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# Standing Committee on Transport, Infrastructure and Communities

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Chair: Peter Schiefke





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Tuesday, June 17, 2025

• (1535)

[English]

**The Chair (Peter Schiefke (Vaudreuil, Lib.)):** I call this meeting to order.

Welcome to meeting two of the Standing Committee on Transport, Infrastructure and Communities. Pursuant to the order of reference of Monday, June 16, 2025, the committee commences its consideration of Bill C-5, an act to enact the free trade and labour mobility in Canada act and the building Canada act.

Today's meeting is taking place in a hybrid format. Pursuant to the Standing Orders, members are attending in person in the room and remotely by using the Zoom application. Before we continue, I ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to help prevent audio and feedback incidents, and to protect the health and safety of all participants, including, of course, our interpreters. You will also notice a QR code on the card, which links to a short awareness video.

I'd like to make a few comments for the benefit of the witnesses as well as our members. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you are not speaking. For those on Zoom, at the bottom of your screen you can select the appropriate channel for interpretation—floor, English or French. For those in the room, you can use the earpiece and select the desired channel. I remind you that all comments should be addressed through the chair. For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the “raise hand” function. The clerk and I will manage the speaking order as best as we can, and we appreciate your patience and understanding in this regard.

I'd now like to welcome our witnesses. First, from Electricity Canada, we have Mr. Francis Bradley, president and chief executive officer. From Public Policy Forum, we have Ms. Yiota Kokkinos, senior executive adviser. Online, we have Mr. David Robitaille, full professor, civil law section, faculty of law, University of Ottawa.

Welcome.

Go ahead, Mr. Albas.

**Dan Albas (Okanagan Lake West—South Kelowna, CPC):** Thank you for giving me the floor.

Usually, when a government tables legislation and it is referred to a committee from the House, we get the ministers here. I just

want to put on note that I'm deeply dissatisfied—though not at you, Mr. Chair, or the clerk's activities here. This was hastily done, but to have a government say this was their number one priority for this week and to program a motion to not have the ministers come here and justify themselves in front of this committee, I think, is distasteful. I am going to let the ministers know that when they decide to appear, I guess, to do cleanup.

Thank you, Mr. Chair, for that statement.

**The Chair:** Thank you very much, Mr. Albas.

I can confirm with members that the clerk has done a diligent job of securing ministers for tomorrow. They will be appearing at 3:30 p.m. I believe we have confirmed Minister LeBlanc as well as Minister Freeland, and the clerk is working on many others to appear tomorrow. I can confirm that for members.

We'll begin our opening remarks.

If it's okay with you, Mr. Bradley, we'll begin with you. If you have opening remarks, I'll turn the floor over to you. You have five minutes, sir.

[Translation]

**Francis Bradley (President and Chief Executive Officer, Electricity Canada):** Thank you, Mr. Chair.

My name is Francis Bradley and I'm the chief executive officer of Electricity Canada.

Electricity Canada is the national voice of the power sector. Our members generate, transmit and distribute electricity to every province and territory in Canada.

[English]

Thank you for inviting me to speak to Bill C-5. Today I'll be focusing my comments specifically on the building Canada act.

We believe that this bill represents an important step towards accelerating the approval of major projects in Canada, which will help to build the infrastructure that Canada needs to bolster our economic sovereignty and security.

Electricity is central to Canada's economic success. Available, affordable power was key to building a prosperous country for our parents and grandparents. The electricity infrastructure that we build today will do the same for our children and grandchildren.

Demand for clean, reliable and affordable electricity is predicted to as much as double in some jurisdictions. This is being driven by population growth, rising industrial demand and new technologies like electric vehicles and data centres. This need will only grow greater as Canada pursues industrial strategies to make itself more globally competitive.

We need to build more generation, more transmission and more distribution infrastructure over the next two decades than we have built in generations. Unfortunately, Canada's approval process for major projects has not been up to the task. We've been ranked second to last in the OECD on the time it takes to get construction permits, for example. Streamlining regulatory approvals is a necessary step to get building at pace and at scale. Faster approvals can help get energy projects like new nuclear projects, hydro dams and transmission lines in operation faster. It reduces costs and project risk.

The building Canada act is a key step toward building important things faster. It focuses on how to move a project of national interest forward, not whether it should move forward. We can move faster while forging strong indigenous partnerships and adhering to environmental protections. The act has the potential to provide greater certainty for investors. It mirrors key recommendations that we've made to government, which are included in the annual state of the industry report we've provided to you.

Electricity Canada has long advocated for a two-year time limit on project approvals and for the government to adopt a "one project, one review" approach. We also believe a central major projects office can help coordinate between departments and act as the main point of contact for industry as we navigate an often cumbersome federal system. Beyond approvals, such an office could also help coordinate funding and financing support.

While this bill will have a primary impact on designated projects of national interest—I don't know what is of greater national interest than a strong electricity grid—the lessons learned from these could kick off a needed culture shift in our regulatory agencies and allow for broader improvements. Integrating these lessons more broadly should be an explicit goal of the bill.

Ultimately, it is essential that the regulatory environment for all projects is improved. Delay in getting permits and approvals adds costs for industry, no matter the size of the project. Those costs all end up on customers' bills.

The government must look at how we can better support existing infrastructure. If demand is going to double, we'll have to preserve and optimize what we already have. Too often, federal rules make it difficult to maintain or expand electricity infrastructure, even if it has been in place for decades. The Fisheries Act is the best example. Changes made in 2019 have complicated even the most straightforward maintenance.

We also need to make sure that operating rules don't hinder reliability. The clean electricity regulations will add significant costs and add reliability risks in several Canadian jurisdictions while not meaningfully reducing emissions.

Building the system will also require significant investment that will likely be too great for the ratepayer alone. Parliament must

pass the clean electricity investment tax credit to support projects. It should also expand coverage to include all transmission and support distribution investments.

Electricity is a Canadian advantage. We have one of the cleanest electricity grids in the world, at 84% non-emitting. It is reliable and it is competitive. It is a key foundation for Canada's future economic success.

Thank you.

● (1540)

**The Chair:** Thank you very much, Mr. Bradley.

We will now go over to Ms. Kokkinos.

Ms. Kokkinos, the floor is yours. You have five minutes, please.

**Yiota Kokkinos (Senior Executive Adviser, Public Policy Forum):** Thank you, Chair, and members of the committee.

I'm Yiota Kokkinos, senior executive adviser at the Public Policy Forum and former director general at Natural Resources Canada. It's an honour to be with you today.

I think we can all agree that Canada is at a crossroads. We have the resources, talent and global demand, but we're not building energy, infrastructure and critical minerals projects fast enough. The "Build Big Things" report is the Public Policy Forum's call to action, a road map to unlock billions in investment, attract global capital and fast-track nation-building projects.

We launched it in response to a sharp drop in investment and the urgent need for a bold, coordinated strategy to move projects forward. What we call the "playbook" outlines 10 essential plays that, taken together, will ensure that key projects will rapidly advance. The playbook's premise is that if we build big things, Canada can reduce its reliance on the U.S. market, become a trusted global supplier of energy and critical minerals, meet our climate goals and strengthen the infrastructure that connects our country and supports our sovereignty.

Let me start with why building big things matters. Donald Trump provided Canada with a needed wake-up call. Canada must expand its market access and strengthen federal-provincial co-operation to stay competitive, yet investments in major projects are falling despite our massive potential. Navius Research modelled over \$600 billion in proposed projects that are on the books right now that could add \$1.1 trillion to the GDP by 2035—a 4.5% increase. That's real growth driven by Canadian resources, Canadian workers and Canadian leadership.

I would add that it's not just about growth. It's about making sure we have reliable, affordable energy that will drive all industrial activity, investment and job creation in Canada and allow us to export to the world. It's about critical mineral supply chains, as well as addressing our climate goals. This is about being bold, strategic and globally competitive.

The good news is that momentum is building across governments to accelerate the identification and approval of nation-building projects. The Public Policy Forum convened federal and provincial governments, regulators, indigenous groups and industry in our broadest consultation ever, and we identified four levers that, if aligned effectively, will unlock investment and drive growth.

The first is coordinating financing to de-risk projects and attract private capital. There is a global competition right now for financing. Other countries are moving faster. We then need to streamline regulations to make them clear, fast and environmentally effective. We should be providing enabling infrastructure, such as transmission lines, roads, ports and the workforce to support major builds. Finally, we need indigenous economic participation. This is critical, including real equity and capital access from day one.

They're all practical steps. They are achievable, and they're very much aligned with the direction that Bill C-5 is going in. This legislation is a vital first step, but implementation depends on strong partnerships across governments and with indigenous peoples. That's where major projects have succeeded in the past.

Our playbook offers a path forward, but the details matter. We recommend 10 essential plays. I will highlight three of these that would enhance the bill's implementation.

First, we need strong, accountable governance, starting with the Prime Minister. These projects are vast and complex and necessitate a high degree of oversight to succeed. We suggest a deputy ministers' committee that meets regularly, backed by a cabinet committee, to drive coordination and delivery. When governments are disciplined, focused, aligned and committed, we can succeed. We did it during COVID, and we can do it again.

Second, we need to sort out the alphabet soup of federal funding programs. Right now, project proponents and indigenous peoples are bounced from the Canada Infrastructure Bank to the clean growth fund and so on and back again. There are about 10. This process needs coordination. We need a single front door to package the right mix of loans, guarantees and incentives.

Third, we need a strategic investment office, not just a regulatory office. It should be a whole-of-government team that aligns financing, regulatory approvals, broader infrastructure and indigenous

participation under one roof, with the financial expertise to assess projects and deliver value for public dollars.

● (1545)

In closing, how this bill is implemented will determine whether it delivers. It will take strong, sustained leadership across all levels of government and a culture shift within the public service that breaks down the silos, prioritizes collaboration, speed and problem-solving, and embraces opportunity over risk avoidance.

Implementation isn't the fine print; it is the outcome.

I invite you to read the “Build Big Things” report on the Public Policy Forum website. It was entered into evidence.

Thank you for the opportunity to appear here today.

**The Chair:** Thank you very much, Ms. Kokkinos.

Next, we'll go to Mr. Robitaille, who's joining us online.

The floor is yours, sir. You have five minutes.

[Translation]

**David Robitaille (Full Professor, Civil Law Section, Faculty of Law, University of Ottawa, As an Individual):** Thank you.

The bill enacting the Building Canada Act, which I'll be focusing on today, could significantly affect provincial jurisdictions and Canadian federalism. The Prime Minister publicly stated his desire for the bill to take into account provincial jurisdictions and needs.

However, in its current form, the bill fails to achieve this goal. The Building Canada Act isn't explicitly limited to works, projects or infrastructure under exclusive federal jurisdiction. The notion of national interest is broadly defined enough to include projects located entirely within one province.

For example, the preamble states that national interest projects include projects that:

strengthen Canada's ability to trade,

enhance the development of Canada's natural resources as well as its energy production and infrastructure;

However, the development of natural resources and the strengthening of Canada's energy capacity largely involve projects that normally fall under provincial jurisdiction pursuant to subsections 92A(1) and 92(10) of the Constitution Act, 1867. The exploration, extraction and production of non-renewable natural resources, forestry and hydroelectricity, along with the related environmental considerations, were allocated to the provinces by the constituent. At first glance, the preamble to the act seems to refer to both federal and provincial works, contrary to the constitutional division of powers.

In addition, the bill grants broad discretionary power to the Governor in Council to designate a national interest project. Under subclause 5(6), this designation may be made by order, on the recommendation of the minister, taking into account certain factors that are neither cumulative nor exhaustive. Although the bill provides for consultation with the provinces under subclause 5(7), it doesn't make the designation of national interest projects conditional on their consent. This leaves the door open for the federal government to impose unilateral decisions on the provinces in their own areas of jurisdiction.

In terms of the conditions that would be imposed on national interest projects, the bill doesn't include any obligation to consult the provinces. According to subclause 7(2), the minister responsible must consult the relevant federal ministers and the first nations concerned. It seems that, once the provinces have been consulted prior to the inclusion of a project on the schedule of national interest projects, the provinces are no longer involved in the development of the projects or in ensuring compliance with the conditions imposed on them. As a result, the projects seem to fall outside provincial control and, in particular, outside the application of provincial standards such as the standards set out in Quebec's Environment Quality Act and its equivalent in the other provinces.

Lastly, the bill often uses the phrase "national interest". This could mean that Parliament considers the Building Canada Act a valid exercise of the national interest doctrine in constitutional law. However, in Canadian constitutional law, the national interest doctrine meets criteria that have been fairly well defined by the Supreme Court of Canada, even quite recently. Matters of significance to Canada as a whole, which clearly transcend provincial interests, may be of national interest. According to the Supreme Court, these matters must be specific and clearly distinguishable from matters of provincial jurisdiction and must have an impact that extends beyond provincial boundaries and the provinces' ability to take action for the long term. The Supreme Court of Canada set out and developed these criteria in its most recent carbon pricing reference.

The following matters have been recognized as matters of national interest: the establishment of national minimum standards for the stringent pricing of greenhouse gases; the pollution of the provinces' inland seas; the creation of the National Capital Commission's green belt; nuclear energy and aeronautics. These specific and distinct matters are intrinsically extra-provincial in nature and impact. Broad and vague matters that constitute aggregates of provincial jurisdictions aren't of national interest. For example, the court ruled that inflation, the environment and greenhouse gases in general weren't of national interest.

As you can see, the national interest in the constitutional sense is quite specific and narrowly defined. It doesn't fall into the category of matters generally considered of national economic and commercial interest. Given all this, it's far from certain that the Building Canada Act would be deemed valid by the courts based on the national interest doctrine. Although it included a number of references to federal jurisdictions, the Impact Assessment Act was nonetheless deemed partially unconstitutional by the Supreme Court owing to its overly broad and imprecise scope and its encroachment on provincial jurisdictions.

• (1550)

By failing to explicitly state that its objectives are limited to projects under federal jurisdiction, Bill C-5 faces a risk of being struck down.

**The Chair:** Thank you, Mr. Robitaille.

[English]

We will begin today with a line of questioning from Ms. Stubbs.

Ms. Stubbs, the floor is yours. You have six minutes, please.

**Shannon Stubbs (Lakeland, CPC):** Thank you, Chair.

Thank you to all of the witnesses for being here, both in person and virtually, for their testimony.

We, as Conservatives, over the last 10 years, certainly have advocated for certainty, clarity, predictability and fairness in conditions so that proponents are able to invest and build, and we have long advocated for expedited approvals and for clarity from the government.

Mr. Bradley, maybe we could start with you. Can you outline your main concerns regarding Bill C-5 in terms of certainty and clarity?

**Francis Bradley:** The principal concerns I have are what's not covered by Bill C-5. The challenge I foresee is the expectation that there will be a small set of projects that will be deemed in the "national interest", but what is going to be required to meet our future requirements in the electricity sector—and probably for other critical infrastructure sectors—will likely be both within that small subset of national interest projects, but also, for a lot of them, outside the national interest projects.

Bill C-5 does not address some fundamental problems that we see as a sector with, for example, clean electricity regulations, the Impact Assessment Act, the Fisheries Act and others.

Our concern is really with respect to what isn't covered and what projects would fall outside those being deemed as within the national interest.

**Shannon Stubbs:** Yes, and to your point, I wonder if you might share some of the concerns of your members who are on the front lines and having to deliver affordable, reliable power to residents right across the country. I wonder if you might expand on those differences among the provinces and the punitive one-size-fits-all nature of the electricity regulations.

Also, do you have any comments on the timelines for decisions to date on projects that are waiting for approval?

**Francis Bradley:** Yes. On the issues around the clean electricity regulations, we've been very clear over the past year, both with officials within the department and with elected officials, in terms of what our concerns are. We've been very clear that our concerns have to do with the reliability impacts and the cost in some jurisdictions in the country—most particularly in Alberta, Saskatchewan and Ontario, but not exclusively in those jurisdictions. Our concerns are not political, as I kept telling people over the past year. This is a question of physics. It is just basic physics.

The clean electricity regulations were developed and based upon economic models. The people in my sector are responsible for reliability, and their reliability projections are not based upon economic models. They're based upon reliability models.

The principal concerns we've been bringing forward are the concerns of the system operators and the people who actually have to deliver electricity to customers. We see an impact here, potentially directly, on reliability and on rates in multiple jurisdictions in the country.

• (1555)

**Shannon Stubbs:** This is part of the reason why Conservatives advocate scrapping the electricity regulations, particularly in the context of a government that says it wants to fast-track and provide clarity and certainty for proponents like the members you represent.

To that end, then, again, does it concern you that there isn't clarity, as you indicated, around the definition of the “national interest”? There's also the ability in Bill C-5 for a sweeping power to, once a project has been designated as being in the national interest, also remove it. Does that lack of clarity concern your members in terms of being able to make long-term decisions?

**Francis Bradley:** The missing piece in all of this in the legislation—and of course, given the short timelines, it's not terribly surprising—is that schedule 1 is blank. As you know, there are open questions in terms of what would be in schedule 1 and what would be out of schedule 1, and then whether something would remain within the national interest. Yes, those are certainly concerns that we would have.

We think that directionally this is good. We're hoping, as I indicated in my prepared remarks, that it actually signals a change, a change that we'll see throughout the different regulatory authorities, really, because there's something in the order of about 90 federal laws, regulations and statutes that affect the electricity sector, a sector that is, in theory, a provincial responsibility. The ability to actually bring a project forward trips over a multitude of these different statutes. We're hoping that this is a signal of not just addressing what can be done for national interest projects, but indicating a more efficient approach to regulation going forward.

**Shannon Stubbs:** Instead of having a temporary bill that is set up to be a workaround for the various policies and legislation your members have to navigate, wouldn't it make more sense to have clarity in this bill on schedule 1 and the conditions that proponents must meet, and a definition of the “national interest”?

Wouldn't it also make more sense to streamline and fix the fundamental issues with the excessive red tape and uncertainty that your members face?

**The Chair:** Give a 20-second response, please, sir.

**Francis Bradley:** Yes, it would be great to see those 90 different statutes, laws and so on change, but that's not something we would expect to see in the first week of a government.

I recognize that time is short.

**The Chair:** Thank you, Mr. Bradley.

Thank you, Ms. Stubbs.

Next we'll go to Mr. Kelloway.

The floor is yours. You have six minutes, sir.

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

It's great to see the committee members.

Thanks to the witnesses for coming here.

I acknowledge that MP May is here as well, to the right of where I'm sitting.

I want to go to you, Mr. Bradley, for my questions. I appreciate the testimony from everyone because there's a lot to chew on with these questions for you.

We talked about looking at Bill C-5 from an economic development standpoint. We even talked about it from an affordability standpoint. We'll get into that if I have the time, but I want to look at the workforce modelling that may be done or may have been done by your operation. Do we get a sense of the possibilities in workforce development in terms of jobs?

I come from Atlantic Canada. Obviously, electricity as a source of energy is top of mind with all four premiers, whether it's hydro, whether it's nuclear or whether it's offshore or onshore wind. I'm looking to get a sense, with this legislation, of what this could contribute in terms of jobs, both in the short and long term.

• (1600)

**Francis Bradley:** That's an excellent question, Mr. Chair.

The challenge being faced by the electricity sector in particular with respect to ensuring that we have sufficient human resources is one that both our association and one of our partner associations, Electricity Human Resources Canada, have been looking at. We've been developing projections for what the workforce requirements are going to be in the future, and they're going to be significant.

I mentioned earlier that we're expecting to see demand for electricity out to 2050 double. Do we have enough people to be able to do that? No, we don't. Will there be significant growth in terms of the people in our sector? There absolutely will.

We're very concerned about the pipeline of talent and ensuring that we have sufficient talent. It's something that we addressed previously. We have some recommendations in this space, as does Electricity Human Resources Canada.

Related to that, I would also note that I'm concerned about the pipeline of people, but I'm also concerned about the pipeline of equipment. The supply chain is a very significant issue, and it will continue to be a big concern for us going forward.

**Mike Kelloway:** Thanks for those comments. In particular, thank you for focusing on, I would assume, a need for a training plan and an upskilling plan across the country with respect to electricity and other items related to energy.

I'm wondering if we can pivot for a second. It's in the same milieu, of course, but when we're looking at electricity, again, with your modelling and your conversations in the industry, do we get a sense, when we scale up initiatives and projects, of how that will impact climate change in Canada?

Is there any type of modelling you could provide on prognostications at this point?

**Francis Bradley:** Yes. Our members and the sector are committed to and working toward net zero economy-wide by 2050. We recognize that the only way we will be able to achieve that is through pretty significant electrification to begin with.

Electricity is the sector that a lot of other sectors will be looking to in order to decarbonize. In transportation, for example, how are we going to reduce our emissions? Again, it will be through electricity, which is why the demand is expected to increase so significantly as we go forward.

As a sector, we're looking at every opportunity and an all-of-the-above approach to decarbonization as we head to the future. There are new technologies that are going to be coming down the track that will continue the reduction in emissions. We're at 84% non-emitting today, and that will continue to increase as we move into the future.

The future will be one where there is a continued decrease in overall emissions from the sector.

**Mike Kelloway:** We're among friends here, and there are cameras here, so we have some other friends watching as well. When we talk about large-scale initiatives under the electricity banner, do particular projects come to mind? I know that regulations come to mind. That will be key here. How do you become lean but still stringent in terms of due diligence? Do certain projects come to mind?

I don't want to prejudice any decision-making body, but certainly you have some interest when you look at Canada and you look at where those opportunities are. Do certain projects come to mind that you could share with us?

**Francis Bradley:** Rather than point to specific projects, I can talk about the classes of projects that we absolutely know will be in our future.

**Mike Kelloway:** Fair enough.

**Francis Bradley:** Small modular reactors absolutely are in our future. We'll see the first one coming online in the late 2020s. A number of jurisdictions in this country are actually betting on small modular reactors to be part of their future, as will be, potentially, traditional nuclear generation. Large hydro, small hydro, potentially even carbon capture as we move forward, and more transmission

will be critical. All of these technologies, including more wind—onshore wind, and offshore wind sometime off into the future—will all be part of the energy mix as we head into the future.

There are proponents in most of these areas. This is not pie in the sky at this stage. For example, I mentioned small modular reactors. Ontario Power Generation is actively building their SMR. Saskatchewan is looking at it very closely. They want to be next.

These are projects that are already moving forward.

**Mike Kelloway:** Thank you very much for your time. I appreciate it.

**The Chair:** Thank you very much, Mr. Kelloway.

Thank you, Mr. Bradley.

[Translation]

Mr. Barsalou-Duval, you now have the floor for six minutes.

• (1605)

**Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ):** Thank you, Mr. Chair.

I want to thank the witnesses for joining us.

Mr. Robitaille, in his public statements, the Prime Minister of Canada referred to two main points. First, the projects wouldn't go ahead without the agreement of the provinces and the first nations. Second, there must be a single project or a single assessment.

I would like to know how these two components of the Prime Minister's remarks fit into the bill currently before us.

**David Robitaille:** In fact, they don't.

In terms of provincial agreement, the provinces are indeed consulted for the designation of projects of national interest. However, it's only a consultation. Perhaps the people who drafted the bill didn't quite capture the Prime Minister's intention. If the provinces are consulted for the designation of bills, their consent isn't required.

Moreover, this isn't the first time that federal legislation has attempted to provide a single assessment for a single project. It's a good idea to have joint assessments involving people from the federal and provincial levels. However, the idea of a federal project or assessment doesn't fit in with Canadian federalism. A number of projects that could be affected by this legislation fall under exclusive provincial jurisdiction. The environmental aspects related to federal jurisdictions fall within the purview of the federal Parliament, while the environmental impact of projects under provincial jurisdiction lies with the provinces. However, the current bill seems to want to replace provincial assessments. According to constitutional law, this isn't possible.

**Xavier Barsalou-Duval:** Thank you. Your response is quite informative.

Another point came to mind during your remarks. I'm talking about the notion of national interest found in the bill in question.



In the bill, the definition of “national interest” simply refers to a project named in Schedule 1. According to the bill, the definition of “national interest project” is as follows: “project named in Schedule 1”. This includes everything listed in Schedule 1 and designated by the Governor in Council. I gather from your comments that this doesn't fit with the Supreme Court's definition of a national interest project.

Do you feel that there's some confusion between two types of national interest projects, or that we're talking about the same kind of national interest project?

**David Robitaille:** It's difficult to say whether the legislator intended to create confusion. However, the bill certainly creates confusion between the notion of national interest used in the bill and the notion in constitutional law.

We often hear the phrase “national interest”. A number of years ago, former prime minister Paul Martin said that child care was of national interest. We must be careful. In constitutional law, matters of national interest are clearly defined by the Supreme Court. These projects go beyond provincial interests in well-defined matters or issues, and are clearly distinct from provincial jurisdictions. However, the current bill doesn't seem to meet these conditions. It still carries a significant risk of being overturned by the courts, given the reference regarding the Greenhouse Gas Pollution Pricing Act and the most recent reference regarding the Impact Assessment Act, which was struck down in part.

**Xavier Barsalou-Duval:** Thank you.

I didn't hear you talk about clauses 21, 22 and 23 of Bill C-5. In my opinion, these clauses are particularly concerning. They would give the Governor in Council absolute power to disregard the legislation currently before us, or any other legislation, with respect to all major projects or just one major project.

Does this concern you? Do you have any thoughts on the matter?

**David Robitaille:** Yes. Certainly.

It's troubling, to say the least, since this amounts to a fairly significant concentration of power held by the Governor in Council. Both the federal and provincial governments have environmental legislation designed to uphold vital principles, such as the protection of biodiversity and endangered species. It's concerning, to say the least, that a minister can almost wave a wand and decide to set aside long-established environmental standards.

The bill should state more clearly that project proponents must adhere to the environmental legislation of the provinces and the Canadian Parliament.

• (1610)

**Xavier Barsalou-Duval:** Thank you.

I don't think that I have much time left.

Mr. Chair, I would appreciate it if you could add my remaining time to my next turn.

**The Chair:** Okay.

Thank you, Mr. Barsalou-Duval.

[English]

We'll now go to our second round, and we'll begin with Mr. Lawrence.

Mr. Lawrence, the floor is yours. You have five minutes, sir.

**Philip Lawrence (Northumberland—Clarke, CPC):** Thank you to the chair and the clerk for organizing this so promptly.

Thank you to the witnesses for coming so quickly. We realize it was short notice.

Mr. Bradley, I'm going to start with you. Of course, we are spending a lot of our time on the building Canada act, but the first part of Bill C-5 is with respect to interprovincial trade. You talked about the 90 pieces of federal legislation.

Can you also add in there the provincial part? How many different pieces of—if you know roughly—provincial legislation do electricity providers have to adhere to? Are there conflicts of law or issues—what we would call interprovincial trade barriers—that are affecting your industry as well?

**Francis Bradley:** That's an excellent question, and it's one for which I don't have a precise answer. To be able to calculate across 10 provinces and three territories all of the different laws and statutes that impact the electricity sector would certainly be a challenge.

**Philip Lawrence:** Would it be helpful to your industry if government officials from all provinces, as well as from the federal government, came together and had either a system of mutual recognition or a harmonization of those regulations? Would that be of benefit, and would that provide economic benefits for Canadians?

**Francis Bradley:** Yes.

**Philip Lawrence:** Thank you.

Maybe that's something that we could have included in Bill C-5. Is that fair to say?

**Francis Bradley:** As I said earlier, I recognize that the time is short. There are a lot of, as I said, things that I'd like to see addressed.

At the same time, I must say that I'm certainly heartened by the openness. We seem to be at a particular point in time right now where there is an openness in provincial capitals and here in Ottawa to look at ways to collaborate more closely and to reduce trade barriers. Certainly, there are things that would be of benefit to the sector right across the board, whether it's a recognition of credentials in the trades or making it simpler to trade across borders.

**Philip Lawrence:** Thank you, Mr. Bradley.

I think this is an incredible moment, and I think that the government, by taking very limited steps on interprovincial trade, is missing the moment.

I'll move on to the building Canada act. One of the worries that I might have is that the government is not going to list enough projects as national interest projects to actually make an impact.

I know you won't have exact numbers, but as much as you can, give us what you think would be a win in terms of an amount for projects within your industry that could be approved by the government. Would it be half a billion dollars' worth? Would it be a billion dollars' worth? Would it be half a trillion dollars' worth? What type of number would you hope to see being classified as national interest projects within your industry?

**Francis Bradley:** We don't have a number. Again, because this is fairly early days in terms of the legislation, we don't have a clear indication of how expansive that list may be.

We do know that the investments that are going to be required in this sector up to 2050 are in the order of \$1.7 trillion. The investments are going to be very significant, but I don't have a number in terms of what we would want to see included in national interest projects.

**Philip Lawrence:** Thank you. That's very helpful.

I'm going to ask Ms. Kokkinos the same question.

**Yiota Kokkinos:** This came up during our consultations, actually. At the time, we talked about 15 to 20 projects, and it's not really about the value. I think it's about the number. The public service is going to have to rethink this process and almost reverse-engineer it, taking into account this two-year window. There's a lot to consider and a lot to work through with the provinces.

I would recommend a manageable number. Fifteen to 20 is what we talked about during our consultations. We're going to learn a lot through this first wave of projects that is going to inform future projects, but we also want it to inform the regulatory process for all projects going forward in the future. They want to set themselves up to succeed. If you overshoot, you could be setting yourself up for failure.

• (1615)

**Philip Lawrence:** Just quickly, because I'm out of time here, when you say 15 to 20 projects, do you mean by the end of the year? What's the time frame?

**Yiota Kokkinos:** No, that would be to approve them up front within the next few months, and then they'd have the two-year window.

**The Chair:** Thank you very much, Ms. Kokkinos.

Thank you, Mr. Lawrence.

[Translation]

Mr. Lauzon, you have the floor for five minutes.

**Stéphane Lauzon (Argenteuil—La Petite-Nation, Lib.):** Thank you, Mr. Chair.

I want to thank all the witnesses attending online and in person.

I'll turn to you, Ms. Kokkinos. You have managed a number of intergovernmental projects and showed us your experience.

Do you think that Bill C-5 will make our government's work easier? Can you elaborate on how it will bring our work in line with the work of the provinces and territories? We haven't talked much about municipalities, even though they'll have a role to play. All

three levels of government are involved, along with indigenous peoples.

Can you describe the alignment that Bill C-5 will bring to future projects?

[English]

**Yiota Kokkinos:** Thank you very much for the question.

What Bill C-5 tries to do is to bring all authorizations under one minister, but it's not a unilateral thing. That minister—the Governor in Council, I think they call them—is going to have to consult with the provinces and the territories involved in the specific projects and with the indigenous communities or rights holders involved in the specific projects. It may also be municipalities. These things are not going to be undertaken in a vacuum; that is how I read the bill.

What I do like about it is that we have some thinking outside of the box, because the moment calls for it. We can no longer think about project approvals the way we used to think about them. There's real momentum right now that we're seeing with the provinces, the territories and the indigenous rights holders all coming together and wanting to work collaboratively to move these projects forward, because it won't happen any other way; it really won't.

[Translation]

**Stéphane Lauzon:** Mr. Bradley told us about the sometimes lengthy time frames, which will now be shorter. You have a personal commitment to the environment. Do you think that shorter time frames could affect our ability to carry out our projects? Do you think that we can complete the projects while taking into account both the environment and more reasonable time frames?

[English]

**Yiota Kokkinos:** Yes, my reading of Bill C-5 is that all the environmental protections that are currently in place will still be adhered to. The idea is to look at what process improvements we can make to make sure that we're not duplicating efforts—whether we can do things in parallel, for example, and not sequentially—but the idea is not to circumvent any environmental laws. That's how I interpret the bill, and that's the way it's going to have to happen, I believe.

[Translation]

**Stéphane Lauzon:** Ms. Kokkinos, as you know, there is significant jurisdictional overlap. Officials from all levels of government have a hand in these projects, which leads to a great deal of repetition. Mr. Bradley mentioned establishing a major projects office to deal specifically with projects of national interest, helping to advance them.

You didn't mention a similar office, but do you think Mr. Bradley is on the right track with his recommendation for a major projects office? Such an office would take into account both the environment and stakeholders, be they indigenous communities, municipalities, provinces, territories or the federal government.

• (1620)

[English]

**Yiota Kokkinos:** Thank you.

Yes, the major projects office is something that we talked about during our consultations. We see it as critically important. The government will need a focal point to coordinate these projects.

However, where we would see the government going further with this office is by also integrating the financing, critical enabling infrastructure, indigenous consultation and economic participation components. You can't have those scattered around the office. It would be a missed opportunity to have those outside the office. Our experience has been that, with projects like LNG Canada—which did bring all those four components together right from the beginning, including the financing—this led to the project being approved in two years, and the financing was also approved very quickly.

**The Chair:** Thank you once again, Ms. Kokkinos.

[Translation]

Thank you, Mr. Lauzon.

We now go to Mr. Barsalou-Duval for three minutes and 15 seconds.

**Xavier Barsalou-Duval:** Thank you, Mr. Chair.

My first question is again for Mr. Robitaille.

You are a constitutional expert, if I'm not mistaken, but first and foremost, you are a lawyer. It's clear that under the process set out in Bill C-5, projects can basically be pre-approved somewhat secretly, without the public necessarily being consulted beforehand. The assessment is then done, but with the advance knowledge that the project is going to be approved. It is always the government, indeed the minister, establishing the conditions. The whole process is pretty opaque.

Normally, the process would require approvals from a number of authorities. In this case, though, since there is only one authority, only one approval is needed.

Is that risky, from an ethical standpoint?

**David Robitaille:** The risk is that the environmental laws enacted by the provinces and by Parliament will not be respected, that they will be circumvented.

Mr. Lauzon referred to the jurisdictional overlap in Canadian federalism, and it is true, but that overlap does not mean the government can seek to dismiss provincial authority at all costs. With the constitutional division of powers, the provinces are not subordinate to Parliament, as the Supreme Court has repeatedly established. Like Parliament, the provinces have exclusive jurisdiction over certain things. As the bill is written, I do not see an intention to respect the division of powers—and that is the problem.

Joint assessments have been carried out in the past. They are rare, but they have happened. What that approach does is ensure that provinces and first nations are treated as equal partners of the federal government, not as subordinates to a central authority. It is important to take that into account in this bill.

**Xavier Barsalou-Duval:** Thank you. That doesn't quite answer my question, but I understand you wanted to elaborate on that point.

You said that Bill C-5 could apply to projects being carried out strictly within a single province. That could include projects that fall exclusively under provincial jurisdiction such as natural resource projects. They would automatically be pre-approved.

Am I wrong to say that amounts to federal overreach?

**David Robitaille:** The bill does indeed circumvent existing processes set out in federal and provincial legislation. It circumvents public participation, civic engagement, first nations participation and municipality involvement.

It's not for nothing that environmental laws set out rigorous processes for assessment and public participation. The idea here is to move quickly at all costs, but there is definitely a risk that projects could have consequences we end up regretting.

**The Chair:** Thank you, Mr. Robitaille.

Thank you, Mr. Barsalou-Duval.

[English]

Next, we'll go with Dr. Lewis.

Dr. Lewis, the floor is yours. You have five minutes, please.

**Leslyn Lewis (Haldimand—Norfolk, CPC):** Thank you, Mr. Chair.

Mr. Bradley, you spoke of the importance of electricity. Do you have an opinion on the electricity grid capacity and whether we have sufficient electricity infrastructure to even facilitate Bill C-5?

● (1625)

**Francis Bradley:** I don't think there's a requirement for electricity capacity specifically for Bill C-5. It will remain to be seen whether projects that will build upon the electricity infrastructure of the country are, in fact, covered and identified as national interest projects. We're certainly hoping that some of them will be.

**Leslyn Lewis:** If I may turn to Ms. Kokkinos, you spoke of a two-year time limit. Are you getting that from the bill, or is that something you are just speaking to in general?

**Yiota Kokkinos:** In our report, "Build Big Things", we did recommend a two-year regulatory and permitting approvals timeline. The government has committed to a two-year timeline outside of the bill, so it has chosen not to legislate this.

**Leslyn Lewis:** Is it not in the bill?

**Yiota Kokkinos:** It's not in the bill, but it is a government commitment outside the bill.

**Leslyn Lewis:** Thank you.

I'm sorry to go back and forth, but I'll go back to you, Mr. Bradley.

Would you see resource projects like oil and gas extraction being in the national interest under Bill C-5?

**Francis Bradley:** I'm here representing the electricity sector, so I'm only going to be talking about electricity projects. My colleagues who work for the oil and gas associations have strong views on that, I'm sure.

**Leslyn Lewis:** Okay. I can ask the constitutional expert.

I'll go back to you, Ms. Kokkinos.

With respect to the strategic investment office, I found it very interesting that you spoke about that. Would something like that include a watchdog for tenders and deliverables? We had a lot of problems during COVID with respect to waste and mismanagement. Do you see the transparency in that office as something that needs to be developed and perhaps operationalized?

**Yiota Kokkinos:** The real benefit of a strategic investment office and coordinating the financing is that it is really going to allow the government to optimize its federal spend on any particular project, because they're going to be able to align the best type of funding with a particular project. You won't have, for example, project proponents going to window A with their proposal and then window B and window C trying to see, for example, how much federal funding they could get. It would allow, probably through NDAs, for example—that's what we would envisage—the federal government to work with the proponent to see exactly what it is that's going to unlock that final investment decision for a project, with a view to minimizing how much the federal government has to invest in the project. There are real opportunities here.

**Leslyn Lewis:** Thank you for that answer.

My next question is for Mr. Robitaille.

Who determines if a project is in the national interest, keeping in mind the constitutional implications under sections 91 and 92?

**David Robitaille:** It depends on what we mean by “national interest”. If we mean national interest in the constitutional sense, it should be the court and the tribunals. Parliament made the first judgment. They adopted a law that they think is valid under constitutional law. It's ultimately up to the court to determine whether the constitution is respected.

**Leslyn Lewis:** Essentially, you're saying that this bill is a constitutionally invalid bill.

**David Robitaille:** It's at risk of being declared invalid. It's up to the court to make a judgment on that point, but there are some risks, yes.

**Leslyn Lewis:** In your opinion, would a resource project like oil and gas extraction be in the national interest, as you spoke about, in proposed section 7?

**David Robitaille:** It's a political decision to be made. It's not up to me to decide whether an extraction project is in the national interest, but what I could say is that an extraction project is clearly within provincial jurisdiction under the Constitution.

**The Chair:** Thank you, Dr. Lewis.

[Translation]

Thank you, Mr. Robitaille.

It is now Ms. Nguyen's turn.

[English]

Ms. Nguyen, the floor is yours. You have five minutes, please.

**Chi Nguyen (Spadina—Harbourfront, Lib.):** Thanks very much.

Thank you to the clerk for pulling this together with such quick speed.

Thank you to the three witnesses who have joined us today.

I want to ask Ms. Kokkinos my first question. Thanks for sharing your time and expertise with the committee today and for bringing your particular experience in energy, trade and public policy, as we examine this bill.

In part 2 of the building Canada act preamble, we reference rigorous environmental standards. As we're hearing feedback from constituents, I'd like to know this: What kinds of evaluation criteria might we put in place to ensure that the projects meaningfully align with our climate commitments?

• (1630)

**Yiota Kokkinos:** Thank you very much for the question. I'm not a regulatory expert, but any project that goes through the regulatory process, if I understand Bill C-5, is going to have to adhere to all our environmental regulations.

In terms of adhering to our climate change commitments, the types of projects that are selected are going to be very important. As Mr. Bradley mentioned, things like expanding our electricity grid and integrating renewables into the grid—technologies like SMRs or small modular reactors, nuclear—these are the types of projects that are going to help us reach our climate commitments.

**Chi Nguyen:** I'm now going to ask a question, following on that, of Mr. Bradley. We identified in the legislation that we want to be moving towards clean growth and climate objectives as part of the key criteria for the nation-building projects. Do you have any thoughts or further comment on how this is helping us accelerate the development of the clean energy infrastructure in Canada that we'd like to see?

**Francis Bradley:** As I noted before, the pathway from here to there is going to be one that will have more of an all-of-the-above approach. That is, again, what we're hoping to see when we see what projects are covered in schedule 1.

**Chi Nguyen:** Thanks. That's it for my questions.

**The Chair:** Thank you very much, Ms. Nguyen.

That concludes the first hour of testimony for today. I would like to thank our witnesses, Mr. Bradley, Ms. Kokkinos, and, of course, Mr. Robitaille. We appreciate your testimony.

We're going to suspend for five minutes in order to set up for the next round of witnesses. This meeting is suspended.

• (1630) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1645)

**The Chair:** I call this meeting back to order.

We'd like to begin this panel with a prayer given by Chief Ted Williams.

We appreciate your presence here today, sir. I'll turn the floor over to you to get us started.

**Chief Ted Williams (Chippewas of Rama First Nation):** *Meegwetch.*

I accept the responsibility and the honour of opening with a prayer.

Creator, we give thanks for this opportunity to be together as friends of this great land. We ask that you be with us, that you guide us and that you look after us so that we will look after the four-leggeds, the winged ones and the *giigoonh* who swim in our oceans, in our rivers and in our lakes. We ask that you be kind to each and every one. We come with respect and compassion as the first peoples of this land.

I want to say *meegwetch* in the four directions: *Meegwetch. Meegwetch. Meegwetch. Meegwetch.*

**The Chair:** *Meegwetch*, Chief Williams. It's greatly appreciated.

Colleagues, to begin the second round of questioning for today, I'd like to make a few comments for the benefit of our new witnesses.

Kindly wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you're not speaking.

For those joining by Zoom, at the bottom of your screen, you can select the appropriate channel for the interpretation. You have the choice of the floor, English or French. For those in the room, you can use the earpiece and select the desired channel. This is a reminder that all comments should be addressed through the chair.

Colleagues, I'd now like to welcome our witnesses.

First, from the Assembly of First Nations, we have Cindy Woodhouse Nepinak, national chief. Welcome to you.

I'd also like to acknowledge the presence of numerous other chiefs representing first nation communities across the country. Thank you very much for your presence here today.

Second, from the Coalition of Concerned Manufacturers and Businesses of Canada, we have Catherine Swift, president, who's joining us by video conference. We're hoping to work out some of the audio and technical issues we're having, colleagues. Hopefully we can get those worked out. Until that time, we will not be posing any questions to Ms. Swift.

Third, as an individual, we have Maxime St-Hilaire, professor at the faculty of law at the Université de Sherbrooke. Welcome to you.

We'll begin with opening remarks. For that, it is my pleasure to turn the floor over to you, National Chief. You have five minutes.

**Cindy Woodhouse Nepinak (National Chief, Assembly of First Nations):** *Chi meegwetch.*

I want to welcome you, of course, and recognize that we're in Anishinabe Algonquin territory, whose lands we're on.

*Chi meegwetch*, Chief Ted, for your opening prayer.

I want to welcome all of the first nations people who are here sitting behind me. You know why they're here. They want to speak. They want to speak to each and every one of you. I think we can do better as a country together by doing so.

We want to talk about fast-tracking things in our country, and I wish we were here talking about the construction of modern schools for first nations children. We've been waiting a long time for the first nations infrastructure gap to close. You've seen the reports from the Conference Board of Canada on closing the infrastructure gap in this country and how progressive Canada can be by investing in first nations people. It would propel us. We're in the midst of a G7 meeting as we speak. Canada is ranked a little bit at the bottom of the G7 countries. If we invested in closing that infrastructure gap, we would propel ourselves to number one. I leave that with you.

I also wish we were here talking about fast-tracking clean water and quality housing for first nations people or fast-tracking all-season roads and reliable Internet access for our kids. But we're not, and that's a shame.

Yesterday, the Assembly of First Nations convened an emergency forum on Bill C-5. The forum was the first opportunity first nations leaders have had to get a technical analysis of this bill. We have heard from multiple chiefs across this country that this is not how we should be moving forward on this legislation. We all need more time and opportunity to speak to this legislation and get answers to our questions.

In the absence of a specific resolution mandate to speak to you on Bill C-5, as is the usual practice for the Assembly of First Nations, I speak to you today on an emergency basis, relying on the AFN charter's general assignment of the national chief as national spokesperson and without prejudice to the rights of any first nations rights holder, particularly these ones. Everybody from coast to coast has their own voice and their own way of doing things. We need to respect them.

Bill C-5 is one of the most significant federal bills that first nations have had to deal with in recent years. The powers in Bill C-5 are significant. They present substantial risk to many collective rights of first nations under our own laws, under the Constitution and under international law. Accordingly, the Crown has obligations of deep consultation and consent. Perhaps there is information that they haven't shared with us about that. For now, I point out that the United Nations declaration is replete with references to consultation being carried out "through their own representative institutions". Individuals appointed by the government are not clearly representatives of indigenous peoples on matters of our treaty and inherent rights, title and jurisdiction.

In the May 27 Speech from the Throne, the Crown stated, "As Canada moves forward with nation-building projects, the Government will always be firmly guided by the principle of free, prior, and informed consent." Despite this clear commitment communicated by the Sovereign himself, first nations rights holders and organizations have been given an unreasonably tiny window, both before and after tabling, and much less engagement in a substantive exchange of views. It seems very few rights holders will have a chance to speak directly to the executive or to parliamentarians before Parliament determines the fate and shape of this bill.

For those who do appear, how can any first nations rights holder or organization in five minutes even list the legal issues at stake, much less share analysis and conclusions about the key issues? This means the Crown is ignoring decades of judicial guidance on what deep consultation involves when first nations rights are placed at substantive risk. The Crown is ignoring its consent obligation under article 19 of the United Nations Declaration on the Rights of Indigenous Peoples.

In short, the honour of the Crown is not being upheld, friends. Deep consultation involves a two-way exchange of information sharing, accompanied by substantive dialogue. It is more than merely inviting first nations rights holders to speak for five minutes or to make written submissions from a distance. Consultation is not the Crown simply listening, going away and deciding on its own, without dialogue and without a back-and-forth, on the content and scope of first nations rights and corresponding Crown obligations under the Constitution, treaty and international law.

• (1650)

The Crown provided information on the exact details of this bill on only June 6, 2025, after providing a very limited outline on May 23. We were given seven days to respond.

As we sit here today, the world of 34 first nations is literally burning up because of human-induced climate change. There is no respite for those affected first nations, their chiefs and their councillors to provide input or to consult with the Crown on this bill, unless they can work the magic of getting on your witness list and preparing and delivering a submission to you while simultaneously protecting themselves during these evacuations that are happening across the country. They are expected to absorb the fallout of the new normal of June evacuations of entire communities and the desire of Canada to impose still more significant legislation without even a conversation, much less consent.

Article 19 of the United Nations declaration applies the legal standard of free, prior and informed consent to legislative initiatives before they are adopted. Free, prior and informed consent is laden with substantive meaning. It has a common-sense meaning that everyone understands. For example, a medical doctor is not free to operate merely because they have spoken to a patient about the need for an operation. They must literally obtain the patient's explicit consent. Too often, words applied to indigenous peoples' rights are taken to mean something different from their ordinary everyday meaning.

I would like to highlight some areas that can be improved in this bill.

First, proposed subsection 5(6) lists a number of factors that the Governor in Council may consider when designating a project as a national interest project. The five factors in proposed subsection 5(6) should be mandatory for any project to be designated as a national interest project.

Second, proposed paragraph 5(6)(d) should make the free, prior and informed consent of first nations mandatory when considering whether a project will advance the interests of indigenous peoples.

I'm sorry. I'm having some technical difficulties. Give me a moment.

• (1655)

**The Chair:** I want you to know, Chief, that we have not removed any of your time.

Feel free to take your time in delivering your remarks.

**Cindy Woodhouse Nepinak:** Thank you.

Second, proposed paragraph 5(6)(d) should make the free, prior and informed consent of first nations mandatory when considering whether a project will advance the interests of indigenous peoples.

Third, to limit the effect on first nations rights, there are several provisions that can be added or amended to protect first nations properly. Unfortunately, we haven't had the time to properly engage in the legislative drafting of this bill to ensure first nations rights are upheld.

Fourth, the Indian Act should not be unilaterally varied or exempted without the express consent of first nations. The Indian Act should be removed from schedule 2.

Finally, with regard to the indigenous advisory council, that the government keeps talking about this as if it's some kind of answer to its consultation obligation is quite puzzling. An advisory council of government appointees, even if they're first nations or indigenous, cannot constitute an entity with which the government can carry out consultation on behalf of first nations. The government should know better than to suggest that they think otherwise.

To close off, the right to self-determination of first nations is an established right. Canada has repeatedly acknowledged that in its policy and international statements, and by its statutory and unqualified embrace of the declaration in the United Nations declaration act. Free, prior and informed consent and first nations permanent sovereignty are part of the right to self-determination, which is also part of customary international law that is legally binding in Canada.

Regardless of the colonial mindset of the Indian Act, the one useful thing it does do is incorporate the requirements and protection of the Royal Proclamation of 1763. This treatment of the Indian Act cannot be imposed on us without violating the Royal Proclamation, as well as our section 35 rights and the United Nations declaration. Any legislation proposing or allowing such is not consistent with the Constitution or the United Nations Declaration on the Rights of Indigenous Peoples.

*Chi meegwetch* for listening to me today.

Thank you.

**The Chair:** Thank you very much, National Chief Woodhouse Népinaak, for your opening remarks.

Next, we'll turn the floor over to Mr. Maxime St-Hilaire.

[Translation]

Please go ahead. You have five minutes.

**Maxime St-Hilaire (Professor, Faculty of Law, Université de Sherbrooke, As an Individual):** Thank you.

My presentation will be broken down as follows: First, I will briefly share my interpretation of the bill. Then I will identify some of the bill's shortcomings, keeping in mind best practices from around the world. Lastly, I will touch on some amendments that I think would help.

I won't be able to discuss the amendments in detail, but I will explain the idea behind them.

In short, the bill under consideration, Bill C-5, the building Canada act, gives the executive the power to largely circumvent ordinary federal legislation—whose purpose is to protect the common good or public interest—in order to carry out projects of its choosing. That means the executive can allow projects it selects to circumvent legislation that would normally apply. My point is that this bill grants an exemption power. General law is being disregarded. The bill provides for the use of exceptional measures and vests the executive with that exemption power in relation to general law. That is the first clue.

Furthermore, the bill contains a sunset provision. I'll talk more about it later, but what that unfortunately means is that the five-year limit applies not to all the powers provided for in the legislation,

but perhaps to the main power, the government's power to deem a project to be in the national interest. There is a sunset provision. That is the second clue.

The third clue is the current process. The bill is being fast-tracked, under time allocation.

The bill provides for the use of emergency measures. It's an emergency bill. It is not a bill that provides for the use of federal emergency power as the power that the one central authority has to intervene in areas of provincial jurisdiction.

I had a chance to hear a bit of what my colleague Professor Robitaille said earlier. In my view, the current bill provides an exemption from federal legislation, but it does not explicitly provide for federal intervention in areas of provincial jurisdiction, as the federal emergency power does. Nevertheless, it does contemplate a number of emergency measures, since it is possible to disregard laws that normally seek to protect the public interest.

Countries governed by the modern democratic rule of law need to be able to respond to emergencies. That is true. It is also true that those decisions are up to the executive. Doing so usually comes with a political cost, but deciding whether a situation constitutes an emergency is an executive decision.

Canada's constitutional jurisprudence recognizes, as do many other countries, that an economic situation can constitute an emergency. That is true. Here, that has been the case since 1976.

That said, to my mind, emergency best practices in countries governed by the modern democratic rule of law are understood to mean that the use of emergency powers comes with rigorous parliamentary scrutiny. The idea is this. Certainly, a government needs to be able to respond to an emergency by invoking exceptional powers. Certainly, judicial oversight decreases in such a situation. Conversely, the notion that the emergency can remain within the confines of the law rests on the parliamentary oversight of the use of emergency powers.

For example, the federal Emergencies Act is a model in that regard. Had it been invoked during the last major emergency, the government could not have governed as long without Parliament.

• (1700)

That is the paradox: The use of emergency measures usually comes with robust parliamentary oversight. That is the idea behind the amendments that I wanted to recommend or that I would like to see proposed. A bit like Canada's Emergencies Act, this bill should stipulate, to begin with, that all exceptional powers being conferred upon the executive cannot be exercised for more than five years. I believe it should also stipulate that the powers cannot be exercised when Parliament is dissolved or prorogued.

Second, the use of emergency measures must be transparent. That means being more open about the fact that these are emergency measures. One of the problems modern liberal democracies have is allowing the emergency to go on and the exception to become the rule. The line tends to be blurred. Governments tend to blur the line between the rule and the exception.

In my eyes, this bill is being presented as an emergency that is unstated or hidden. It's normal for a government to think that there is an emergency. That is for elected officials to decide. A political debate needs to be had, but for that to happen, designating the situation as an emergency needs to be done transparently.

• (1705)

**The Chair:** I have to stop you there, Mr. St-Hilaire. You are unfortunately out of time, but you will have an opportunity to say more when you answer questions.

**Maxime St-Hilaire:** Thank you, but I think I covered everything.

**The Chair:** Thank you, Mr. St-Hilaire.

[English]

Now I'd like to turn the floor over to Ms. Swift.

We are going to test her sound during her opening remarks, and I'll look to my interpreters to make sure that the sound is good for them.

If it's not, unfortunately, Ms. Swift, we're going to have to ask you to submit your remarks by email and perhaps another brief, if you choose to do so.

With that, I'll turn the floor over to you, ma'am. You have five minutes.

I'm sorry. You're on mute. We're going to have to ask you to unmute and then restart, please. I'll make sure that you don't lose any of your time.

**Catherine Swift (President, Coalition of Concerned Manufacturers and Businesses of Canada):** I thought you would unmute me, given government control and all that.

Hello. My name is Catherine Swift. I'm the president of the Coalition of Concerned Manufacturers and Businesses of Canada. We're a not-for-profit business organization that advocates for—

**The Chair:** Ms. Swift, I offer my sincere apologies for having to cut you off one more time.

Can I ask you to lift the microphone a little bit closer to your mouth? We're having a bit of a hard time hearing.

**Catherine Swift:** I'm sorry. I'll repeat myself.

My name is Catherine Swift. I'm the president of the Coalition of Concerned Manufacturers and Businesses of Canada. We're a group of a lot of manufacturers—but not exclusively—and we are an advocacy organization that supports solid economic policy, relatively small government and good use of taxpayer dollars.

First of all, with regard to this bill, I know a lot of other people have said this, but I want to reinforce that the consultation period

has been too brief. This is an enormously powerful bill and it needs more consideration than it's been given.

Basically, the second part of the bill gives the Liberals the ability to override a number of very important pieces of legislation that they put in place over the last decade or so. It seems a little ironic, I guess, that they suddenly want the power to override this very Liberal collection of legislation.

Here's what I think would be preferable if the legislation is in place. With things like the emissions cap on the oil and gas industry, the industrial carbon tax in particular, the tanker ban in northern B.C. and even proposed things such as a carbon border adjustment mechanism, which has been discussed, it would be better to remove them or not introduce them in the first place, rather than to give this power to override them. The main reason is that investors....

We know foreign and domestic investment has plummeted in Canada over the last decade because of bad policies that have discouraged investment and created uncertainty. Why not get rid of these pieces of legislation? If I were an investor, I'd be saying, "Okay, they have the power to override, yet all those legislative initiatives stay on the books." Why not just get rid of them, if they're so problematic, and not just override them or give yourselves the power to override them occasionally?

Another issue is the potential for massive spending. We know infrastructure is hugely expensive. There has been a massive spending of tax dollars in the way this Liberal government spent money in the last decade on Liberal friends and cronies. There's also been the very visible incompetence of the federal bureaucracy to spend taxpayer dollars efficiently. There are a million examples of that, with ArriveCan being one of the most recent scandalous ones, but there are many examples, especially during the pandemic, of when money flowed like water and very little was often produced for it.

The wording of the bill is also too vague. Others have brought this up as well. Dominic LeBlanc is being given primacy in decision-making power. He's been a member of the Liberal government for the last decade and presumably supported the introduction of lots of the legislation this bill is intended to override. This does not inspire confidence among the business community.

You're rushing this through so quickly. The House is sitting for only a few weeks and then it's taking the summer off. The secretive nature of this gives people a great number of concerns. There were things in the past, like the green slush fund, the election interference issue and the WE fiasco. There are a whole lot of problems that this government...and many of the people elected today were members of that government. There's no trust, and rushing this through does not help the matter at all.



I think the five-year sunset period is too brief for a bill that permits enormous powers to any government, whoever it may happen to be. I think the bill should be split into two parts. The interprovincial trade stuff is a very different kettle of fish and something that's very much supported by the business community compared to the second part of the bill, which would change the powers of the government.

We are very supportive as an organization of getting on with projects that are going to help our economy enormously and get it out of the hole it's been in for the last decade—it's abysmal what's been happening with our economy in Canada—but also of boosting the standard of living for average Canadians. However, this shouldn't mean having to give any government the kind of poorly defined, loose powers that we see in Bill C-5.

Finally, we need pipelines. We need oil and gas pipelines in this country to develop our wealth of oil and gas resources. If there was one policy that this government could introduce which would have the fastest impact on boosting our economy and getting ourselves out of the doldrums we've been in for so long, it would be to build pipelines and export our natural gas—notably, liquid natural gas. The irony is that it would also help the world economy enormously as the less developed countries would be able to get off more polluting sources of energy.

• (1710)

Since the Liberal government seems to be in a big hurry, only sitting for three weeks during this period now and having very little consultation on such a great big bill, we need to prioritize the oil and gas sector if we really want something that will have an impact as quickly and as massively as possible, and not something like, say, an electricity grid corridor across the country that would greatly increase power to Canadians and would also be very difficult to achieve and have unreliable energy sources.

Thank you very much. I'm happy to answer any questions.

**The Chair:** Thank you very much, Ms. Swift, for your opening remarks.

We'll now begin with our...

Yes, Ms. Gazan, go ahead.

**Leah Gazan (Winnipeg Centre, NDP):** I have a point of order. Thank you, Chair.

I wanted to ask for unanimous consent to grant me time at the end of committee to be able to ask questions.

**The Chair:** Do I have unanimous consent from the members of the committee to grant a certain amount of time?

**Stéphane Lauzon:** Maybe in the last round we could just take three minutes, but not five minutes, and give her the spare time. We have a round of five minutes; we could just give her six minutes.

**Philip Lawrence:** I think that's okay. What I would say is that we would just add five minutes at the end, with three minutes to Ms. Gazan—

**Stéphane Lauzon:** Three minutes and three minutes.

**Philip Lawrence:** —and then two minutes to Ms. May, if she wants.

**Elizabeth May (Saanich—Gulf Islands, GP):** I'm going to give my two minutes to Ms. Gazan.

**Philip Lawrence:** Maybe just add five minutes at the end. I don't want to take away from the time, but I have an extra five minutes tonight.

**Leah Gazan:** Thank you.

**The Chair:** I think we have unanimous consent, Ms. Gazan, so we'll be sure to give you five minutes.

**Elizabeth May:** That's very kind of you. Thank you.

**The Chair:** Thank you for being so accommodating, colleagues.

We'll begin our line of questioning in this round with Ms. Stubbs.

Ms. Stubbs, you have six minutes. The floor is yours.

**Shannon Stubbs:** Thank you, Chair.

Thank you, Chief Ted, for your opening prayer. Thank you, National Chief Woodhouse Nepinak, for being here, and thank you to all of the witnesses.

I'm certainly proud to work with the indigenous communities in Treaty 6. The issues that you talked about at the beginning that you would like to see fast-tracked do align with the leaders of the five first nations and four Métis settlements that I work with there.

You noted that your first opportunity to have a technical briefing on the bill was yesterday, and you did touch on this. I wonder if you would expand on your concerns about the ability of a cabinet to temporarily override provisions of the Indian Act, or others you want to touch on, through regulation without consultation with or consent from first nations.

**Cindy Woodhouse Nepinak:** Absolutely. Thank you for your question.

I don't know. There's no other way to describe it. Take section 115 of the Impact Assessment Act. It only allows non-application of the act for reasons related to national security or in instances where the Emergencies Act is invoked. Bill C-5 goes far beyond this Emergencies Act clause in the Impact Assessment Act, with none of the safeguards contained in the Emergencies Act related to transparency and parliamentary oversight. It is project approval by executive decree, with any act or any regulation able to be set aside by the cabinet.

Julie is with me. She's my technical person at the Assembly of First Nations. She's the legal brain.

I don't know if you want to expand on that.

**Julie McGregor (Senior Legal Counsel and Acting Chief of Staff, Assembly of First Nations):** *Meegwetch.*

We are concerned specifically with the provisions in proposed sections 19 to 21, which are the so-called Henry VIII clauses—the overriding ability of cabinet to have the discretion to override legislation important to first nations, specifically the Indian Act.

We've not been advised what the intention was for the ability to override the Indian Act. We weren't consulted on why that was included in schedule 2. We're left to only speculate on what the intentions are of the government with respect to the Indian Act. The Indian Act governs a lot of administrative issues with First Nations, but it also deals with land and reserve lands. We very much want to know what the legislative intention is behind that.

• (1715)

**Shannon Stubbs:** Thank you.

It's partly clear why ministers should come to committee to testify on this bill since they're also decision-makers, and it's their obligation and their duty to consult with first nations.

Chief Woodhouse Nepinak, you have been a strong proponent of opportunities for ownership and partnership, and the communities in Lakeland are certainly owners and producers in both traditional and clean energy.

Given the diversity of views, values, aspirations and ambitions of the more than 600 first nations right across Canada, I wonder if you might, for the benefit of the MPs here and Canadians, talk a little bit about rights and title holders and the duty to consult them, and what meaningful two-way dynamic consultation would look like to you.

**Cindy Woodhouse Nepinak:** First of all, just on Bill C-5, I think there are many chiefs behind me who should be speaking about this. Some chiefs are supportive of the economic development opportunities that this bill may provide, while others are absolutely against it. I think the main issue I'm hearing about this bill is that it's being rammed through without consultation or first nations' free, prior and informed consent. If I could look to all of you, I'll have Julie expand a little more on that.

Split this bill. Send the bill back for further study and allow first nations rights holders to attend these hearings so that you can hear directly from them about their rights, titles, communities and ways of life. I think that this country, we're at a pivotal moment here. It has always been...especially first nations. We're the only people around the entire world who are legislated under the Indian Act. No other group—Inuit, Métis—nobody else in the entire world is legislated in the way that our people are legislated.

At the same time, that comes with.... The history of this country has not always been kind to first nations. In this moment, it seems like we've made some progress over the years. We've tried to come together in a better way. We've tried to come together at different tables. You see some communities progressing while others are trying to find their way through the basics of making sure their children have the basics, and there's this huge infrastructure gap. However, at the same time, when you come to this moment and you ram bills through the House and don't take into account the timing...and I've told the Prime Minister and the minister this. I continue to encourage all of you to split this bill. Let's take a little break for a little while and allow for proper consultation with first nations.

I don't want to speak for rights holders. I don't have that mandate. We will be meeting on September 3, 4 and 5. I look forward to hearing from my chiefs then and getting the specifics on what I can and cannot say at that point. At the same time, I think you all have an opportunity this summer to go out to our communities and talk to our leadership, our first nations people from coast to coast to coast, in your territories. All of you have first nations in your territories.

Again, congratulations to all of you on becoming new MPs just moments ago, but let's not start this session off like this. Let's start it off a better way by respecting each other and working together more closely rather than dividing and having a very divided Canada in a moment when we need to be together. First nations have always pulled for this country, but at the same time, pushing us aside and not allowing voices to be heard at this table is not the way to go with this bill. I ask you to split this bill, hold it for the summer and allow for proper consultation with our nations.

**The Chair:** Thank you very much, National Chief.

Thank you, Ms. Stubbs.

Next we turn the floor to Mr. Greaves.

Mr. Greaves, the floor is yours. You have six minutes for your line of questioning, sir.

**Will Greaves (Victoria, Lib.):** Thank you very much, Mr. Chair.

Good afternoon, colleagues.

Thank you for being here, National Chief.

Thank you to the other witnesses, chiefs and leaders in the room today. It's an honour for me to be speaking with you during my first time at an in-person committee meeting here in the Parliament of Canada.

National Chief, if I may, given, as you pointed out, the limited amount of time that's been made available for first nations and other indigenous peoples to speak to the contents of this act, I wonder whether we could discuss a little some of the ways in which the provisions might be improved in light of the comments you've made.

You observed that proposed paragraph 5(6)(d) of the act could be strengthened by including language around free, prior and informed consent being a mandatory component for first nations, a step above the idea of consultation. I'm wondering whether you would feel that including language around free, prior and informed consent elsewhere in the bill—notably, proposed paragraphs 7(2)(c) and 8(3)(b)—might, similarly, strengthen the language and the commitment to ensuring not just consultation but free, prior and informed consent from indigenous peoples.

Would changes along those lines start down the path of addressing the concerns you've raised today? I welcome your thoughts on that.

• (1720)

**Cindy Woodhouse Nepinak:** I'll say this: I don't have specific amendments, as I do not have a mandate from the chiefs in assembly to provide a position on how this bill can be amended. However, I will say that you should hear from first nations rights holders directly, and that we are concerned about cabinet's absolute power to determine what projects of national interest are based on what cabinet thinks is in the best interests of first nations. We are also concerned that cabinet can unilaterally choose that laws don't apply, like the Impact Assessment Act.

We are concerned that the duty to consult and the United Nations declaration are not operationalized within the bill. We are concerned about the Indian Act's inclusion in schedule 2 of the bill, and it should be taken out. Those are, just generally, what we heard from chiefs across the country in our Monday discussion.

At the same time, they need time to get their lawyers to review things, their policy analysts, traditional people in their communities, elders and youth, but they haven't had that time. Many of them are still fighting fires. They haven't even had, probably, time to look at this act.

I don't know, Julie, whether you have anything further to add to that.

**Julie McGregor:** I think the national chief has captured it quite well. I know that you're referring to proposed paragraph 7(2)(c), which is about "Indigenous peoples whose rights recognized and affirmed by section 35", with respect to the issuing of the document.

You need to go back to the rights holders to find out their rights that are being affected, and that's where FPIC needs to be applied. Thank you.

**Will Greaves:** Thank you for that.

I'll switch gears a little bit, but you just touched on it again, National Chief, as you did at the beginning of your statement: the context of the fires currently raging across much of central Canada, much of the Prairies, and the context of the climate crisis that we are living in. There is an urgency around some of the shift towards a cleaner energy economy and trying to remove some of the sources of our contributions to degrading the natural environment.

In that context, combined with the context that you noted about the ongoing lack of critical infrastructure in many first nations communities—the desperate need for continued investment in housing, schooling and other essential services in many parts of this country—could you speak to how either you or the chiefs that you work so closely with feel about the possibility that projects of national importance, as outlined in this bill, might be a way of accelerating the pace at which we can address those challenges?

Separate from the questions around consultation that you very clearly spoke to, could you address whether the projects themselves might be a means by which we could accelerate the rate at which those challenges for indigenous communities are addressed?

**Cindy Woodhouse Nepinak:** There have been projects in this country since the creation of this country. How has that benefited first nations people when our little kids are without drinking water, when our little children are without proper homes and access to good, strong schools? We need a lot of schools built in our first nations communities across this country. Trying to wait for some project over here that hasn't worked in the past.... I mean, if that worked so well, why is it not working for first nations people in this country?

We're at a very important moment right now—I get it—where we can try to change our future. However, that doesn't happen by keeping our people from having a voice to say what they need and how we can change our country together. Saying maybe we'll have a project here, maybe you'll get a school or maybe you'll get a house...I don't think that is the way we want to go. Trying to assume that we're going to get all of these big interest projects, that all of a sudden first nations are going to have all these things.... I think our people would beg to differ on that, based on past history.

I think we have an opportunity here to rethink how this country is with first nations people. Let's have that conversation. We ask all of cabinet, all members of Parliament, as well as the Prime Minister, to come and meet with our people face to face; let's dialogue about this during the summer. I've been telling the Prime Minister that, and he has committed to meeting with our leadership across this country. These are the conversations that we have to have on the environment and on how to make our country a better place for everyone, including first nations people.

We're left out of the banking system, for instance. We have to get ministerial loan guarantees to ask for support in some of our communities. People always.... You know, it's out of sight, out of mind. Well, we're here now, and we're becoming stronger and more organized. The status quo is not good enough anymore. Talking about projects and how maybe that will accelerate things...maybe or maybe not. However, I think we need to ask the rights holders that, and they need a seat at this table, just like anybody else.

By ramming this through, you're also.... Follow your own laws. I also say that you're trampling on the rights and laws of many other Canadians as well. They need a voice, and they need the laws that come through this House to make it better for everybody. That means that we make space for each other and that we respect each other. This isn't a way to respect each other. We don't need more colonialism when we have Trump's colonialism at our borders. Ramming something through is not the way to go.

Thank you.

• (1725)

**The Chair:** Thank you very much, National Chief.

Thank you, as well, Mr. Greaves.

[Translation]

We now go to Mr. Barsalou-Duval.

You may go ahead for six minutes.

**Xavier Barsalou-Duval:** Thank you, Mr. Chair.

My first question is for you, Mr. St-Hilaire.

You said in your opening remarks that the government seems to be giving itself powers that amount to what we would call emergency powers under the Canadian Constitution, but without admitting it.

We are seeing the government give itself this kind of power without admitting to it clearly and openly, and without a full debate on the matter.

How should we interpret that from a legal and democratic standpoint?

**Maxime St-Hilaire:** That is precisely the problem I wanted to raise. The issue is that the government is not admitting to an emergency that is being passed off as a normal situation, whereas the use of emergency measures would usually be subject to debate. In a democratic society, it is the role of the opposition to demand that. It is not the role of the legal system. All the law can do is check whether there are reasonable grounds to believe that an emergency exists. The scrutiny, then, has to come from politicians. Politically, it is up to the executive to show that the situation cannot be dealt with under the laws in place. That is what it needs to prove.

The concepts are being confused: This bill is being passed as though it's a normal piece of legislation, without being described as an emergency measure, all in the name of virtues everyone agrees on. What the bill does is set aside a good many laws that exist for the public interest. An emergency measure like this one is always about choosing certain values or objectives over others. That is why the bill sets out an exemption from the regime that would normally govern. The regime exists to protect the common good. In taking exceptional measures, the government is focusing on something very specific. The focus in this case is on economic prosperity. Section 4 of the proposed act refers to national security. It's in there.

That comes with costs, and they concern the environment, public health, the recognition and protection of the rights of indigenous peoples, energy security and public safety.

That means there is another shortcoming—I will conclude my answer on this point—and it relates to the review of the act. The review does not involve weighing the costs and benefits. There is no cost-benefit analysis. In other words, the review is based solely on the emergency objectives and does not assess the costs in terms of protecting the common good, which takes a broad range of forms.

That should be debated.

• (1730)

**Xavier Barsalou-Duval:** That's a very interesting point. If the bill is passed and the new act is reviewed, presumably, given the current context, the review should take into account not just the objectives of the act, but also its consequences on all other aspects of society.

I have another question for you. Is there anything in the bill that would limit misuse of the provisions? The government is claiming that the exemption is being granted to approve or accelerate certain

projects. What assurance do we have in the bill that the exception won't become the rule?

**Maxime St-Hilaire:** That is precisely the risk, in other words, emergency measures becoming the norm. There is no focus on the seriousness of the measure; that isn't being highlighted. There is no transparency. The ambiguity is being taken advantage of, and the line between the exception and the rule is being blurred. What this does is create a new regime. The bill is transferring power from Parliament to the executive. That is how the legislation works. It is giving the executive the power to circumvent rules enacted by Parliament for the purpose of carrying out projects. A few years ago, Tom Fleming did some very interesting work on another problem associated with normalizing emergency measures, and that is the increased use of delegated legislation and executive government.

Ironically, even though you've all heard of legislative inflation, the reality is almost the opposite. The problem is that parliaments are increasingly withdrawing and giving the executive the power to adopt general legal norms. That is the case in almost every Commonwealth country. That is one of the risks. A regime that functions by exception is giving the executive extensive regulatory powers and the ability to circumvent ordinary legislation. That gives rise to new habits, and what is supposed to be the exception becomes the rule. The individual, the citizen, no longer knows how to distinguish between the exception and the rule.

**Xavier Barsalou-Duval:** Thank you very much. That's fascinating.

I'm unfortunately out of time.

**The Chair:** Thank you, Mr. Barsalou-Duval and Mr. St-Hilaire.

[English]

Next, we'll go to Mr. Lawrence.

The floor is yours. You have five minutes, sir.

**Philip Lawrence:** I'm going to give my time to Ms. Stubbs.

**The Chair:** Ms. Stubbs, the floor is yours.

**Shannon Stubbs:** Thank you, colleague.

Thank you, Chair.

Again, I want to thank you, Chief Woodhouse Nepinak, for being here. Because of the timeline you have raised, I am going to turn my questioning to Ms. Swift, but on your comments, if the government continues on this course, I think it should concern proponents of this legislation. Although there may be goodwill and an attempt to try to get to a "yes" in a good way on major projects, it seems likely that the outcomes would be challenged, which would then defeat the very purpose of wanting to fast-track projects in the first place. I do hope that the Prime Minister and the ministers will listen to you, as they are the decision-makers too.

Ms. Swift, I wonder if you would expand on the shortcomings in Bill C-5 that your coalition has identified, particularly around projects that will or will not make the cut, which is a mystery and will be done secretly and behind closed doors, behind politicians, as far as we can tell so far.

**Catherine Swift:** The wording in the bill is incredibly vague and generic. I mean, there are things like, we're going to approve projects that benefit the economy of Canada. Duh. I'm sorry, but that is just so.... It wouldn't say, "No, no, we're going to have projects that hurt Canada." It just sounds absurd to me. It tells me that this was whipped together awfully quickly. The government is just basically mouthing platitudes instead of giving any kinds of specifics, such as what sectors these should be in.

I mean, we have a lot of information in this country about what types of projects are needed. Why not more specifics? I think it's because this has been whipped together awfully quickly. The government wants to give itself an immense amount of leeway, and that's a problem.

Let's face it. That's a problem. How can you pass a bill when you don't really even know what it's talking about?

The manufacturing community has suffered greatly over the last decade, sadly, because as a country we say that we want to retain a strong manufacturing sector. Part of our problem—my background is as an economist—is that we know we have a huge productivity issue in Canada. The number one sector that will help our productivity is manufacturing and, actually, oil and gas as well. Those are the sectors that are so productive that they bring up the productivity performance of the entire country, yet those are being horribly neglected by the federal government—and by some provincial governments as well, to be fair.

The lack of specificity, the vagueness, I think that's a major problem. The government is asking for an enormous amount of trust but is not giving us enough detail to really warrant much trust on the part of the business community or the electorate in general.

• (1735)

**Shannon Stubbs:** To your point, the sectors of the economy that have lost the most jobs in the last year are in fact manufacturing and all of the key sectors in natural resources. Do you have concerns about the fact that the two-year timeline actually doesn't exist in the legislation? These are claims about the timelines on which decisions will be made.

To your point, if you'd like to expand, what is the point of all of this temporary workaround rigmarole if there are 13 laws and five regulations that Bill C-5 can then circumvent? Doesn't it seem more reasonable that the government would actually just fix those fundamentals and that would be the long-term predictable certain solution for investors?

**Catherine Swift:** That would be immensely important, yes. Why have that law out there, whatever it may be—the Impact Assessment Act, the emissions cap, etc.? Why have these laws at all? If you want the power to override them, then you're basically telling all of us that they're bad. If they're bad, why keep them on the books? Get rid of them.

Like I said before in my opening remarks, if you're an international investor, I'd be very distrustful, and Canada depends a lot on foreign investment. Even on domestic investment, too, if you're looking at keeping those problematic laws on the books, yet you're saying, "Oh, we may override them from time to time just to do this particular project"....

Mind you, we have very loosey-goosey sorts of regulations around and so on. If I were a foreign investor, I'd avoid them like the plague, but that's what we need: We need investment badly. It has plummeted in Canada over the last number of years. Without it, we're going to remain a weak economy, at the bottom of the G7 like we are now, and we'll have a lower standard of living for all Canadians, because let's face it. If the economy isn't good, nobody's having a good time.

**The Chair:** Thank you very much, Ms. Swift, and thank you, Ms. Stubbs.

Mr. Kelloway, the floor is yours. You have five minutes, please.

**Mike Kelloway:** Thank you, Mr. Chair.

It's an honour to be here today, to be with you.

Chief Woodhouse Nepinak, my dad was a coal miner in Unama'ki for probably 35 years. He didn't say a lot, but he would often say to me that he never learned much when he was talking. It was about listening. I really want to thank you and others who are here today and who have had some sidebar conversations. I hope to have more.

National Chief, I want to take this opportunity to give you the time to talk a little bit more. There may be things here that you want to unpack in relation to proposed sections 5 and 6. You talked about free, prior and informed consent. It might be something you didn't get a chance to speak to. I want to give you this time to communicate that to us. I may have a question or two, or this can be a simple matter of time for you to use.

**Cindy Woodhouse Nepinak:** That's very kind of you. Thank you so very much.

Look, when we talk about a national interest project, I think one thing that's common among first nations, and it should be for Canadians as well, is that if we were to close the first nations infrastructure gap, that alone would have a bigger economic impact than the negative aspect of all Trump's tariffs if they were to remain. It is the right thing to do, but also economically the scale of it provides a huge return to first nations and to this country as well. Prime Minister Carney said that very quote during the AFN virtual leaders forum on April 25, 2025, during the election.

Canada can also demonstrate to the world that we can win by being inclusive and by respecting rights and treaties, because Canada's gross domestic product is generated off of first nations lands and resources. Over \$560 billion of projects are forecasted to be launched on our traditional lands over the next decade. The potential benefits are measured in the trillions of dollars, but they won't advance without first nations support.

There's clean water, quality housing, reliable roads and power supplies, modern schools and health care facilities, and high-speed Internet. According to the Conference Board of Canada, a \$350-billion investment to close the first nations infrastructure gap by 2030 will generate over \$635 billion in economic output over the next seven years and create more than 300,000 jobs each year. That's not just including first nations. Many Canadians will benefit from that. This means that Canada moves from last to first in the G7 for average annual GDP per capita growth. Invest in our roads. Invest in our schools. If there's one thing we start off with right now, quickly, that's the way to go.

As well, split this bill and hold for the summer. Start investing in first nations infrastructure projects right in our communities, right across the country, so that we close that gap for all of our children. It's just disheartening when you see it day in and day out. I think all of our kids—your kids, my kids, our grandkids—deserve a better Canada than we have at the moment. We can do that by working together and by making sure that the voices of first peoples are heard.

If I have a moment, Mr. Chair, I would like to talk about FPIC. People always ask about that. If you read the declaration carefully, the standard of free, prior and informed consent is obtaining, not simply seeking, consent.

FPIC means exactly what it says—“free”. That means the process of consulting with first nations and obtaining consent must be free of intimidation, coercion or other forms of duress.

“Prior” means consultation and co-operation must take place before decisions are made, not after a bill is passed with projects pre-approved in advance of actual consultation and dialogue about consent.

“Informed” means that indigenous peoples must have access to all relevant information to make their own decisions. Critically, indigenous peoples must have the time and opportunity to reach an informed conclusion based on their own forms of decision-making. Informed also means that first nations must be provided information regarding major projects and have access to proper assessment of potential consequences, such as an environmental and social impact assessment, including first nations’ own such processes. It may also require a human rights impact assessment for both collective rights and individual human rights. Translation of information into indigenous languages may also be required

We always talk about free, prior and informed consent. I just wanted to table that with all of you. Thank you.

• (1740)

**Mike Kelloway:** Thank you, National Chief. I appreciate it.

**The Chair:** Thank you very much, National Chief.

[Translation]

We now go to Mr. Lemire.

You have two and a half minutes, Mr. Lemire.

**Sébastien Lemire (Abitibi—Témiscamingue, BQ):** Thank you, Mr. Chair.

I'd like to start by thanking our witness Maxime St-Hilaire. I think the issues he highlighted are especially relevant.

I'd like to ask National Chief Woodhouse Nepinak a question, if I may.

I want to refer to what your legal counsel told the Senate yesterday because I found her comments especially informative.

She said that, when you look at Bill C-5, the duty to consult and the standard of free, prior and informed consent were not operationalized within the legislation, meaning that the standards were interpretive and not included in the bill in any concrete way. She said that, with better consultation, those standards could have been addressed. She also said that amendments were necessary but that the government had not taken the time to consult with first nations.

If Bill C-5 is passed in the current circumstances, with the use of time allocation, could it again lead to decades-long legal battles with first nations?

[English]

**Cindy Woodhouse Nepinak:** Because you're not hearing from first nations directly, I think that's going to cause division right off the bat, as we're seeing. We see the protest on the hill of the legislature this afternoon. I think you're going to see more of that.

Nothing is off the table. First nations are going to review all of the avenues. They always have. They've always protected themselves. They've always had to stand up for themselves. It's so unnecessary. It's 2025. We shouldn't treat each other like this. Trump may be treating his people like that on that side of the border. Let's not copy that. Let's be the good country that we're supposed to be by respecting each other.

A treaty relationship is a two-way street. We have to work together. Will it lead to legal issues later? Certainly it will if you're not talking to the rights holders. I'm sure they're going to take every tool in their tool box and use what they need to protect themselves. I don't blame them.

I think that, like I said, there's a real opportunity here to have a conversation with first nations to start to figure out how to either, one, make this bill better or, two, write a new bill or whatever they have. However, hear them out. That's true even for Canadians. You're going to have legal wrangling right up the yin-yang if you don't do the right thing and do this bill in a proper, respectful and good way. I think Canada can save itself years of litigation if it does that.

Thank you.

• (1745)

[Translation]

**Sébastien Lemire:** *Meegwetch.*

**The Chair:** Thank you very much.

[English]

Next we have Mr. Muys.

Mr. Muys, the floor is yours. You have five minutes, sir.

**Dan Muys (Flamborough—Glanbrook—Brant North, CPC):** Thank you, Mr. Chair.

Thank you to all of the witnesses and all those who came today to this meeting.

My questions will be for Ms. Swift, and I think I know, probably, the answer to this question, although let me pose it to you so that you can elaborate.

With all of the economic challenges that Canada is facing, does this bill meet the moment?

**Catherine Swift:** I don't believe it does. The problem, really, is that it's so vague that pretty much anything could be considered under its auspices. We would very much like to see more specificity, more acknowledgement of the very serious problems Canada is facing.

Danielle Smith said something to me that I thought was very relevant a while ago. It was basically that, because we are not using our resources to our country's advantage.... This doesn't just include oil and gas; this includes minerals. We have such a wealth of resources in this country, and our government has squelched them over the last decade. There's no question about it. You could think of a family that could be taking advantage of something and just doesn't. It's just so foolish. She said that the rest of the world looks at us and thinks that we must be out of our minds. That's very true. Other countries look at us. We know that other countries have come to us and have asked if they could please have some of our LNG—

**Dan Muys:** Let me interject with a question.

**The Chair:** Mr. Muys, before you ask your next question.... I'm stopping your time here.

Ms. Swift, would you be able to, once again, just lift up your boom mic a bit? It's a request from the interpreters. They can hear you better that way.

**Catherine Swift:** I'm sorry about that.

**The Chair:** No apology is necessary.

**Catherine Swift:** It just keeps slipping down for some reason.

Anyway, no, I'd like to see targets for policy.

**Dan Muys:** Let me interject with a question if I may. I'm sorry.

I agree with you completely that Canada has everything the world wants and that we should be booming.

I want to ask this, particularly about the perspective of your coalition of manufacturers.

I represent constituencies around Hamilton and in southwestern Ontario. Obviously, that's an important manufacturing base and was once a great area of strength for our economy. Interprovincial certification and standards can be just as costly and frustrating as international ones. Does this bill address that problem at all?

**Catherine Swift:** I think it starts to.

I agree with the chief that we should separate these two parts of the bill, because they're very different and they need different consideration. Sticking them together and.... Everybody opposes omnibus bills when they're in opposition, but then, when they're in government, they include all the omnibus bills because they want the controversial stuff included with the stuff that other people would normally agree with.

I think it makes a start, to be fair, but—boy—I've been around this issue for a long time, many decades. Everybody agrees with it, but then nothing or very little actually happens. I'd like to see more specifics around it. Everyone has good intentions, but when it comes right down to the details, you see provinces hanging on to their little fiefdoms of whatever kind and the federal government not doing too much about that. I would like to see it go an awful lot further. Once again, generics are politically acceptable because, “Oh, they're trying to do something about this,” but anybody who knows the history of interprovincial trade barriers knows we need a lot more precise action than we have seen in the bill.

• (1750)

**Dan Muys:** This is a baby step forward. It's probably more symbolism than anything else.

**Catherine Swift:** To date, yes. I'd be the happiest person if we could actually get some action here, but, once again, I've been on this issue for decades. I was a former president of the Canadian Federation of Independent Business, as you may know, and I've seen government after government of different political stripes say, “We're going to do something about this,” and so on and so forth. I'm actually more encouraged, to be honest with you, by the provinces that have initiated things and said, “Okay, we're going to drop all of our barriers with province X,” like Tim Houston did, for example.

**Dan Muys:** Is there an example of a province moving forward on that?

**Catherine Swift:** Yes, I think that Tim Houston, for example, in Nova Scotia, has done some good things on that. We did have, back a bunch of years ago, a number of western provinces—notably, Alberta and Saskatchewan—that got together in an alliance, and they dropped the barriers between them.

Actually, the two biggest provinces in the country, Ontario and Quebec, are some of the worst players in this, so they need to get part.... Recently, we've heard some good noises coming out of both of those provinces, but, again, action is what counts, as we all know. I think that, to date, we've heard good talk, but I'd like to see it actually happen.

Unfortunately, these laws have built up over time, so some businesses have complied with the laws, which they should, but they've done it to a point that, if the laws are changed, they're going to fight that, so it's a very difficult issue.

**The Chair:** Thank you very much, Ms. Swift.

Thank you, Mr. Muys.

[Translation]

It is now your turn, Mr. Lauzon. You have five minutes.

**Stéphane Lauzon:** Thank you, Mr. Chair.

I'd like to build on that discussion, Ms. Swift. I wasn't planning to ask this, but I want to follow up on the answers you gave.

You said that we are going too fast but not fast enough when it comes to oil. We've heard from interesting witnesses who talked about energy corridors and proposed good ideas such as electrification and small modular nuclear reactors.

My question is a very simple one, Ms. Swift. Do you sincerely believe that a coalition of provinces, territories and municipalities could ensure a smoother process for projects thanks to the passage of Bill C-5?

[English]

**Catherine Swift:** It's a good question, but there's not an easy answer. To be honest, I really don't know.

I just think that this is a power grab by the federal government, because it is so ill-defined and non-specific. We heard in the throne speech, for example.... The oil and gas thing is a big deal. If people think that our policies, which have really hobbled that sector for the last decade, are effective, they just have to look at the basic economic data to know that's not the case. It is truly the answer of how we quickly get....

This is the other thing: Nothing will happen tomorrow. All of these projects need a lot of lead time. I find the nuclear prospect very promising, and the fact is that more people are accepting it as a sensible solution because it's a very clean form of energy. However, again, a nuclear reaction facility has a lead time of 15 to 20 years, so that's not going to be the quick fix that we would like to have in Canada to fix our economy.

No, I don't think Bill C-5 does it, to be honest with you. I think it's too loose, and it's effectively a power grab. Analyzing it as a Canadian, as an economist, I have no idea what it's going to end up with. There's so much subjectivity and trust in the current government to implement it—

**Stéphane Lauzon:** Thanks.

**Catherine Swift:** —properly to really benefit Canadians and not just hand more money to their Liberal friends.

I don't think it's there. I think we need a lot more detail and we need to work on it. It was whipped together quickly. Anybody who knows legislation knows it was whipped together very quickly, and that's why it's so generic. It doesn't get into the specifics, and it needs to.

[Translation]

**Sébastien Lemire:** Unfortunately, Mr. Chair, the interpretation has stopped. I think it's hard to hear what the witness is saying.

**The Chair:** Has the interpretation stopped?

[English]

We're going to ask everybody to pause, please. We want to make sure that the translation is working.

**Stéphane Lauzon:** Make sure that your mic is up and you're not on mute. When did we lose the translation?

• (1755)

[Translation]

**The Chair:** I will check with the clerk.

**Sébastien Lemire:** Mr. Chair, I did notice that when the witness was speaking slower, the interpretation was being provided, but I gather that the witness gave information that the interpreters could not properly interpret.

It's hard, because I was listening to the interpretation.

**The Chair:** All right.

[English]

**Catherine Swift:** The short answer is no. I don't believe Bill C-5 accomplishes that.

**Stéphane Lauzon:** This is a short answer.

**The Chair:** Thank you.

Translation should be working. I'm just going to look over to my....

**Stéphane Lauzon:** It's working.

**The Chair:** Okay. You have one minute left, Mr Lauzon.

[Translation]

**Stéphane Lauzon:** I will turn to Mr. St-Hilaire now.

You talked a lot about an emergency measure.

The bill is clear: The importance of building a stronger Canadian economy is what ties the legislation together. It's not about a public emergency. It's about the ability to compete in the face of everything that is happening internationally, especially the situation vis-à-vis the United States.

Canada needs to expand its markets. It needs to do a better job. It needs to do more with what it has now. To me, that is not an emergency measure. You consistently referred to the legislation as an emergency measure. Canada is at a crossroads. We have to counter the legal and trade measures we face with the United States. If this isn't a different way for the country to do things, I don't think anything else could define our country in building these projects.

How do you make that distinction, without turning it into an emergency measure? Bill C-5 will improve Canada's production capacity.

**Maxime St-Hilaire:** In law, an emergency measure is one that overrides general law. Laws were passed. You are a parliamentarian. Laws were passed for the purpose of protecting the common good in a wide range of areas, from the environment and energy security to transparency and community participation. Legislators seek to achieve all kinds of objectives in order to ensure the common good. An emergency measure seeks to set the law aside, if you will. It seeks to give the executive powers it does not normally have.

Legally speaking, what does this bill do? It pushes the law aside.



**Stéphane Lauzon:** It does so to remove trade barriers. It seeks to remove interprovincial and interterritorial trade barriers. The bill does not necessarily constitute an emergency measure, as per your interpretation. You are interpreting the Emergencies Act.

Bill C-5 deals with breaking down interprovincial barriers and working with an openness to creating energy corridors for better efficiency.

**Maxime St-Hilaire:** Is that a question you're asking?

**The Chair:** Unfortunately, your time is up.

Thank you, Mr. Lauzon.

[English]

I want to make sure we have time for Ms. Gazan.

**Stéphane Lauzon:** I want to share my time, but I'm okay with no answer.

**The Chair:** We've gone over 40 seconds for Mr. Lauzon, and I want to make sure that we have the time for Ms. Gazan.

Ms. Gazan, the floor is yours. You have five minutes.

**Leah Gazan:** I want to start by thanking the committee for giving me time to ask questions on this very important bill. I'm very grateful.

Section 5 of Bill C-15 states, "The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration." That was the purpose of the bill. The purpose of Bill C-15 was to ensure that all laws of Canada are consistent with the UN Declaration on the Rights of Indigenous Peoples.

In your opinion, is Bill C-5 consistent with the United Nations Declaration on the Rights of Indigenous Peoples?

**Cindy Woodhouse Nepinak:** Is that for me?

**Leah Gazan:** Yes. I'm sorry. I should have said so.

• (1800)

**Cindy Woodhouse Nepinak:** Julie, do you want to go through that from a legal perspective, please?

Thank you.

**Julie McGregor:** In looking at section 5 of the UN declaration act, it's not just an interpretive aid. It's actually an operational provision, which meant that the laws of Canada should include FPIC, and not just as a sort of example or some sort of interpretation. It has to be operational.

Does Bill C-5 operationalize FPIC? The only thing we can turn to as an interpretive aid is the "whereas" clauses. In that meaning, in the meaning of what section 5 of UNDA was supposed to be—operational—then we can't say it is, because it's not operational within Bill C-5. It's only used as an interpretive aid.

**Leah Gazan:** Thank you very much for that.

One of the things that's shocking to me about the bill is this kind of overreaching power of cabinet and ministers. One of the sections I find particularly disturbing—quite disturbing—says, "the Governor in Council may consider any factor that the Governor in Coun-

cil considers relevant, including the extent to which the project can", and then it says, "advance the interests of Indigenous peoples". They list a bunch of things.

What is disturbing about that for me is that they used the same arguments in the creation of residential schools: that it was in the best interests of indigenous peoples. It is colonialism from the 1700s.

The bill in itself is harmful, but would you agree with me that it is particularly disturbing that the Governor in Council, rather than indigenous peoples themselves, has the power to decide what's in the interests of indigenous peoples?

**Cindy Woodhouse Nepinak:** Absolutely, and of course, we haven't had time to go through this legally. We've only had, in seven days, a few lawyers look through it. I need a few more to look through this so that we absolutely don't repeat what happened in the past. I think it's overreach. I think it's very concerning.

Like I said, I wish you could hear from our leadership. We haven't had a full, thorough conversation on this. We are asking you to please slow this down a bit and put the brakes on so that we can talk through the summer with all of you properly.

I think I'll close it off and say that.

**Leah Gazan:** Going on, you spoke about article 19 of UNDRIP, in that it provides that states need to seek and obtain FPIC of indigenous peoples before adopting a legislative measure. Has the federal government upheld this obligation in Bill C-5, yes or no?

**Cindy Woodhouse Nepinak:** They have not.

**Leah Gazan:** They have not.

As the national chief of more than 600 first nations, do you share Bill C-5's proposition that the cabinet can determine what is in the best interests of indigenous peoples? We just discussed that. Do you think that can be amended? Going back to article 19 of UNDRIP, one of the things it talks about is "in good faith". Do you think that is a demonstration of good faith?

**Cindy Woodhouse Nepinak:** It's not.

I'll say that Parliament and, of course, the Senate itself.... I told them this in the Senate yesterday. I told senators to follow their own laws and to follow the laws that we've fought hard for in the courts. Unfortunately, that's what first nations have been relying on over the past many years. We keep winning in the courts against provinces and against the federal government.

Are we done in court yet? Do we want to start to sit here and get some real traction together, or are we going back to court again? We're always in court and fighting really hard for every piece that champions and solidifies us as people in this country.

I think that starts with respect. There's no respect here, my friends.

**The Chair:** Thank you very much, Ms. Gazan, for joining us.

**Leah Gazan:** Thank you.

**The Chair:** On behalf of all the members of this committee, I want to express our sincere gratitude to you, National Chief Woodhouse Népinaq, Mr. St-Hilaire and Ms. Swift, for joining us and sharing your testimony on this very important piece of legislation.

Let's keep this discussion going.

With that, this meeting is adjourned.

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