparent approach that's well resourced, there's no reason for a company not to go through with that.

That's what our statement is. Mr. Rae provided a perfect list of the existing CSR standards with the IFC, the CPP, the EDC. They all have standards that we're held to account for, that we're already working through. There's no reason to do away with CSR. In fact, I certainly hope it's not. One of the comments about a developing phenomena, for me, is that anthropologists and social scientists are working with mining companies. Community development specialists are now part of mining projects. That's a wonderful phenomenon.

The Chair: Thank you very much.

We'll move now to Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair.

I just want to maybe establish some things about what was said and not said at this committee. I don't recall people suggesting there was a war on, or whatever the indication was from one of the witnesses.

I think it was very clearly established by all witnesses at this committee that by and large, things were going well, but what we need to do is evolve a process. I think one witness talked about a sports analogy and referred to being on the field and whatnot, and I referred him back to the fact that actually our job here is to be referees and set rules. I guess you're a player, and I can understand your need to want to set rules in your favour; that's what you do.

Maybe I'll start with Barrick and Mr. Sinclair. In your intervention there were a lot of coulds, woulds, and maybes in terms of this legislation, but you came to the determination that essentially we shouldn't support it. I want to go to what other jurisdictions are doing.

First of all, I'd like to ask you what the CPP's investment in Barrick is right now, what the dollar value is. Then I'll ask you about what happened recently with the Norwegian government pension fund.

The Chair: Mr. Sinclair.

Mr. Peter Sinclair: I'm afraid I can't answer you. They don't tell me the sort of level of investors when we work in the community relations CSR department.

Mr. Paul Dewar: Well, it's $739 million, but that's—

Mr. Peter Sinclair: Okay, thanks.

Mr. Paul Dewar: It's $739 million. I guess I'm a shareholder, so I keep track of these things—with the CPP, that is, and I guess indirectly Barrick.

I just wanted to know what happened recently with regard to the Norwegian pension fund and Barrick Gold.

Mr. Peter Sinclair: I think that has been discussed at the committee before. It's documented in a submission that we are producing today, which we've submitted to the clerk, outlining some of the allegations and issues that have been made at the committee. I think it's stated there.

● (1015)

Mr. Paul Dewar: Which is what?

Mr. Peter Sinclair: That the Norwegian pension fund divested in Barrick.

Mr. Paul Dewar: And why was that?

Mr. Peter Sinclair: That was their choice. Our shareholders have a choice as to where they put their investments, as do you. We, at the moment, have Norway as one fund that actually.... We weren't very surprised at that decision.

Mr. Paul Dewar: Why is that?

Mr. Peter Sinclair: Well, because they have done the same thing with a number of other mining companies. We spoke to them at length and actually offered for them to meet with our technical advisers to discuss this issue further.

We actually have a number of other pension funds, many European-based pension funds, sovereign pension funds that continue to invest with Barrick. We are actually engaging with a number of them at the moment. That's really very constructive dialogue. They have some concerns. We're willing to discuss them. It's unfortunate the Norwegians have given up that option.

Mr. Paul Dewar: They also have that right; they're a sovereign nation. They have a pension fund. Their rationale was essentially that there were concerns around the conduct of Barrick in Papua New Guinea—just for the record—and serious environmental concerns.

To Goldcorp now. In terms of the situation on the ground for Goldcorp, there presently are concerns and there has been litigation against Goldcorp in some activities. I want to go back to what I said before. We're not talking about a majority of industry abroad having problems, but there are concerns right now that are being litigated. The one that has come to our attention is in regard to Honduras. There was a fine brought against Goldcorp—I'm going back two years—and I'm just wondering if you can tell me what the case was, what the response was with regard to the Marlin mine and what happened there.

Ms. Dina Aloi: I'm not sure actually if I fully understand your question, because the Marlin mine is in Guatemala.

Mr. Paul Dewar: I'm sorry, that's in Guatemala. I got my Latin American countries mixed up. Actually, I worked and lived there for six years, so I should know better.

I just wanted to know what the response was by the company to the litigation against the company, and its status.

Ms. Dina Aloi: Again, I'll refer to a fine that was levied on one of our projects in Honduras that was actually repealed.

To my knowledge, in Guatemala there has been no litigation against our Marlin mine, but in Honduras you're correct. Several years ago, there was an environmental fine placed on the company. We followed through with the local legislation and we paid it. We did, however, appeal it. The government actually did repeal the fine and found that we had not been out of compliance with environmental laws.

Mr. Paul Dewar: In the case of the Marlin mine that you've mentioned—it was in 2007 in Honduras; there was litigation and you paid a fine. You did acknowledge that there were certain things you needed to do in terms of that mine, right? And there were certain things you had to improve, or was there nothing that you had to improve?

Ms. Dina Aloi: It was prior to my time. My understanding—I've read the document—is that there was a lack of communication on exactly how we were implementing our closure plan.

Mr. Paul Dewar: Right.

Ms. Dina Aloi: A fine was levied when investigators and legislators came to cite how we were implementing our closure. The plan was actually approved by the government and the ministry of environment. That's when they repealed the law.

Mr. Paul Dewar: So there was no fine paid?

Ms. Dina Aloi: We paid the fine, and then the fine was removed. We went through with normal legislative procedure.

Mr. Paul Dewar: Okay.

I'm asking this because there is this notion that somehow this law would cause more complaints, and that right now there aren't concerns out there. I go back to the fact that we're trying to set rules so that there is a level playing field and actual protection for Canadian corporations.

The problem I'm having is the certainty that we've had from all presenters today that this will cause companies to pull out of Canada—I've been hearing that possibility.... When I asked someone before from the industry if he would pull out if Bill C-300 is passed, he said no—

● (1020)

The Chair: Quickly, Mr. Dewar.

Mr. Paul Dewar: I'm just wondering if anyone at the table is assuming that if Bill C-300 is passed they would actually pull operations out of Canada.

The Chair: Very quickly, please.

Ms. Dina Aloi: I don't think any company wants to use a veiled threat. However, if we're handcuffed to the degree where we cannot operate, where we cannot purchase new properties because we don't have the time to get them up to our high standard, or we don't have time to sell them if they're part of a larger package, how can we grow and continue to develop? If we cannot joint venture with other companies because we lose financing and cannot function if at any time we go ahead and purchase a different project, I think the board of directors would have to take that into consideration. If Vale Inco and Xstrata, who are operating here in Canada, aren't held to these accounts, they can take over our properties. It's a discussion that's happening in boardrooms across Canada.

Mac, did you want to say something?

The Chair: We are at almost 10 minutes. We'll come back to Mr. Goldring. Maybe if we hurry there might be another round.

Mr. Peter Goldring (Edmonton East, CPC): Leading on to those concerns...first of all, I would like to say that we heard from a witness earlier this week from Argentina who said about Barrick specifically that she could not say they have ever broken any laws of Argentina. She, speaking as a lawyer, was saying it was because she is not a judge, but she could not specifically say.

However, there were a lot of suggestions throughout the interview of what could be done. The concern there was really that she was seemingly looking to Canada with this bill to reinforce the laws of her own country.

I couldn't quite discern whether it was because the laws of her own country were not complete enough or whether it was that they were not being reinforced or enforced in her own country. The concern is that she was looking at this bill as a vehicle of sorts to be able to reinforce the laws, which is quite a concern because that would put Canada in a position of enforcing laws of other countries and pre-empting other countries' laws, you could say.

Along with that, and the provisos in here of human rights, and the suggestions by human rights...that this would be the laws of the other countries, and that is the way she is reading it. It leads to the suggestion in certain other parts of the world that the person might be reinforcing laws, for example, sharia laws, and what that does to corporations.

So I can certainly see where the mining industry is very concerned about this type of an enactment, which can put corporations in a quandary as to how on earth do we ever deal with projects in other countries when you have this type of legislation that makes you have to adhere to laws that Canada doesn't even subscribe to but you have to subscribe to. So I can see the difficulty in this.

Mr. Peterson, you were in Parliament when I was here—

Mr. Bob Rae: He was in Parliament when I was here the first time.

Voices: Oh, oh!

Mr. Peter Goldring: —and Mr. Chrétien, and both of you... obviously you weren't on the Conservative benches per se. Could you please describe to this committee, are you here representing the paycheque you receive, or are you here representing your true beliefs? Could you somehow project these true beliefs to your colleagues over here and explain the seriousness of this problem?

The Chair: Mr. Peterson.

● (1025)

Hon. James Peterson: Mr. Goldring, I am very proud to be here. I must tell you, it's much more formidable being on this side of the table than it used to be sitting there.

But I'm here because our firm has been recognized—

Mr. Peter Goldring: But do you personally believe it? That's what I want to know.

Hon. James Peterson: Very much so. I have absolutely no qualms about what we're saying.

I will tell you where I do have some qualms.

[*Translation*]

It concerns what Ms. Deschamps and Ms. Lalonde said. True enough, there allegations about horrible things everywhere. But...

[*English*]

if we're going to be the only ones to go after our own Canadian companies, at least we need an impartial tribunal with procedural fairness as a minimum. This is why we think that the process that has been developed on a consensual basis involving civil society, involving the companies, involving host countries—

Mr. Peter Goldring: Could you expand on the restrictive aspects of this bill and your concerns?

Hon. James Peterson: My immediate reaction on reading it was what would I do as a lawyer in order to have a level playing field on a global basis.

If you have a Canadian head office with, say, a mine in Canada, a mine in the United States, and a mine in a developing country—

Mr. Peter Goldring: Would you move your head office because of this bill?

Hon. James Peterson: I would. I would have to, in those circumstances—

Mr. Peter Goldring: Leave Canada.

Hon. James Peterson: —because I would be denied EDC financing and would be subject to a different regime, because I'm Canadian, than all of the other people in the world.

Surely our goal is to work on a very collaborative and constructive basis with developing countries and other nations in the world, so that we have international standards that are raising human rights and protecting against human rights abuses. That's the constructive way to go about this, not just to say that we're going to do it to Canadian firms alone.

The Chair: Thank you.

Mr. Chrétien, I'll give one very quick minute; we're at four and a half minutes.

Mr. Raymond Chrétien: It's a great question. I'll tell you simply this.

As Jim has just said, I'm also very proud to work for this law firm, Fasken Martineau. I think, by the way, that it's the best law firm in the country—excuse me for this—but when approached by my colleagues to come here today, I really wanted to look at the question very carefully.

I can tell you that I would not be here if I didn't believe in what I said today, especially about the difficulties of making this bill work. I would simply not be here; I'm not a lobbyist and am not registered as a lobbyist. I came here because I strongly believe that this could not work.

Merci.

The Chair: Thank you.

Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair.

Jantzi Research recommends that Goldcorp be ineligible for socially responsible investing. They talk about a site visit to a mine in Guatemala at which various representatives of the local and international community were present—the Guatemalan and Canadian governments, etc. It didn't seem to be all that difficult to set up, and at the conclusion of it, they made the decision that Goldcorp would no longer be eligible for socially responsible investments.

Concerning Barrick, the Norwegian government, when it did its review, said that the investment in Barrick amounted to "an unacceptable risk of the Fund contributing to serious environmental damage":

> The Council added that "the company's assertions that its operations do not cause long-term and irreversible environmental damage carry little credibility. This is reinforced by the lack of openness and transparency in the company's environmental reporting."

—not exactly a good report. They don't seem to have any difficulties conducting investigations wherever they need to conduct investigations.

We've had testimony from a former minister of the environment that her offices were firebombed, she was personally threatened, access was prevented to a national park, etc. We've had testimony from Harvard University, which has pointed out that "Numerous accounts of rape show a similar pattern." This is in Papua New Guinea. "The guards, usually in a group of five or more, find a woman while they are patrolling on or near mine property. They take turns threatening, beating, and raping her." And so on. Barrick Gold has a memorandum of understanding with the police force to basically pay for the police force. They pay for the uniforms; they pay for the salaries. To no one's great surprise, therefore, there's been no real investigation into these allegations.

All of these are allegations, and all of you are very upset about what's going on in the newspapers these days. But you seem to prefer the status quo. You'd rather duke it out in the newspapers, hire a phalanx of lawyers and consultants, and let the damage be where it is.

When the CSR counsellor was here—who seems a fine, qualified person and has many of the things that you want—and was asked whether she could investigate anything that was in the newspaper, the answer was quite clearly no, because none of you would ever consent; none of you would ever, under any circumstances, advise your clients to consent to an investigation.

So what you want, really, is status quo. You can say that you want the CSR counsellor, but you don't really want her. You don't want the good things that brings, because there is no possibility that this counsellor will ever investigate anything that appeared in the newspapers or any allegation that has appeared before this committee.

I put it to you that Bill C-300 is a very modest step that, when seen in conjunction with the CSR counsellor, actually gives her a possibility that she could investigate the things that make you upset.

● (1030)

The Chair: Ms. Aloi.

Ms. Dina Aloi: There may be some confusion about what the status quo is. It's important to reiterate that companies take any allegations, any concerns, very seriously, and when these allegations come to our attention, we act upon them. I'm speaking for myself for Goldcorp. Our process is very different from what's been described. We're very much a collaborative, dialogue-based organization. When I started at Goldcorp, one of the things I did was phone Jantzi. Their response was, "We removed you from the list because we had no information"—there was no one dialoguing with them. We've been talking to them almost weekly for the past several months.

It's very important to talk about these issues. When we hear about complaints, concerns, or questions, we need to talk to the people who are participating. For example, next week we have three international NGOs coming to Canada to discuss a concern they have about a tailings dam, and we're going to be meeting with them and talking about it.

The Chair: We're out of—

Hon. John McKay: With the greatest respect, Madam, you say you comply because you say you comply. That's hardly an answer.

Ms. Dina Aloi: No. We're held to their standards, sir.

The Chair: Thank you.

Ms. Dina Aloi: Jantzi is a perfect example of the existing standards that are out there that make us accountable.

Hon. John McKay: And they found your corporation wanting.

Ms. Dina Aloi: They have found us wanting, and we're working with them.

Hon. John McKay: Well, I'm happy—

The Chair: No, Mr. McKay, I'm sorry. You're way over time.

The second round is five minutes with—

Ms. Dina Aloi: One last point I must make is that to be discussing issues with Jantzi or discussing issues with an international NGO is very different from having our own federal government investigating us. This raises allegations to a whole different level that is unnecessary.

The Chair: Mr. Abbott, please.

Hon. Jim Abbott (Kootenay—Columbia, CPC): Thank you.

I'm interested in Mr. McKay's reference to the Norwegian pension board. Perhaps it would be more appropriate to talk about the CPP Investment Board and the status quo of what they do.

I'm going to read from their submission to us:

> WHAT ACTIONS DID WE TAKE?
>
> We continued engaging with Canadian and international oil & gas and mining companies operating in high-risk countries, including Burma, the Democratic Republic of Congo and Guatemala to encourage improved transparency and risk management strategies.
>
> We discussed environmental and social risks with several Canadian and international oil & gas and mining companies as part of regular meetings with senior management.
>
> We are a supporting investor of the Extractive Industries Transparency Initiative (EITI). The EITI is a multi-stakeholder initiative of governments, companies, investors and non-governmental organizations that supports improved governance in resource-rich countries through verification and publication of company tax and royalty payments and government revenues from oil & gas and mining companies.

I like the status quo. That is the status quo in Canada, and it's the kind of regime these people are currently working under.

My question is particularly for Mr. Peterson.

If you were in the Liberal government today—God forbid the thought—and were the international trade minister, what would you say in that capacity about this bill, with your prior experience in that capacity? What are the limitations? What are the problems from your perspective as the hypothetical current Liberal international trade minister?

● (1035)

Hon. James Peterson: We have found this in everything we do globally. We are a part of the global economy par excellence, more than almost any other economy in the world. So we have to be globally competitive. Are we going to be the only country in the world that goes after its own mining companies and singles them out for their behaviour abroad? Are there other alternatives that are better in terms of enhancing CSR? That's what we all want to do, but not by killing the goose that's laying the egg.

I fear that Canadian headquartered mining companies, because they will be at a competitive disadvantage compared with the rest of the world, will simply move out of Canada. We saw this happen back in the early 1970s when the Carter report was acted upon by the Liberal government at that time. Companies such as Hunter Douglas moved their headquarters out of Canada to the Netherlands because we were going to be taxing all global income at the higher of Canadian or foreign rates.

We were able to get that law changed by working with the government and companies that wanted to have their global headquarters based in Canada. It's the very same with the mining sector. We're the leader in the world. Can't we still be the leader, not only in the world in terms of the economics of it and of continuing to grow it, but also in terms of CSR?

There are better ways to do CSR without shafting the Canadian companies.

The Chair: Very quickly, Mr. Abbott.

Hon. Jim Abbott: What would you say if you were in the Liberal caucus, at the microphone, to the people in the Liberal caucus?

And no, I'm not crossing the floor.

Hon. James Peterson: I would say that all of us should be concerned about CSR. It's human rights, it's the environment, it's the future. What is the very best way to achieve that? Is it this bill? I think this bill is very well intentioned, okay? It's inspiring a great debate here, on the Hill and elsewhere. So this is good.

I just feel that it does not provide an impartial tribunal and procedural fairness for those who are accused. It imposes a huge expenditure on our department to investigate properly, and we're cutting back on departments at the same time. It is one that will cause us to decline in terms of our presence in the global mining scene rather than continually enhance, as the Boston group says we should, in order to produce those new jobs for the new economy in Canada.

Hon. Jim Abbott: Thank you.

The Chair: Just on that, do you think this bill can be amended or tweaked a bit?

Hon. James Peterson: Unfortunately not, because if you're going to have an impartial tribunal, it's going to require expenses.

● (1040)

The Chair: Thank you, Mr. Peterson.

Madame Lalonde, did you have a question?

[*Translation*]

Ms. Francine Lalonde: You are saying we are world leaders. It is true. It is a fact, but this “we” includes all kinds of companies. I have worked specifically on this. There are indeed companies which want to be socially responsible. It is more demanding of them when they are not monitored by watchful people. So, some are willing to be responsible, but others are not, and you know it perfectly well. And when they are not, they will not change because of some discreet advice. You could tell me, and rightly so, that you protect Canada's reputation, that it is important for you, but you cannot control everybody.

Because so many companies are involved, do you not think we should have rules, and controls and also sanctions when needed?

[*English*]

Mr. Michael J. Bourassa: Could I address that?

First of all, I take issue when you say that we all know there are companies out there that don't want to comply. I do not think that's the case. I think every company that's out there is looking to do the best they possibly can. There are difficult situations that they're dealing with. There are many programs that are in place now. I know the Mining Association of Canada is here; their Towards Sustainable Mining, for example, is a program. Also, I am a director of the PDAC. They have Exploration for Excellence. That's something that is very highly promoted. When I attend international conferences, anywhere, or legal conferences, the topic of conversation amongst mining lawyers from every jurisdiction is always about how can mining companies perform better social responsibilities. It's the topic.

What concerns me with this bill, and again with the rhetoric that has been raised in the last number of days in the press, and even the questions from Mr. McKay, is that everyone seems to say "Why are you concerned about this bill, because we'll really just take out a few of the bad apples?" The criticism and the attacks are being made against the very companies that have huge corporate social responsibility programs, and they take it very seriously, such as Goldcorp or Barrick. They're front and centre in the press. Say what you want, that you're just going after smaller companies that you know do not want to comply. This bill is an opportunity for people who go against players that take this very seriously and to cause great reputational damage, and for those companies to move their operations elsewhere.

[*Translation*]

Ms. Francine Lalonde: Why is it that people in Honduras and everywhere are complaining? Do you think their complaints are unfounded?

[*English*]

Mr. Michael J. Bourassa: I'm sure they're not unfounded complaints, but again, are the complaints against Canadian mining companies, directly related to what they're doing? Are they indirectly towards what other people are doing? These are allegations, and I think there needs to be a fair process to have these allegations heard. Having a complaint and then an investigation made by a minister—that is not a fair process. That is damaging.

[*Translation*]

Ms. Francine Lalonde: I understand.

[*English*]

The Chair: Thank you very much.

I think we're pretty well out of time. We're going to go to committee business.

Mr. Dewar, did you want to move to committee business?

Mr. Paul Dewar: If people want to ask more questions, then....

The Chair: Can we keep going on the questions? All right.

Mr. Obhrai.

Mr. Deepak Obhrai: Thank you, Mr. Chair.

Before my friend from the NDP goes away, he talked about the Norwegian fund. I'm happy to see you're invested in Barrick—what he just said here.

Let me just say this quite clearly. The Norwegian fund is based upon oil revenues. The majority of the Norwegian pension fund comes from the extractive industry—oil revenues go in, not for investment. Go check your facts and then you will find that out.

However, I want to come back to one of the major points here and ask this. That is—

● (1045)

Hon. Bob Rae: You're wrong.

Mr. Deepak Obhrai: Can I speak?

The Chair: You can continue, Mr. Obhrai.

Mr. Deepak Obhrai: When I was engaged as parliamentary secretary of foreign affairs, the government did an exhaustive round table conference on corporate social responsibility. We came up with some of the best solutions. Every stakeholder was involved in that—NGOs, mining companies, everybody else. Two major points have come out. Of course, the counsellor was voluntary. However, the centre for excellence has also come out to ensure that Canadian companies and everybody else go through the centre of excellence to promote CSR.

What I don't understand from the Liberal side here is why they will not let that process carry forward and see what will happen. Maybe if that process hasn't evolved after two years into what some of the concerns are, then I could understand them bringing this. To bring it at this stage, now, when a process has already been put into place, and to move ahead, after everybody's agreed that that is the best thing for Canada, is something that beats me.

Mr. Peterson, you were the minister. I can tell you, if you were the government today, you would have never brought this bill here again. If there were a Liberal government today—it's only a minority government, but if there were a majority Liberal government today, which we hope we don't have—I can tell you that this bill would never have seen the light of day. This is only playing politics because there is a minority situation.

Let's just say—I hope all of you agree—that there is a process. The government has just put in a centre of excellence and everything as a cooperative effort to work towards improving Canada's reputation in the mining industry.

We all know what China is doing. China is all over Africa. Who's asking China to have corporate social responsibility? Nobody, as you all pointed out. It's us. But China is everywhere else.

My point, if anybody wants to comment, is to let the process that is there now carry on and then we'll see from there the evolution.

The Chair: Thank you. I don't know if that was a question. I see Mr. Chrétien's light is on, so...?

All right, thank you.

Ms. Brown, you have about a minute.

Ms. Lois Brown: Thank you. I'll have to speak quickly.

I just want to go back to the investigative process that this bill is trying to put in place. I'm referring to one of the submissions we were given today, and it talks about how the minister will make the determination. I go down here to this footnote that says:

> ...criminal investigation in the territory of another state cannot be a matter within the authority of Parliament or the provincial legislatures because they have no jurisdiction to authorize enforcement abroad.

Then it carries on talking about international law. My question is, would a country have to allow the investigation? Would they have to do that? Would there be reasons why they wouldn't allow it, in that there may be other development money that's coming into the country that they would lose, or there may be other impacts on other social constructions that are happening within a country?

The Chair: Mr. Bourassa.

Mr. Michael J. Bourassa: I know there have been other submissions. I think Robert Wisner from McMillan presented a legal treatise on these issues, but basically it's extraterritorial. I think the government could only proceed to send people into another country with the consent of that other jurisdiction, and clearly, if they say no, you're not welcome here, we have no reason to be there. We can't.

Ms. Lois Brown: So even if our minister then said, I'm going to do an investigation under this legislation, getting permission from that other country may thwart the whole process, and the company may be left in limbo, really, because it has no other avenue in which to resolve the allegations. Is that true?

Mr. Michael J. Bourassa: That's the risk you face. It's a flawed investigation, yet the complaint is still there. It stands out there, yet the information gathering is flawed.

Ms. Lois Brown: So the company would not be able to access funding from many sources, which then puts the whole project at risk.

Mr. Michael J. Bourassa: If there's a finding, yes.

Ms. Lois Brown: Thank you, Mr. Chair.

The Chair: Thank you, Ms. Brown.

Mr. Dewar.

Mr. Paul Dewar: Thank you.

I just want to go back to what we have in place right now with the counsellor. The evidence that was brought forward to this committee is that right now she actually isn't prepared to take in anything. She's in the midst of putting together her regime and regulations.

In fact, I asked her if EDC was obviously supporting a company, so it is well known, and there is a concern about a company, would EDC be compelled to cooperate with her? She didn't know because they're still developing the process.

In fact, she couldn't tell us when the process would actually get going. I just lay that on the table because there's an impression that this is up and running and that we have a process. In fact, right now we have none. Yet we still have concerns, which we've all talked about.

Where many people have seen this bill going—and the limitations of a private member's bill are known by all of us, and certainly by you, Mr. Peterson, as a former member of Parliament. If this bill was brought in, I think it's reasonable to say that an enlightened thing to do would be to do what the round table and witnesses from industry asked for, and that would be to have an objective third-party—an ombudsperson/ombudsman—appointed. I'm looking for a bridge to that common ground.

My question is, Mr. Peterson, would you not see that putting an ombudsman in place, as was recommended in the round table discussions by both civil society and by business, was a smart thing to do, that it could actually deal with some of the concerns you have regarding Bill C-300?

● (1050)

Hon. James Peterson: Without putting words in Mr. McKay's mouth, referring to the limitation when you talk about a private member's bill, I'm sure that he would have wanted a tribunal that had all of the attributes of fairness and transparency and due process.

If you're asking us to say ombudsman, yes or no, it would depend on the fairness procedures—

Mr. Paul Dewar: Absolutely, third party—

Hon. James Peterson: —that are attached to it.

Mr. Paul Dewar: Absolutely, and resources.

Hon. James Peterson: And the resources necessary to protect the rights of our companies, as well as people around the world.

Mr. Paul Dewar: Both parties, absolutely, and that's what the idea of an ombudsman is.

With those qualifiers, you would see that as an enlightened way to go? I'm not trying to nail you down with specifics, really.

Hon. James Peterson: No, but it would depend on the specifics.

An hon. member: That's what you would have done as minister.

Mr. Paul Dewar: That's where I'm going.

I think many people see that Bill C-300 isn't the end of CSR; it's not that we stop here and it's all done. It's actually in context, and the context is that there are other things being done. Everyone's talked about the things they're doing within their own companies, but to evolve the process as a government, many of us want to see governments—and I say plural because hopefully this will be adopted by others—to actually have a process that takes out the litigation.

I referenced in committee before to look at what's happened to big tobacco. No one wants to see that happen with mining. No one—not me, not you. So to protect from litigation, I think it's smart to come up with a process that was referenced in the round table.

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

Mr. Patry, you have 10 seconds. I do have one question myself, so go ahead very quickly.

Mr. Bernard Patry: I just wanted to answer back to Mr. Obhrai, but I'll answer to Mr. Abbott.

It has been pointed out that the committee agrees with the 27 recommendations of the round table, and one was for the ombudsman. Even Parliament voted in favour of the ombudsman. Bring back the ombudsman and that's going to be it. I discussed it with Mr. McKay and he said we need an independent ombudsman. That's going to be the fairness for both sides.

The Chair: Thank you, Mr. Patry.

I want to thank our committee.

I want to take another minute on one question, if the chair can take the prerogative. Sometimes on this committee, especially with this legislation, it's as if you're living in the middle of a John Grisham novel. I don't know if you've read any of his, but it's difficult to take the right approach on some of these.

Mr. Peterson, I do want to come back to a question, not as a minister, but politically. If you were to put on that hat of the senior cabinet minister one more time, not just from the government-to-industry relationship you want to keep going, but also politically.... There's an election coming, and you're now the minister. Mr. McKay or Madame Lalonde has already said that with our current regime, there won't be any investigative work by our CSR officer on a report in the newspaper.

In other words, if there's a report in the newspaper, there should be this movement now to—I think it was Mr. McKay who suggested that in testimony today. Politically, when the majority of Canadians seem to find the work of the industry very suspect, wouldn't it be political dynamite to make it look as if you were walking away or not doing your due diligence as minister?

● (1055)

Hon. James Peterson: I would think it would be very damning if a company refused to be investigated in light of a serious allegation.

The Chair: What about in light of a frivolous...? If you dismissed it as frivolous, the politics of that....

Hon. James Peterson: The politics of any ministerial decision will be there in the House in question period for as long as people want to play politics with it. That's one of the problems of having the minister investigate, because the whole investigation itself would be subject to political scrutiny.

I've always believed that Canadians want us to be leaders in the world in terms of human rights and other issues like CSR, but we also benefit incredibly from our mining companies. Can't we have our cake and eat it too? I believe we can. I believe other alternatives have been presented, and it's the limitation on private members in terms of expenditures on their bills that probably precludes us from having something more constructive and one that will allow us to continue to grow our mining industry while we grow human rights and environmental issues around the world.

The Chair: Thank you very much. We'll give you the final word today.

I want to thank all those who have appeared before our committee today for their testimony. We very much appreciate your attendance today.

The meeting is adjourned.

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