Observations
to the third report of the Standing Senate Committee on Aboriginal Peoples (Bill C-15)

A. Consultation and Engagement on Bill C-15

During previous legislative studies, your committee heard concerns from witnesses about the adequacy and thoroughness of federal consultation processes. Bill C-15 is no exception, with concerns raised by Treaty Rights Holders, certain youth and women's organizations and some representatives from the resource sector. At the same time, many others reported that they were consulted and that there was widespread support for the Bill. Your committee observes that the federal government does not appear to have applied the principles of free, prior, and informed consent to the consultation process on Bill C-15.

Your committee notes that the testimony from witnesses related to Bill C-15 highlights a lack of a clear, inclusive, and defined process for co-developing legislation at the national level. The committee recognizes that many Indigenous concerns around consultation are ultimately rooted in a distrust of the federal government, as it has not always lived up to its promises. This distrust is important to understand as the legislative process in the past has been used to disenfranchise, colonize and oppress Indigenous peoples.

Going forward, the committee underscores the need for consultation to be clear, substantial and understandable. All Rights Holders, including Treaty Rights Holders and interested Indigenous communities must have the opportunity to be involved from the start. The committee believes that Indigenous leadership is critical to the process of negotiating and defining what consultation looks like. An intersectional approach is of utmost importance; Indigenous economic development organizations should also be involved.

Finally, Indigenous peoples and organizations should be funded to support their participation in consultation processes. Taken together, in the future, the federal government must ensure that there is a transparent, systematic methodology for consultation that is verifiable and measurable.

B. Free, Prior and Informed Consent

The committee agrees that the concept of Free, prior and informed consent (FPIC) under the *United Nations Declaration on the Rights of Indigenous Peoples* (the Declaration) is important. The committee notes that reaching consensus while considering the perspectives of different groups is central to certain Indigenous laws and is also used for decision-making by Indigenous communities.

Witnesses did not agree on the meaning of FPIC and there were mixed views on whether arriving at a definition would be useful.

- Your committee observes that there is a need for further work on FPIC. Some examples were proposed: FPIC can be viewed as a process, rather than a term in need of a fixed definition. Some witnesses suggested that a definition needed to be developed.

- As a concept, FPIC has implications that cut across a vast range of policy issues, including, for example, health care and education; as a result, its meaning and content should not be considered in relation to a single issue, such as natural resource development.

- The Minister of Justice told the committee that "Moving forward on this path will require collaborative work to identify how the rights and standards expressed in the declaration will be put into practice. This includes key elements of the declaration like free, prior and informed consent." The committee believes that any such work must operate under Indigenous leadership, with the Government of Canada playing a supporting role.

- FPIC is an important concept that is relevant to those granting, withholding, or seeking consent. Priority funding should be made available to Indigenous communities and Treaty Rights Holders so they can develop and/or enhance their capacities and refine their own processes around consultation, negotiation, and consent. Education around community or treaty-based processes will be critical for FPIC's operation in the future.

C. Action Plan

Your committee agrees that the development of the action plan provides an opportunity for the federal government to rebuild trust with Indigenous peoples and address issues identified by witnesses regarding federal consultation processes during the study of Bill C-15. The committee believes that the action plan must be co-developed through an Indigenous-led process whereby Indigenous peoples determine the approaches, methodologies, and priorities. The action plan's development should take an intersectional approach, while ensuring that all Rights Holders, including Treaty Rights Holders, are engaged in a manner they deem meaningful. Federal officials involved in the development of the action plan must visit and understand how federal legislation impacts Indigenous communities.

Your committee stresses that the action plan must lead to concrete steps taken by the federal government; as it is an ambitious exercise, a phased approach to the action plan's development and implementation may be important.

Your committee observes that the action plan needs to include clear, measurable deliverables with mechanisms for enforcement and accountability, as well as a timeline for implementation. Your committee believes that the action plan should address: the proposal from some witnesses for development of an Indigenous human rights commission; free, prior and informed, consent; and supporting Indigenous economic participation.

To oversee the development and implementation of the action plan, the implementation of Bill C-15 and the application of the Declaration into Canadian law, your committee recommends the creation of a new federal body such as a central agency or a new Office of the Deputy Secretary to the Cabinet (Indigenous Consultation and Implementation) resident in the Privy Council Office.

D. Divergent Expectations/Perspectives

Your committee observes that the legislative process for Bill C-15 was rushed. To that end, your committee notes an inconsistency in the English and French versions of the bill with respect to the term

"laws of Canada" in clause 5. Specifically, in English clause 5 refers to the "laws of Canada" whereas the French text uses federal laws (lois fédérales). Consequently, your committee requests that the French version instead refer to: "… les mesures nécessaires pour veiller à ce que les **lois du Canada** soient [emphasis added]" in order that both versions, which have equal force in law, be consistent.

Your committee acknowledges that there are divergent views on the bill. For example, some Treaty Rights Holders are skeptical about the Government of Canada's intentions on the activities proposed within the bill. Another witness lacked trust in the federal government, but still believed that Bill C-15 was a step in the right direction.

Your committee believes that the Government of Canada must make efforts to re-build trust with Indigenous peoples by creating a strong record of actions and outcomes. In passing Bill C-15, the Government of Canada has every opportunity to fulfill the spirit and intent of Treaties, as the committee is of the view that Bill C-15 does not affect treaties between Indigenous peoples and Canada.

The committee also notes concerns expressed by witnesses that giving the Declaration legal effect in Canada could result in "divergent expectations". During the committee's study, the Minister of Justice explained that Bill C-15 "is implementing legislation. It enshrines the principles that are contained in this legislation, but it is true that we will need to develop an action plan that aligns specific federal laws with the principles that are enunciated in the declaration." This point has been further affirmed by expert witness and architect of predecessor Bill C-262, Romeo Saganash, who maintains, "The bill will not turn the declaration into Canadian law. This is about acknowledging the reality that the declaration is already part of Canada's legal landscape."

That being said, the Minister of Justice has gone on to say: "we have made it clear that we intend this bill to apply to federal laws. This is the case for any treaty that gets implemented in Canada after the Supreme Court decision in the labour relations reference. We adopt the treaty at the international level and then we implement it in areas of our jurisdiction, and then the provinces and territories will implement it in their areas of their jurisdiction."

There were also divergent views from witnesses concerning the inclusion of a specific reference to economic inclusion and reconciliation in the preamble to Bill C-15. Past federal government policies have created ongoing barriers for Indigenous peoples' full and fair participation in the Canadian economy. Your committee observes that Bill C-15 represents a historic opportunity for a more prosperous and equitable future for Indigenous peoples, and a more prosperous Canada, with investment by the federal government, guided by Indigenous peoples and organizations.

Further, your committee is of the view that the Government of Canada can re-build trust by answering all of the Calls to Action of the Truth and Reconciliation Commission of Canada in a timely way.

In spite of differing views and expectations about Bill C-15, your committee is of the view that adopting this bill is a sign of hope for a different relationship, where Indigenous peoples can lead the way in creating the world they want for themselves.

Observations supported by a minority of the committee members (the Honourable Senators MacDonald, Patterson and Stewart-Olsen):

Proposed Observations – C-15

Conflation of Support for UNDRIP with Support for C-15

Throughout the study of C-15, this committee notes the constant and consistent conflation of support for this Bill with support for UNDRIP.

In her opening remarks on May 7, 2021, Minister Bennett began by noting the Truth and Reconciliation Calls to Action and the Missing and Murdered Indigenous Women and Girls Inquiry's Calls for Justice, which call on Canada to "immediately implement and fully comply with the Declaration." Many, like Grand Chief Abel Bosum of the Grand Council of the Crees have said, "The real question before you, senators, is Canada prepared now to recognize [Indigenous peoples'] historic exclusion as a relic of the colonial past and to move in the direction of inclusion, honour, good faith and respect?"

However other witnesses have been clear that non-support of C-15 does not equate to non-support of UNDRIP or reconciliation as a whole. This position was perhaps best summarized by Grand Chief Watchmaker of the Confederacy of Treaty Six First Nations who told the Committee,

> We must stop thinking of Bill C-15 as UNDRIP. This bill is far from what UNDRIP has set out to achieve. The rights and principles affirmed in UNDRIP constitute the minimum standards for survival, dignity and the well-being of Indigenous peoples throughout the world. Canada has chosen to abandon the intent of UNDRIP with this bill.

Grand Chief Arthur Noskey of Treaty 8 was equally clear when he stated,

> Let me be clear in saying that we are not against a United Nations Declaration on the Rights of Indigenous Peoples. Our opposition is to Canada's currently proposed approach to implementing the declaration via Bill C-15. Our opposition to Bill C-15 does not equate to opposition to the declaration.

This Committee reaffirms that any objections raised over the course of the study should be taken, without prejudice, as being directed toward C-15 and the Government's proposed way forward on implementation, and not the spirit and intent of UNDRIP.

C-15 is distinct from C-262

While Ministers Lametti and Bennett, along with multiple witnesses have acknowledged that C-15 uses former MP Romeo Saganash's Private Member's Bill C-262 as "the floor", that is, as the starting foundation of the current legislation, a distinction should be made as to the engagement undertaken by a single parliamentarian and the duty of consultation that falls upon the Crown.

During her May 7 appearance, Minister Bennett made two statements that inferred the previous engagement efforts done on C-262 served, in part, as justification for compressed timelines with regard to government consultation on C-15. She said,

> I would like to also take this opportunity to recognize the leadership of former MP Romeo Saganash and to thank him for his work in Parliament and from coast to coast to coast with Indigenous peoples to advance Bill C-262, which served as the foundation for this bill.

She then went on to explain that, "Bill C-262 was the subject of extensive public engagement and parliamentary study." This testimony should be juxtaposed with that of Chief George Arcand Jr. of Alexander First Nation who stated,

> Some claim that consultation began in 2007, and others claim consultation started when Bill C-262 was introduced. This is simply not true. Alexander First Nation has not been properly consulted on this bill or on the previous bill, Bill C-262, because those claims do not reflect our understanding of the intent of the Royal Proclamation of 1763 and does not reflect what is set out by subsection 91(24) of the British North America Act, 1867.

Grand Chief Watchmaker was adamant in his tabled written response saying,

> Bill 262 is not before the Members of the Senate. We are here to focus on and present on the process related to Bill C15. Mr. Saganash did table Bill 262 as a member of the House of Commons. However, Mr. Saganash as an individual did not have any authority to undertake any process on our rights, and that is still true today. His work while interesting is not relevant in the present process. We hasten to add – Mr. Saganash is no longer a member of parliament and his draft bill died at the last session of parliament. We need to see a clear process on engagement with our Nations. It is completely inappropriate for the government of Canada to use his work as a former member of parliament in an attempt to intimidate or imply that our Peoples were engaged and that consultation was in any way adequate.

This Committee recognizes and observes that the duty to consult and accommodate is the sole duty of the Crown and cannot be delegated away to a single parliamentarian or other entities.

Consultation Issues

The issue of consultation was the subject of much debate and testimony. While many expressed their support for and urged the quick passage of Bill C-15, it is important to note that Grand Chiefs and Chiefs representing individual communities, numbered Treaty areas and rights holders as well as representatives of Indigenous grassroots, legal and economic development organizations have voiced their opposition to or concerns regarding this Bill. Treaties 6, 7 and 8 passed a joint resolution on March 16, 2021 rejecting Bill C-15. This rejection is the result of an obligation formed during the signing of numbered treaties 1-11, binding the Crown to a bilateral relationship with treaty holders, as explained by treaty chiefs who appeared before the Committee. Similarly, Grand Chief Joel Abram of the

Association of Iroquois and Allied Indians denounced the consultation process of the Bill stating that, "We did ask multiple times for the process to be restarted so that the actual rights holders may be engaged on the subject… I don't know one rights holder in Ontario that has been engaged in this particular legislation."

Officials pointed repeated to the Justice Department's *What We Learned Report* on Bill C-15 as a record of all consultations conducted prior to the introduction of this Bill and both officials and Ministers Lametti and Bennett stressed that consultations have been ongoing throughout the legislative process. This Committee notes that multiple requests for the complete consultation list, which would include those consulted after the introduction of Bill C-15 have gone unanswered. The Committee further recognizes that while Treaty 6, Treaty 8 and Alexander First Nation are listed in Annex B of the *What We Learned Report*, the oral testimony and written briefs received contradict that any outreach or meaningful consultation was conducted.

During her first appearance before the committee, Minister Bennett explained that, "I think the word "meaningful" is the most important thing. It is about asking, not telling." She went on to stress multiple times that the process of C-15 and the development of the proposed action plan was rooted in the principle of "nothing about us without us." During that same panel, Minister Lametti echoed Minister Bennett's words and stated, "Meaningful dialogue is what I would consider to be the basis for consultation — being heard, being considered, sometimes having an impact, not all the time, although it's in that dialogue that you assess what is most important and how you can incorporate."

However, this Committee notes that complaints around severe limitations in time and resources, as well as the presentation of a "consultation draft" as included in the *What We Learned Report* as Annex A was not viewed as "meaningful consultation" or in accordance with obligations under numbered treaties and the duty to consult as outlined in s.35 of the *Constitution*.

Chief James Badger of Sucker Creek First Nation and Grand Chief of the Ambassador and International Relations for the Sovereign Nations of Treaty 8 was unequivocal in his condemnation of any characterization of Treaty 8 being consulted or any suggestion that consent was given. He stated,

> During their presentations to you earlier this week, Ministers Bennett and Lametti both said good words about working with Indigenous people. In fact, Minister Bennett referenced the saying "nothing about us, nothing without us." It is difficult to not feel angry with the continued exclusion of our communities. These words are meaningless and empty. What this approach tells us is that Canada is lazy and insincere.

Minister Bennett explained on May 7 that, "prior to the bill's introduction, 33 bilateral sessions took place with the AFN, ITK and MNC." The timeline included in the *What We Learned Report* outlining the consultation process and confirms that these 33 sessions took place from June to November of 2020 (p.9) while 28 meetings took place with "other Indigenous partners, including a roundtable with Indigenous youth" between October and November. 462 people are reported to have participated in these sessions and two sessions were held with each partner. This committee notes that, when put into perspective, the information provided means over 100 organizations and 462 people were invited to participate in 28 sessions while the three National Indigenous Organizations were given 33 and were the sole input for several months in the legislative drafting process.

Testimony and written briefs show that this has been particularly troubling to those First Nations leaders who have been unequivocal in their belief that the Assembly of First Nations is an advocacy body, not a rights holder, and thus lacks the legitimacy to enter into agreements with the federal government on behalf of or in lieu of legitimate and traditionally-recognized governance structures.

This Committee recognizes that UNDRIP Article 19 calls on states to,

> **consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.**

Grand Chief Garrison Settee of Manitoba Keewatinowi Okimakanak explained that his mandate is derived from Manitoba chiefs:

> In my role as grand chief, I take my mandate from the chiefs. When the chiefs give you a mandate, you have to act on that. If they do not give me that mandate, I cannot neither act nor speak on anything that is being presented. I'm accountable to the chiefs and to the First Nations. I have to respect the autonomy and sovereignty of each First Nation. I take my direction from them and then I act.

Grand Chief Abram added that,

> Like AFN, AIAI is also not a representative or advocacy organization. I get my marching orders from my chiefs and councils, who are the respective elected chiefs of their First Nations.
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> As well, the AFN did have a prior resolution as to the minimum standards of any future UNDRIP bill, that they might support it. This bill does not meet those requirements, and yet they still support it, so I don't understand that portion.
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> I agree that they are not our government, nor are they representative; they are advocacy only.

This Committee remains concerned that the Government has not recognized and honoured traditional Indigenous governance structures as stated above and echoed by other Indigenous Leaders.

An example of such traditional legal and governance structures was illustrated by Chief Ross Montour of the Mohawk Council of Kahnawà:ke who explained,

> In accordance with the Two Row treaty relationship, Mohawk jurisdiction continues to apply independently and in parallel to the Crown. Two Row consists of two rows of purple beads separated by three rows of white. The white symbolizes the river of life or the land that we all now share. The two purple rows symbolize the Haudenosaunee and the Europeans travelling side by side, never interfering with each other's journey. Haudenosaunee treaties with the Crown, including the Treaty of Niagara and the corresponding royal proclamation, were based on these principles and Haudenosaunee legal tradition.

This committee recognizes, affirms and respects the rights of Indigenous peoples to determine their own representative organizations in accordance with their own customs and traditions.

In addition to elected leaders, the Committee heard from Russ Diabo, a former AFN Indian Act Amendments Coordinator who appeared representing three grassroots organizations: Idle No More, Defenders of the Land and Truth Before Reconciliation. He stated that,

> It is our opinion that the federal UNDRIP Bill C-15 must be reviewed and considered in the broader context of the Trudeau government's record of stealth and deception in the treatment of Indigenous communities and Indigenous nations for the past six years, particularly the federal government's unilateral development of a Canadian definition of the UN Declaration on the Rights of Indigenous Peoples. This constitutes massive, unprecedented changes to policy, law and structure, bypassing Indigenous peoples and nations who are the proper rights holders.

This Committee recognizes and affirms the rights of all Indigenous rights holders to participate in the consultation on any legislation that affects their rights and privileges in accordance with those rights granted to all Canadians under the *Charter of Rights and Freedom* and further enhanced by rights outlined in the Declaration.

Free, Prior, and Informed Consent (FPIC) is a recurring principle in the Declaration that appears under several contexts including around resource development and legislative or administrative policy changes. Chief Mel Grandjamb of Fort McKay First Nation explained that,

> There has been much debate about free, prior and informed consent that demonstrates why Bill C-15 is a political statement and a distraction. If consent is coerced, sought after the fact, or based upon withheld information, it's not consent. First Nations already have consent rights, as described in the United Nations declaration, but they are far too often ignored. Our lawyer has said that you cannot negotiate treaty rights except to negotiate them away. Treaty rights and the honour of the Crown are the foundation of our relationship with Canada. Canada is obligated to defend both.

This Committee observes that it is integral to identify which representatives and organizations must be at the table from the very beginning before engaging in any actions that could impede, infringe or otherwise affect the rights, title and privileges of Indigenous peoples in Canada.

Divergent Expectations

The purpose of the bill, as described in clause 4 is to

> (a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and
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> (b) provide a framework for the Government of Canada's implementation of the Declaration.

Minister Lametti stated during his May 7 appearance that, "It also binds us. To that extent, this implements legislation. It enshrines the principles that are contained in this legislation." Many witnesses referred to the significance of this legislation in assisting

Canada in "shift" as described by Indigenous legal scholar Dr. Mary Ellen Turpel-Lafond, who appeared alongside National Chief Perry Bellegarde of the Assembly of First Nations (AFN). She goes on to state that, "It's not about transactions; it's about relationships." Many witnesses appeared and affirmed their support for the C-15.

However, it should be noted that many other witnesses felt that the bill requires extensive amendments, while others yet called for the rejection of the bill and the restart of a truly co-developed bill that respected the consultation obligations of the Crown and incorporated the input of rights holders.

Of the minor amendments made in the House of Commons, AFN Regional Chief for Québec and Labrador (AFNQL), Ghislain Picard, stated that, "the standing committee's recommendations fall short of meeting the AFNQL's requirement to support Bill C-15." The AFNQL represents 43 Indigenous communities and these minimum standards were agreed to by a resolution passed unanimously on February 26, 2021 which outlines that, "amendments to Bill C-15 are a minimum condition for the AFNQL to even consider supporting the bill". Key concerns include the inclusion of the non-derogation clause as a limiting factor in the implementation of UNDRIP and what the AFNQL's brief describes as the "gap between the aspirations of the preamble and the body of the bill". Such gaps include the exclusion of operative provisions clearly repudiating racist legal principles such as the Doctrine of Discovery and *terra nullius*.

Similar demands for substantive amendments were brought forward by witnesses including Indigenous Bar Association (IBA) Drew Lafond who stated that, "Bill C-15 is a laudable attempt at domestic implementation and recommendation of UNDRIP in Canada…however, our support for the bill is heavily qualified." The IBA, self-described as a "professional organization of Indigenous legal experts" explained in their subsequent brief that, "The IBA is providing these comments in light of our understanding that Canada is committed to implementing UNDRIP as part of Canadian law. If Bill C-15 is revised to live up to this objective, the IBA would be able to fully endorse it."

Chief David Monias of Pimicikamak Okimowin, whose brief and presentation also informed the position of MKO, detailed his objections to C-15 stating,

> Pimicikamak has supported UNDRIP during its development and its presentation to the United Nations General Assembly on September 12, 2007. Pimicikamak actively worked alongside the First Nations in Canada and internationally to urge Canada to endorse UNDRIP without reservation or qualification, which Canada eventually did on May 10, 2016. Pimicikamak says that the principles of UNDRIP are consistent with the exercise of Pimicikamak sovereignty and authority. Amending Bill C-15 to make UNDRIP enforceable in Canada is an important step toward reconciliation. Amending Bill C-15 to make UNDRIP enforceable in Canada will create another path toward the practical recognition, affirmation and protection of the rights of Pimicikamak.

While the Committee observes that preambular clauses do not have operative force in law, Minister Lametti explained that, "The declaration itself, as well as the rights

contained in the preamble, have interpretive force in Canadian law." This, in conjunction with the promised action plan, has been used to rebut concerns raised about the extent to which the principles of UNDRIP are enshrined in Canadian law.

Chief Montour countered those arguments with one of his own,

> During an engagement session on October 29, Canada's representatives acknowledged that the legislative proposal does not implement UNDRIP in Canadian law. This is concerning because there is an incompatibility between the rights prescribed by UNDRIP and section 35 of the Constitution Act, 1982.
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> While we have heard some witnesses before this committee express great confidence in recent Supreme Court decisions, our views are far more nuanced and critical. Wins before the court often contain serious limitations or caveats. Despite some form of recognition of Aboriginal rights and title, there has been relatively little change on the ground. Very few modern treaties and agreements have been reached, treaties continue to be violated, socio-economic disparities persist, development of Indigenous lands continues almost unabated and our people still disproportionately suffer from violence and discrimination.
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> For MCK, the promise of UNDRIP includes ensuring that the common law interpretation of section 35 evolves in accordance with the minimum international human rights standards of UNDRIP, including a clear, binding repudiation of the Doctrine of Discovery.
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> The MCK has heard supporters of the bill dispute this concern by arguing that preambles serve an important interpretive function. However, we refute this and believe that comments made by Professor Roach apply to Bill C-15 when he speaks of expansive preambles that are:
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> > . . . a means of overselling the legislation that will quickly generate disappointment and cynicism or as an attempt to achieve a consensus at such a high level of abstraction that it will quickly break down when anyone tries to apply the legislation.

This Committee also observes that there were divergent perspectives on the effects that C-15 would have economic reconciliation. Several witnesses, including Dawn Mahdabee Leach, adhered to a view that C-15 will result in increased certainty within the natural resources sector.

> I also wish to emphasize that the adoption of Bill C-15 will send a powerful message to corporate Canada, facilitating meaningful Indigenous economic participation in many ways. This bill will help establish cultural norms that uphold Indigenous rights and properly value Indigenous knowledge, including in employment and contract relationships. Bill C-15 will further the social expectation that the private sector answers the Truth and Reconciliation Commission's Call to Action 92, on Business and Reconciliation.

However, Arnie Bellis, Chair of the Indigenous Resource Network, a non-partisan organization representing Indigenous peoples in resource development states in his submission that,

> I think [C-15] needs to be written much more carefully, because it is obvious to me that it will deter investment in Canadian resource development. And that hurts the Indigenous communities that rely on resources as much as it hurts anyone.

These concerns were echoed by Dale Swampy, President of the National Coalition of Chiefs who stated that, "The NCC believes that the new UNDRIP legislation will not enhance our ability to defeat poverty -- to participate in Canada's prosperous economy." Stephen Buffalo, President and CEO of the Indian Resource Council of Canada also shared his concerns that, "The legislation says that Indigenous people need to provide consent for a project to go forward, but it doesn't say who can provide or deny consent and how they can demonstrate it."

This Committee notes testimony from Canadian Association of Petroleum Producers (CAPP) Vice-President of Government Relations and Indigenous Affairs, Shannon Joseph, and Brian Schmidt, President and CEO of Tamarack Valley Energy that highlighted examples of what Ms. Joseph referred to as "lost opportunities that a lack of clarity brings."

Mr. Schmidt elaborated by pointing to specific examples:

> We've seen investors choose Siberia over British Columbia for LNG development because they thought Russia was a safer bet for their money than Canada. We've seen Warren Buffett pull out of $9 billion LNG project in Quebec because of concerns over railway blockades and infrastructure challenges. We've lost $17 billion due to price differentials with crude prices because we didn't have enough pipeline capacity to get our product to market. We've seen the $20 billion Frontier oil sands, one the best projects I've seen in terms of Indigenous support and environmental protection, suspended with the CEO noting that investors were looking for jurisdictions that had reconciled their environmental, social and resource development goals but Canada had not yet done that. Just this month, we saw Woodside Petroleum announce their plans to leave Kitimat LNG, which is a huge blow to the 16 First Nations and their limited partnership who are involved in the project.

Tabatha Bull, President and CEO of the Canadian Council for Aboriginal Business offered her view that, "While the preamble of Bill C-15 is notably missing mention of the importance of economic development and the inclusion of Indigenous peoples, we do believe that the bill provides the start of a path forward, one that could support economic reconciliation."

This Committee observes and recognizes the importance of economic inclusion in ongoing reconciliation efforts with Indigenous peoples. The Committee further notes that engagement by the Government of Canada with rights holders and other partners in a manner that supports and builds certainty and makes the sustainable

economic development of Indigenous communities the overarching priority is a common theme amongst witnesses and official submissions.

The fear about bill C-15's inability to effectively implement UNDRIP in a manner that is consistent with the aspirations of the Declaration was, at times, palpable. C-15 was described by Terry Teegee, Regional Chief of the First Nations Leadership Council of British Columbia as, "[a] centimetre of progress [that] will be followed kilometres of it in future generations." That was sharply contrasted by Chief Badger's assertion that, "Bill C-15 only promises another century of failure to live up to the promises and responsibilities of our treaty and the treaty relationship."

Chief Monias also offered comments that outlined his reasons for seeking clarity in the law via comprehensive amendments:

> I have experienced, in terms of what good intentions of many governments have made to Pimicikamak and our people. I do not take anything at face value anymore in terms of what is being promised or what is being asked of us. It must have real value. It must have meaningfulness. We have been promised many things by governments in the past and we have not seen those come to fruition. Treaties being one of them. In treaty 5 we had many promises, but the spirit and intent of that treaty has not been fulfilled. We have not seen the full implementation or implementation law of section 35, and it's being left to the courts to interpret what that is.
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> For us, without any meaningful implementation or changes and amendments to this bill, it's not good enough. You must have these things in there, that every act and regulation, any decision made by any level of government must be interpreted and administered to protect the treaty rights of the Indigenous people of Canada. That's why we say that, as much as the Indigenous are there, we recognize UNDRIP; we want to affirm it because we are a sovereign nation ourselves. If Canada is going to be doing some kind of implementation of UNDRIP to govern their behaviour and the words when they choose how to deal with First Nations, I would say that we must make amendments to these things before I would take anybody's word for it. I need to see it in law.

Finally, in the preamble to a question asked by Sen. McCallum as a non-member of the Committee, she stated,

> I want to start off by saying that I've challenged many of the laws that have come into the Senate, and I know that people see me as being a difficult person, but that comes with the position of senator. I am a First Nations woman who has lived under oppression from federal and provincial policies and loss, including residential school, and the result has been one of distrust. The forward movement of Bill C-91 and Bill C-92 has not occurred in our province. Therefore, I find this bill scary because of the fear that the relationship that exists between the state and Indigenous peoples won't improve, and yet, hope remains high. The articles are the heart of the UN declaration and are of critical importance.

This Committee acknowledges the historical and ongoing hurt and harm caused by racist and paternalistic approaches and further acknowledges how that contributes to the mistrust and skepticism heard in testimony.

Senator McCallum's statement about being seen as a "difficult person" for opposing legislation based on her beliefs and understanding was poignantly echoed by Chief Montour who stated that,

> We've listened to any number of people who worked on drafting the bill, and I have listened to any number of those people speak before this committee. Too often, our legitimate concerns about the perceived deficiencies in the bill — we've cited two very important ones here today — it has been our view that we have been gaslighted a bit for raising those concerns, that we just plain don't get it, that we don't understand.
>
> Listen, see this document? This is my personal copy of the United Nations declaration. I am passionately for this, and only for a bill that accurately begins to reflect this. I do not see that in Bill C-15 in its current form.

This Committee respects the right of any individual or entity to cite their grievances and opinions with regard to legislation before Parliament and acknowledges that right as fundamental to the principles of democracy and rule of law.

Proposed Action Plan

Clause 6 of bill C-15 requires that an action plan be developed "in consultation and cooperation with Indigenous peoples and with other federal ministers." The action plan, as described within the bill, will highlight actions to address "injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons" while also "promoting mutual respect and understanding as well as good relations." Additionally, the action plan will include measures related to monitoring, oversight, recourse and "other accountability measures with respect to the implementation of the Declaration" as well as to the implementation of the plan. Amendments made by the House Committee on Indigenous and Northern Affairs, the timeframe to complete this work was reduced from three years to two.

This Committee observes that C-15 creates an obligation and an expectation that fully co-developed action plan will indeed be tabled within the two-year timeframe. It should be noted, however, that there is no timeframe for implementing the plan or fully implementing the Declaration.

This Committee wishes to observe that the requirement to adequately consult Indigenous peoples in implementation legislation and planning is not only guaranteed by the wording in Bill C-15 but in Article 38 of the Declaration which makes clear that, "States, in consultation and cooperation with indigenous peoples, shall take the

appropriate measures, including legislative measures, to achieve the ends of this Declaration."

Officials from Crown-Indigenous Relations testified multiple times that,

> We're committed to meaningful co-development of the bill's action plan with Indigenous partners and experts to ensure that the implementation is not only effective but accountable. We've already begun preliminary discussions with Indigenous partners on the design of that process…

Officials identified that "We've already started discussions on how we're going to organize ourselves with a variety of the key players" and later expounded on that by saying,

> A number of other meetings have taken place to start to unpack how we're going to work together. For example, with the Indigenous national organizations, we've already begun a dialogue on how we can look to work together to make sure that we can come forward with the best action plan possible."

Officials from Justice also assured Committee members that,

> Of course, we all recognize that there is deep interest and desire on the part of all Indigenous peoples to participate in this process. That is still to be worked out in terms of the modalities, but it is a process that's going to require, as I think Minister Bennett referred to, meaningful participation, seeking to get consensus at a national level. This is going to be a complex undertaking and we will be guided by the principle of free, prior and informed consent, as well as the concepts of consultation and cooperation.

This Committee observes that any action plan resulting from C-15 will be predicated on a belief that the proper consultation was used in the development and subsequent passage of C-15. This Committee further observes that several witnesses have explicitly rejected this bill and call for a restart to the process that respects Indigenous sovereignty and the treaties. This was encapsulated in Onion Lake Cree Nation's submission which states,

> We fully reject these processes and will not adhere to any outcomes developed out of these unilateral developments. We cannot stand by and allow Canada to give this illusion that we want these laws – put simply, Nations do not make laws for other Nations. This is a fundamental tenet of our international Treaties.

Russ Diabo was clear that the consultation process was, in his opinion, flawed. He asked, "How do you justify doing engagement on a federal law that will have lasting intergenerational impacts during a pandemic when many Indigenous communities and nations don't even have the capacity to respond or analyze properly how their rights will be impacted?" He went on to state that, "Bill C-15 becomes federal law, we will recommend to Indigenous communities and nations that they organize themselves to resist this law and exercise their sovereignty in self-determination on the ground…"

Grand Chief Watchmaker's testimony clearly outlined his belief that, "the government cannot legislate their duties and obligations through a national action plan that fails to adequately consult with impacted First Nations. Continue to review perpetuated infringement annually."

Based on this testimony, this Committee further observes that by initiating preliminary conversations with National Indigenous Organizations, the Government of Canada continues to ignore legitimate and consistent concerns that the consultative

process ignores the concerns of Indigenous peoples, particularly treaty holders whose expectation of a bilateral relationship with Canada is rooted in historical treaties further affirmed by consultation processes established in 1995.

With regard to accountability and enforcement measures contemplated in C-15, this Committee notes that Inuit Tapiriit Kanatami (ITK) tabled a resolution passed unanimously by its board members on March 31, 2021 supporting the advancement of a proposed amendment that would establish an Indigenous Rights Commission.

While Minister Lametti said he, "felt it was simply too complex to be able to do that across the board in the complexity of the Indigenous landscape, if you will, across Canada," Inuit leadership has been consistent and unanimous in their belief that this amendment should be further considered in an effort to "enhance the legislation" as explained by ITK President, Natan Obed. Mr. Obed further explained that, "[the proposed amendment] also answers the basic question of how we are going to enforce this legislation once it's passed." He believes that, "the creation of an Indigenous human rights commission consistent with the UN Paris Principles as the most effective means for providing recourse and remedy to Indigenous peoples whose rights have been violated."

Nunavut Tunngavik Inc. President Aluki Kotierk testified that,

> This would serve as an important independent evaluation and monitoring mechanism. Similar to the way in which the Canadian Human Rights Commission is a pivotal enforcement mechanism that helps ensure that the rights affirmed in the Canadian Human Rights Act are enforceable, the establishment of an Indigenous human rights commission would also ensure that the Indigenous human rights affirmed in Bill C-15 are also enforceable.

Finally, in its written submission to this Committee, the Inuvialuit Regional Corporation (IRC) called for "a robust enforcement mechanism to ensure Canada takes meaningful steps to implement it in collaboration with Indigenous peoples." The submission specifically states that, "As a member of the ITK Board of Directors, the IRC reiterates to this Committee the asks made by ITK. In addition to this position, the Inuvialuit urge the Senate to recommend that this legislation must contain language that establishes and gives mandate to a Modern Treaty Implementation Review Commission, housed in the Office of the Auditor General of Canada."

This Committee observes that the recommendations brought forward by Inuit leaders point to a desire for concrete enforcement and accountability measures. These desires are legitimate and should be given due consideration.

Potential Impact on Provincial/Territorial Jurisdiction

In response to questions regarding potential impacts on provincial or territorial jurisdiction, Justice Canada officials stated that,

> We have indeed had considerable discussions with provinces and territories over the past many months and recognize that they have all indicated a commitment to the declaration and its principles.
>
> …The Canadian federation does allow for and in fact fosters diversity of approaches across the country. This has been acknowledged in the preamble to this legislation, which acknowledges the role that provinces and territories will play, each in their own jurisdiction, with the ability to take measures to implement the declaration.

Minister Arlene Dunn, Minister for Aboriginal Affairs for the Government of New Brunswick reaffirmed her government's commitment to reconciliation by stating,

> Canada is walking the path of reconciliation with its First Nations, Inuit and Métis peoples. Our journey has been long delayed, but we have begun. For 400 years, the First Peoples of Canada were subjected to injustices and brutality. I freely acknowledge the pain this has caused, but we will not be able to right every wrong overnight.

According to Justice Canada's *What We Learned Report*, 5 meetings took place with federal and provincial/territorial counterparts to discuss C-15.

However, Minister Dunn pointed out that, "Bill C-15 states that the declaration is affirmed as a source for the interpretation of Canadian law — not federal law, as created by the Parliament of Canada, but Canadian law. This is one specific change that New Brunswick wants to see before Bill C-15 is given Royal Assent." The Minister also pointed to ongoing efforts to engage in a provincial approach to reconciliation.

While Minister Lametti responded to this concern as, "political posturing" in his May 31 appearance, similar concerns were raised in a submission by the Province of Alberta stating that,

> Alberta has advocated since prior to introduction of Bill C-15 that amendments are needed to clarify [that] the legislation only applies to laws enacted by the federal government and not provincial laws as suggested by use of the phrases "Canadian law" in section 4 and "laws of Canada" in section 5…

Minister Lametti attempted to clarify that provincial jurisdiction would be respected by stating,

> We have acted according to the general principles of the way Canada implements treaties that are signed at international law. The implementation of this treaty through the action plan and any changes that are made will apply to the laws of Canada, federal law, and then provinces have to implement in areas of their jurisdiction, as British Columbia has already done.
>
> This implementation act will be moving toward implementing the law with respect to federal laws, and then we would encourage provinces and territories to do likewise in areas of their jurisdiction.

Despite Minister Lametti's statement, a May 31, 2021 joint letter to Minister Lametti, Justice Ministers echoed concerns brought forth by a similar letter the Premiers of Alberta, Saskatchewan, Manitoba, Ontario, Québec, and New Brunswick sent to Prime Minister Trudeau. That letter states that,

> Last fall, we all expressed our shared concerns about Canada's expedited and cursory engagement strategy for the proposed bill respecting the United Nations Declaration on the Rights of Indigenous Peoples: *Bill C-15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples* (Bill C-15). Our respective governments worked collaboratively to share very real and practical concerns about the contents of the draft legislation. Many of us outlined specific areas of ambiguity and confusion in the draft legislation and you received reasonable, measured suggestions from all of us to improve its clarity and address concerns.
>
> The federal government's response has been disheartening and we were deeply disappointed when Bill C-15 was tabled in early December. Our reasonable expectations for real answers to our questions and real solutions to address our concerns have not been met.

The belief that C-15 transcends in application the constitutionally-defined division of jurisdiction is one that is also shared by some Indigenous witnesses. Champagne and Aishihik's submission states that, "it is our view that Bill C-15 applies to the Yukon Government" and Chief Steve Smith reiterated that with his call to amend C-15 so that it was explicit, "that provinces and territories cannot — and I repeat, cannot — opt out."

Shennin Metatawabin, CEO of the National Aboriginal Capital Corporation Association explained the ongoing debate succinctly by saying,

> I think one of the major problems with this is that the federal government has a responsibility to the communities through the Indian Act with the relationship and the treaties that Indigenous communities look to the federal government for that responsibility to ensure that everything happens that way. But the federal government downloaded all of land to the provinces. The federal government and the provinces need to work this out so that future prosperity can roll out.

This Committee observes that there continues to be concern and confusion about potential impacts of this legislation on areas of provincial and territorial jurisdiction as outlined in the *Constitution.*

Continued Confusion

In addition to continued confusion regarding potential impacts on provincial and territorial jurisdiction, there is ongoing debate about the definition of Free, Prior and Informed Consent (FPIC).

As Minister Lametti stated,

> Throughout the parliamentary process, there has been a lot of emphasis on free, prior and inform consent. As I have consistently explained and will reiterate, free, prior and informed consent is a process of meaningful participation that involves Indigenous peoples from the outset to inform and even influence government decision-making

processes. While the process does not remove or replace government authority to make decisions, it does inform how that authority should be exercised.

Adam Bond, legal counsel to the Native Women's Association of Canada, explained that the question of who the "final decision maker is" is "far more complicated than that." Mr. Bond explained that,

> The ultimate requirement is that the government has to obtain free, prior and informed consent before making any decisions that will have adverse impacts on Indigenous peoples. However, the reality in the Canadian legal system and cooperative federalism is that if the government decides to make a decision that conflicts with that right, there will be an obligation on them in judicial proceedings, if they're brought, to justify that. The question is what the impact of Bill C-15 has on the legal test for justification in these cases.

Dr. Mauro Barelli, a senior lecturer at the University of London expanded on this to say that, "FPIC represents a key legal standard that states must embrace in order to comply with their international obligations towards Indigenous peoples."

While many industry representatives such as Mr. Swampy and Mr. Buffalo spoke to the importance of bringing clarity to the concept of FPIC, Ms. Joseph provided concrete examples of its potential impact on resource development and the investment climate of Canada.

> Over the last two decades, a great deal of progress has been made to develop well-understood, principled and flexible approaches to project engagement that enable solutions that are mutually beneficial for Indigenous rights holders and industry proponents. However, the experiences of our companies working in the current legal context suggest that there is confusion and a range of expectations on what UNDRIP means in practice, including for existing statutes like the Impact Assessment Act. Government officials, Indigenous rights holders and companies find themselves muddling through with unclear guidance. For example, consultation instructions from federal officials, which now include requirements related to UNDRIP, including concepts around consent and free, prior and informed consent, seem to have become completely disconnected from the principles established by the courts. For a given project, the number of Indigenous communities that CAPP member companies have been instructed to consult has grown from 5 or 6 with whom they have had long-standing relationships to over 35. Many of the new communities identified have no known rights in the project area. Their involvement in the consultation without a grounding in the concepts of strength of claim or impact to rights leaves everyone uncertain about the process. It also means there are fewer resources available to each community, and this may lead to conflict among rights-bearing communities as opportunities are spread thin.

This concern was echoed in a written submission by the Mining Association of Canada that states,

> MAC is concerned, however, that misinterpretations of the intent of the legislation and key UNDRIP Articles (including FPIC) combined with an undefined action planning process could distract from addressing priority challenges and undermine recent progress. As expectations related to this Bill continue to diverge, so does the risk that C-15 will not provide greater predictability and certainty over time. Rather, it will intensify existing uncertainties in regulatory consultation processes and result in unintended consequences, which will in turn jeopardize the transparency,

> consistency and timeliness of decision-making processes and impact the viability of natural resource projects and their associated benefits to Indigenous individuals, communities, and businesses.

The concept of FPIC does not only apply to resource development but to legislative and administrative policy changes as well.

In the Yellowhead Institute's Red Paper released in October of 2019, a high-level definition of FPIC is given as,

> FREE – consent given voluntarily and without coercion, intimidation or manipulation. A process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations, or timelines that are externally imposed.
>
> PRIOR – consent is sought sufficiently in advance of any authorization or commencement of activities.
>
> INFORMED – the nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process.
>
> CONSENT – collective decision made by the rights holders and reached through the customary decision-making processes of the communities.

According to Grand Chief Watchmaker in his written supplementary responses,

> It is clear to the Confederacy of Treaty Six First Nations that Canada failed on all fronts with respect to this definition of Free, Prior, and informed Consent provisions of UNDRIP. The government of Canada did not meet any of the criteria of FPIC. Not even a minimum standard. The United Nations Committee on the Elimination of Racial Discrimination (CERD) has written numerous letters to Canada at least since 2005 to implement the right of FPIC. Most recently, Canada wrote in April 2021 to respect the Treaty Rights of the Mi'kmaq and their right to FPIC. Therefore, I say you cannot think of this Bill as UNDRIP. The Bill does not meet the minimum standards that UNDRIP attempted to achieve, or the definition provided by the Yellowhead Institute. Instead, Canada has diluted it, is forcing artificial timelines, not talking with the rights holders, manufacturing consent with corporate bodies, and provided us with little to know information. Most of the information we have to date is from listing to the Senate Committee on this Bill. This is clearly a breach of our treaty relationship.

This Committee observes the ongoing call for clarity in defining the principle of FPIC. It further observes that there is an ongoing debate as to whether FPIC is a process or a pre-condition of approval.

The question of whether Canadian jurisprudence is another one raised during consideration of C-15. Minister Lametti stated that, "in the bill there is a recognition that section 35, that Canadian federal and provincial law also still continues to exist, and they will continue to be the last word in a number of different contexts," and Justice officials reiterated that, "we'll continue to be guided by the section 35 case law."

This was refuted by testimony from Dr. Turpel-Lafond who stated that, "The idea that Bill C-15 in any way takes the United Nations declaration and makes it subject to a bad decision from 30 years ago or something is an error in how the law works." She went on to say, "The idea that somehow this bill subjugates an international instrument to some kind of

decision is an error. Section 35 is there — it's moving and it's flexible. We've seen that in the recent *Desautel* decision."

Chief Abram felt that Minister Lametti's interpretation was in direct violation of the principles underpinning the Two Row Wampum Indigenous legal principle and stated that, "To assume that Canadian jurisprudence has priority over nation-to-nation relationship falls back again on doctrines of superiority, and so we reject that notion."

This Committee notes that conflicting testimony was received in response to the question of whether Canadian jurisprudence would continue to prevail.

The speed of this bill's movement through the legislative process, in conjunction with limited consultations and a compressed timeframe for study, has led to an issue being overlooked by parliament.

In his submission, Bradley Armstrong, an adjunct professor at the University of British Columbia Law School raised potential concerns with the application of C-15 within the context of the April 23, 2021 decision in *R v Desautel*. Mr. Armstrong explains that,

> the Supreme Court of Canada took a "purposive approach" to the definition of "aboriginal peoples of Canada" in Section 35 of the Constitution and determined that it also extends to aboriginal peoples in the United States who are able to prove claims of historical aboriginal rights on lands within Canada which they could establish were part of their traditional territories. The Court decided (wrongly in my view) that the words in the Canadian Constitution "aboriginal peoples of Canada" can include American aboriginal people.
>
> This finding has significant implications for Bill C-15 and the adoption of the Declaration in Canada. The question is whether it is the intention of Parliament to grant these rights not only to Canadian indigenous peoples, but also to indigenous peoples who reside in the United States, and who can make claims over traditional territories which historically extended across the border into Canada…
>
> [Article 26] does not recognize the test in Canadian law for exclusive occupation as a requirement for proof of aboriginal title and ownership.3 But the Article requires the government to give legal recognition to the land, territories and resources that Indigenous groups possess "by reason of traditional ownership or other traditional occupation or use". This is a much broader definition of the right to ownership. A major question – does this requirement apply despite the numbered Treaties? And despite provincial ownership of Crown land under those Treaties?

These important questions have not been raised to the appropriate Minister and any request to have a substantive answer prior to passage of this bill will likely be characterized as a delay tactic.

As such, this Committee observes that the important question of the interplay between the *Desautel* decision and C-15 remains unanswered, though important, when interpreting the provisions of this legislation.

Manufactured Deadline

Witnesses and written submissions in support of C-15 repeatedly called for "swift passage" of the bill and for the Senate to pass the bill "without delay". National Chief Bellegarde expressed his sense of urgency by stating, "I respect that all senators take their responsibilities to review this bill very seriously. However, you cannot lose sight of the closing parliamentary window. We must not lose another opportunity for such crucial legislation to be passed into law." Despite no scheduled election for two years and given the major concerns raised regarding the consultation process and the substance of the bill, **this Committee notes its disappointment that more attention could not be given to resolving the issues brought before it.**

Pressure to Abandon the Senate's Privilege as the Chamber of Sober Second Thought

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In his presentation to this Committee, AFN National Chief Bellegarde stated that, "At this point, the AFN is not seeking any further amendments to the bill from this committee. The reason is simple: The clock is against us."
Minister Lametti stated that,

> While I'm never completely opposed to amendments, there is a time dimension this time around. Also, because it's a bill that has an impact on Indigenous peoples across Canada, there has to be some consideration of their views with respect to amendments.
>
> …It is getting late in the game, and we think this is an important piece of legislation. We would like to get to the next positive step, which is building the action plan collaboratively and cooperatively with Indigenous peoples across Canada.
>
> So I think it's critically important that we pass this piece of legislation as soon as we possibly can. So while I'm never closed to amendments in principle, I really will implore you to weigh the considerations I have just given you, both with respect to time and with respect to Indigenous co-development of any amendments.

That testimony is contrasted by Chief Monias' testimony regarding his proposed amendments saying, "I'm trying to say it's the right thing to do. If you're going to do it right, might as well go the full way. Don't go halfway."
Similarly, Grand Chief Watchmaker stated,

> I believe the Senate must also look into its own history regarding how difficult it is to amend a bill after it has already been passed. Senators are well aware of how difficult

it is to amend legislation after the fact, looking at, for example, Bill S-3. It took three extensions to allow it to happen.

In his written supplementary responses, he went on to state that,

> I believe that government dictating and telling the Senate that they cannot do their job is unconscionable. We see the Senate as the chamber of sober second thought. It is important to rethink the whole structure that Canada has tried to impose on all levels of the parliamentary process.
>
> If you agree that no amendments are considered – there is an abdication of one of the core values of being a Senator. You are sitting to consider in a thoughtful and measured way, what has been proposed by the House of Commons. It is a renunciation of your duties to agree that no amendments can be made to any Bill. We expect that the laws regarding the parliamentary process will be followed.
>
> In our oral submission, we made reference to the problem of making amendments after the fact. We draw attention to S3 – which needed three court decisions for extensions prior to amendments being made. It is a lesson on how tough it is to make amendments after the fact. In saying that this Bill can be changed later, the government is admitting that there are defects in the Bill. The prudent approach would be to table this Bill and engage in a real process that bring honour to the Crown.
>
> This Committee notes that while great effort was expended to hear a number of witnesses and engage in a balanced, thoughtful debate, the pressure of time resulted in a compressed, intensive pre-study of the bill that resulted in no amendments due to a perceived notion that that such amendments would lead to the ultimate delay of C-15.

This Committee observes that it remains the constitutional duty and privilege of Senators to amend bills as they see fit and in response to serious and legitimate concerns raised by witness testimony and submissions; it is an integral function of the Chamber of Sober Second Thought.