

[00:00:00:00 - 00:00:01:10]

(Music)

[00:00:01:10 - 00:00:36:09]

Tyler

107 is kind of a bleak area of the labor code. It was never really intended to be used in this way long-term. In fact, I can tell you because I handled labor relations policy for Justin Trudeau for the better part of all of his first mandate. The potential use of 107 was never briefed by anyone in the Department of Labor as a tool in our toolbox. It got used somewhat accidentally and incidentally, in the case of the longshore workers. Since then, it has been relied upon to resolve a lot of other cases.

[00:00:37:10 - 00:01:18:18]

Ben

Welcome to the MBP Intelligence Briefing. I'm Ben Wuchhindin, Director of MBP Intelligence and Senior Advisor at Meredith, Bozenkul and Phillips. Every week, we bring you unique and exclusive insights into the ideas, policies, and events shaping Canada's political landscape. From trade and fiscal outlooks to the decisions influencing business, governance, and public life, we bring context, experience, and perspective from people who've worked inside government, policy, and politics. MBP Intelligence is not punditry. We deliver targeted, actionable insights that help you give strong advice and make quick, informed decisions. Whether you're leading an organization, shaping policy, or simply curious about how complex decisions get made, this is your exclusive MBP Intelligence Briefing.

[00:01:20:01 - 00:03:22:13]

Ben

Hello, and welcome to the latest edition of the MBP Intelligence Roundtable. I'm Ben Wuchhindin, Director of MBP Intelligence, and today I'm joined by Talamirdith and Shannon Phillips. Lots to discuss today. I'll just give you a quick rundown of what we're going to talk about. So first, we're going to talk about national projects, and they're all the rage right now. And so MBP Intelligence released some exclusive polling done by Dana this

week digging into some of the details on these projects of national interest. So we're going to start with that. And then, because we can't avoid it, we'll get into the latest saga and the trade wars and the various eruptions on either side of the border in the last seven days or so, and what that means, what the state of these negotiations is. Next, we'll take a look at the developments in Alberta this week, the Alberta government ending the teacher strike fair using the notwithstanding clause. And we'll take a look at the use of Section 107 of the Labour Code more broadly, and where Labour stands right now, where Labour's feet stand right now. And then lastly, we'll do as we always will go around the hall and things we're watching before. So let's jump straight in here. So this week, MBP Intelligence released exclusive polling done by Dan Arnold and Pallara on projects of national interest. And you can go to our site, mbpenetelligence.com, to see this exclusive polling. And why do we do this? It's because few things matter more in Canadian politics right now than these projects and what will actually happen with them. As a reminder, we had an election campaign where the centrality of Trump's threats to Canada spurred I think a general recognition to get building projects of national interest that will allow us to assert sovereignty and reduce our lives on the United States. And Liberal's, of course, won, and Carney was elected on a mandate, and I'm quoting him here, so he said this a few times, "To do things previously thought impossible at speeds we haven't seen in generations." And this is somewhere where PI Pollard's conservatives, while they disagree on the specifics, agree in some broad sense and Pollard has long campaigned on getting such projects built, especially pipelines, of course. But we decided to dig deep with our polling on what this actually means and the result should surprise everyone, I think. So let's get into this. Let's start discussing our findings. And Shannon, I'll start with you. What were your key takeaways from these numbers that we took the poll are?

[00:03:22:13 - 00:04:54:12]

Shannon

Well, I think our polling needs to be taken in context of other polling that's been out there. And you've seen Canadians broadly express support for major projects, broadly express support for things moving faster than they have in the past, broadly expressing support for the oil and gas industry and for mining and sort of extractive industries more broadly. What does that mean? That means that Canadians understand leverage and they understand that we do have some relative to the United States. And they know exactly where that leverage comes from, which is our raw commodity exports. They understand we're an export-oriented economy and that while we have some vulnerability with respect to agriculture, auto, steel, aluminum and forestry, we also have strengths. And so within that,

we have Canadians expressing, I think, what is a very distinctly Canadian and somewhat maddening perspective, which is the majority of people do want to see us keep in place our environmental safeguards. Canadians understand that we have constitutional responsibilities under section 35. And we have either treaty relationships or very foundational legal relationships with indigenous peoples. They still want to see things go faster. So they want all of the things. And that is a distinctly Canadian approach. But there's a lot of folks in the don't know categories in our question set, which tells me that people are looking for what is going to happen in specific projects. They're looking for the place-based arguments that civil society and communities will be making one way or the other. And Canadians remain open to conversations about major projects in those specific places.

[00:04:54:12 - 00:07:52:18]

Tyler

No, what's interesting to me is, and Shannon kind of set it up there, that the public already kind of has expressed a desire to want to build stuff, right? It's a time to build, I think was in some ways the characterization of the last campaign, whether you agreed with Mark Carney or not. I mean, Pierre Poilievre also, as you said, Ben, had a similar kind of message, right? But what we don't understand in the public opinion domain, and this is what motivated a little bit of why we ask these questions, is what's the trade-off between these things, right? And I think Shannon's right that the public doesn't see these things necessarily as a trade-off. But what's important as to why that matters in this context for C5 is that C5 is a fundamentally different kind of legislation, because what it says is that it confers power to Cabinet to kind of act as the traffic cop, right? So on one hand, Cabinet will set the agenda by saying that a project if deemed in the national interest will proceed on a basis to get approved within two years. It has that certainty that once it's been sponsored, it will get approved. It will get approved in a faster way, potentially by streamlining processes. But it also confers the power on Cabinet in superseding these other regulations potentially to impose other conditions on the projects, right? In a way that Cabinet always has the ability to impose conditions, but usually those are restricted to simply an environmental review. So now it can impose conditions on things like, is there gonna be unionized content in those projects? What is the nature of Indigenous engagement? Should there be mandatory Indigenous participation economically in those projects? What are the nature of the environmental mitigations, right? Government can actually act more transactionally in supporting those projects. That's actually, even though it may sound counterintuitive, that's actually beneficial to a project proponent, because what it does is it allows government to act at the intersection of all these different interests

and develop the conditions for social and political and economic license for these projects in a way that up to now, government has said, okay, well, we certify this review as having been done to the appropriate standard under law, but it's ultimately up to the proponent to demonstrate that it has license and to argue for it as it goes through the process. Now government is actually there as a kind of a sponsor, right, and that allows government the ability to act transactionally on all sides. And so in this context, right, what I think the research shows is very important is that the public actually wants conditions. The public is open to conditions in the sense of whether that should be unionized labor or whether that should be environmental mitigation offsets to have those proponents. To the extent there are environmental concerns that are raised by projects to invest in things like renewable energy and conservation and technology use that reduces emissions, et cetera, and that does these projects right. Cause that's ultimately what we're trying to do, right? If there's going to be a future in which these projects are sustainable and are going to succeed over time and are not simply going to be able to be stopped by enough noisy minority voices, it's going to be because government and business and non and civil society have actually worked together to try to say, what can we extract from this project that's actually worked to be able to do it right? That may, again, that may sound a little bit crazy to the business community. It's actually a very good thing.

[00:07:52:18 - 00:09:56:17]

Ben

Yeah, there were certain numbers in this that really, really jumped out to me. And I think it is fair to say we're living in a moment right now, right? A very specific moment where politics isn't ordinary, right? There's something extraordinary about the moment and the catalyst, and I can steal one of Marconi's famous words here, the catalyst for all this was, of course, Trump's repeated threats towards us. Canadians gave, we did start to see change in public opinion on what became acceptable and the recognition that we did need to move quickly on these things. But that moment is that if something continues to be extraordinary, eventually it becomes ordinary, right? And I do wonder how much longer the moment where it lasts and when all this stuff kind of just fades into the background of ordinary politics. And if that happens, then the impetus for wanting to move quickly itself might slow down, right? Two numbers in this that really, really did jump out to me was that if you think there's two kind of roadblocks that maybe don't necessarily stop, but certainly slow down with our major projects, the first one is the duty to meaningfully consult. And the second one is kind of the broad tranche of environmental reviews, regulations that projects must go through. And the two numbers that jumped out to me here, 53% of Canadians

believe we have a duty to still meaningfully consult with Indigenous people on projects of the national interest versus 28% of people who think we should be able to skip some of these requirements. And 48% of Canadians think these projects should still be required to follow all current existing environmental regulations versus 33% of people think we should be able to skip some of these. There's majority opinion nearly in both cases for these two broad kind of things that do slow down these projects. And I suspect as time goes on, you'll see those numbers probably, as again, as we fade back into ordinary politics. And the Prime Minister's talk repeatedly about needing to move at speeds. We haven't moved out in generations while part of the challenge there is not just moving at those speeds, but he has to move quickly at moving at those speeds because his mandate to move quickly will itself diminish over time. So I looked at these numbers and I think there's warning signs in there for the Prime Minister that if he's not careful, he was elected to do something big here. And if he doesn't deliver in some sooner or later, I think that could pose a serious challenge to his government down the road.

[00:09:56:17 - 00:12:13:11]

Tyler

Yeah, and I think we should note, and the post that accompanies this polling goes into some, but not all of this detail, but we can certainly follow up with people who are interested one-on-one. There's some very interesting regional, demographic and political dimensions to the results. So we tested four different kinds of trade-offs, one being on environmental review, the other on unionization of who builds the stuff, the third on indigenous engagement, duty to consult and meaningful engagement, and then the fourth being on the kind of environmental offsets that might be negotiated and what are the kinds of things that people would want. On the first two, which is environmental and unionization, you do certainly see a pretty stark regional split where central and eastern provinces, I would say, are more in the build right category in the sense that they want those conditions harnessed in a way that will still maintain the adequacy of the environmental review and unionization. But notably, of course, even in other Western provinces, there still is a pretty high level of support for ensuring that the integrity of the environmental process is also upheld. But what's interesting is that the indigenous expectations that people have as it relates to the constitutional duty to consult and engage is the one where there is kind of a universal truth in all of this. It's the one thing that even in deep hearted, let's build it Alberta, right? There is a clear majority support to ensure that, ensuring that there is license and engagement and support from indigenous communities. Now, how you define that, I think, is a separate question that has to be explored probably

more with qualitative research. But indigenous engagement and the duty to meaningfully consult is not seen as something that is sufficient to be able to be bypassed simply because it takes too long to do so, right? And so the fact that even a majority of people in Alberta, Saskatchewan, Manitoba support that view is at least to me, as somebody you might describe as the Laurentian elite, I took it a bit surprisingly. And again, when we look across age, when we look across income, when we look across other demographic factors, it's the one thing where there seems to be a consistency and a universality. I just think that's quite interesting because I would have thought that in this moment of build, baby, build, there might have been a step back or weakening of Canadian support for how far you want to push around meaningful engagement and the kind of tough and sometimes messy work that is required there. But actually, Canadians seem to be quite true to their principles.

[00:12:13:11 - 00:14:04:19]

Shannon

I will just add here though, number one, in Western Canada, I think you see that level of responding because at least in Alberta, the population has experience with what happens when you don't do those things correctly, in particular related to linear projects and the long saga of the Northern Gateway pipeline and its failure. And so that's the first thing that I think Albertans have internalized that no, you're not probably going to get around those things even if you try. But also, I just really wanna flag the don't know. The don't know category is large. It goes between sort of 17 and 21, 23%, depending on the question that we ask. And that is very, very important because that kind of shows the place for politics in all of this. People can go either way. And all of a sudden, you are in a 50-50 proposition. And if you want evidence for how that can sometimes start to move, I give you the province of British Columbia, where issues related to indigenous rights and title and interpretation of history and residential school denialism and all of these things have now popped up in the public consciousness in a way that is, you know, potentially quite distasteful for many of us, but it is real. And it has become a point of politics and of contention and not necessarily potentially like a liberal discourse, but certainly because some of the views are fundamentally illiberal, but they are there. They are in the population. And they have become a point of contention and potentially danger for the future of major projects as a political cudgel for, you know, parties to hit each other over the head with. And so I just wanna put a flag down there that it is not, these politics are not fixed. They are not a done deal. What has been won in terms of recognition by section of Canadians that section 35 is

a done deal and we have to do these consultations and they are within the constitution. That's not necessarily something that is fixed, can be gone back upon it, can be reversed.

[00:14:04:19 - 00:15:28:14]

Tyler

If our colleague Ken were here and he's off teaching this week at McGill. So, you know, we give him the academic pass. I know one of the points that he would be making is that if you dig into the numbers and you look at how this translates across vote intent and the political spectrum, it's very clear that there is also a difference within the core conservative movement and the potential or open to vote conservative and potential switcher voters that are, you know, in this last election or in any future election, which may happen sooner than people think, having to decide between a Polyev government or a Carney government, there's a stark difference between those two groups and the latter group, the potential CPC supporters. I have much more of a build it right attitude than a just get it done. And I think therein lies an interesting, and Ben, I'll throw to you because I think you know more about this than anyone. Therein lies a very interesting dynamic that the conservative party is going to have to, and frankly conservative provincial governments, right? Who are seen as being aligned potentially with a federal agenda with the federal conservative party are gonna have to think about how they navigate, right? In the sense that there may be an interest in the long game of how we build these projects, right? To be able to show that we actually can work meaningfully with other stakeholders to be able to get this done because that's where the broad cross section of public opinion is. As I say, there is actually a very important divide there and one that I think all levels of government should keep an eye on.

[00:15:28:14 - 00:16:57:13]

Ben

Yeah, look, that divide isn't surprising I don't think. I do think as much as there is some degree of overlap between broadly the position of the government and the conservatives now, and the fact that the conservatives helped the government pass C5, right? To show the sum, they're not in completely different worlds on this. I do think there is still a kind of fundamental, if you listen to Polyev, if you listen to what conservatives are saying, and not just the federal conservative leader, if you listen to conservative premiers as well, especially Premier Smith, the theory of the case that conservatives have is that C5 is kind of, it's very much a way of kind of working around some of these challenges. What the

conservative case has always been is that we need to, there's a bunch of kind of fundamental legislative reform that is needed, right? So whether it was getting rid of the emissions cap or the tanker ban, that kind of stuff. And while C5 kind of allows war crimes, some of these things, it doesn't fundamentally, and we don't need to get into this today, but there's also separate questions about, I think conservatives would argue that one of the reasons these projects often struggle to get private capital is precisely because the regulatory environment is so hostile, right? So again, there's a different theory of the case there about what's going on. So I don't think those views that you see in the sharp distinction within maybe potential conservative voters and strong conservative voters, I do think there's a way that, as much as that might seem like there is a tension, and Kenny's right to point this out, I do also think that there is the broader kind of branding and messaging the conservatives are selling here is precisely the one that I think actually brings those two together. It's about convincing people that a broader kind of reform is actually needed.

[00:16:57:13 - 00:19:05:18]

Tyler

I think that's right. The only thing I would say, and if we take some of these results and superimpose them upon, say, choices that the Alberta government is having to think about as to where it wants to place its own bet on a future pipeline, right? We didn't ask this question in detail, but I suspect the results kind of lead you in a direction of saying, be wary of going too far on things that will push it at the seams of undoing a tanker ban, for example, by pushing forward on a pipeline that requires an egress point that is gonna have communities like Haida Gwaii, for example, in its pathway of opposition, and maybe look at other opportunities like expanding the existing transmountain pipeline capacity, which has significant opportunities to further diversify our exports into Asian markets. And so again, we'd have to do more detailed research on that, but my only point is I think it drives you in a direction of pragmatism. And this is maybe the last point I'll just make about C5 is I think there is a mistaken belief on both the business community and to a certain extent environmental and civil society that C5 is meant to be simply a bill for the purposes of getting traditional conventional oil and gas resources, and maybe to a certain extent critical minerals built. And it's true, it can be helpful in those projects. And those are the kinds of projects that I think when people think about big national nation-building exercises that we often think about. But actually this bill, C5 can be very helpful to things like the rapid development of renewable energy, which is going to be critical to closing the gap on the remaining parts of our electrical grid that we need to be able to decarbonize. And so if you

believe in decarbonization of our electrical grid, C5 is your friend. It allows you to move faster because the same project approval hurdles that exist for an oil pipeline also exist for renewable energy. What I find interesting in these results is that there is an openness obviously on transactionalism on the part of the public towards the kinds of conditions to build these projects right. But if you also said, how would you harness C5 in order to build projects that are gonna support decarbonization renewable energy? I think I look at these results and I think there would be significant support for those things. So I strongly encourage people outside of the conventional actors who've been talking about C5 to take a second look at this.

[00:19:05:18 - 00:20:34:06]

Shannon

I think that in particular applies to linear projects. So if you have a place-based project, say if it's renewables or I don't know, a petrochemical upgrading plant, these kinds of things, generally speaking, they're not going through a federal approvals process. Their approvals are solely provincial. But as soon as you start trying to move things across borders, you get the federal environmental assessment triggers, you have to do business with all kinds of different nations and you run into things that delay projects. But you also run into a question of how are we actually building this country and what is the role of the state in doing so? So I'm thinking here of transmission lines and de-risking some of those investments so that we can actually build out more renewables, so that we can actually build out more either exports to the United States so that we can build out more AI data centers in that particular places. You're gonna need that backbone. And the question then that it raises for government is what is our equity participation for the federal government in Crown utilities that are historically provincial? How are we de-risking this? How are we getting it done faster because they take way too long? That is what C5 opens up and that's where you're going to get Canadians much, much more. I would say you're not gonna get 50%. You're gonna get much more like 70 of folks who are like, yes, I am all in because I understand that this is about national security. This is about development in our communities and it's about the historic role of government which is to build out things like an electricity system, like an energy distribution system, if you will. Governments have always been wrapped up in that.

[00:20:34:06 - 00:20:39:00]

Ben

Okay, we'll leave that there. I think this is obviously something we'll keep coming back to in the coming 10 years.

[00:20:40:14 - 00:21:10:19]

Ben

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[00:21:11:20 - 00:23:16:10]

Ben

Okay, so next up today, we're going to unfortunately have to venture into trade war territory. So I'll say at MBP Intelligence, we consciously strive to stay away from rank punditry, which sometimes that means we don't talk about things that pundit monopolize. And just because something is juicy, we don't necessarily think it's something that is something worthy of substantive discussion. But the centrality of our trade war with America means I think we do need to talk about the latest developments on this front. So I'll give a quick recap for everyone. I'm sure this is familiar to most listeners, but Doug Ford's Ontario government, and I think it's fair to say he's a kind of consciously been voting himself as Captain Canada for the last six months or so, but beyond that. And increasingly, I think there is signs of their approach that the Ford government wants to see as a bit at odds with how the federal government's been handling in the trade war. But it's safe to say Ford made global headlines around the world this week, and that the Ontario government paid to run that took comments from former President Ronald Reagan talking about free trade tariffs and protectionism and the dangers of these things. And this was obviously an effort to influence public opinion and public conversations. Trump had a, I think I prefer to say, a kind of predictable tantrum over this, and then announced he was slapping another 10% tariff on as his punishment, and did the trade negotiations, the behind the scenes negotiations that both sides were engaged in, and accused Ontario and Canada of cheating and spreading misinformation about what Reagan said. And last week, Ford doubled down on these ads, but then after a conversation with the Prime Minister, said they

were going to be pulled, they've now been pulled. Ford did insist that Carney and his chief of staff had seen these ads before launch. And then on Monday this week, it's a kind of very well-known reception in the Ottawa bubble circuits, the Canada-America, a Canadian-American Business Council reception, which usually held at the National Art Gallery. And the American ambassador, Pete Hoekstra, launched into an expletive-laden tirade at Ontario's trade representative, David Patterson, in front of attendees at this event. And so there was witnesses to this, and Ford later called for the ambassador to apologize. It's a messy situation, right? What do you think this tells us about the state of negotiations and our relationship?

[00:23:16:10 - 00:26:59:14]

Tyler

Yeah, so I'm not gonna go into the heady details of who was right, who was wrong. I'll leave that to others, as you say, Ben. That's punditry. But I wanna make three points. And this comes from a bit of my own perspective of having been part of the negotiations with Trump in Trump One, and what I learned of that and how that's different in this context. It's just been announced that Trump has had a tentative deal with China on reducing the fentanyl tariffs and putting off some of the rare earth restrictions that China had started to impose that would have been quite problematic for Trump. It's not necessarily a deal in that sense, because everything with Trump is always kind of a framework and simply a photo op. But clearly, we've seen with China that their extent of using leverage has been significant enough or seen as important enough to Trump that it has resulted in a very different approach to how they deal with them, as to how they deal with us. And yet, we are actually a more important, in some ways, trading partner with the United States than is China. More important for the majority of US states as their number one export destination. So I think that's interesting and maybe tells us a little bit in this question about whether leverage used in the right way, not in a bombastic way necessarily, but used in the right targeted nuanced way can actually have the effect of moving Trump off of his negotiating strategy. So that's point number one. Point number two is, you heard the prime minister in his remarks after everything blew up say, well, we were in very detailed, comprehensive discussions with the Americans following his visit to the White House in early, that has now stopped. What's interesting in that respect is, if you believe that they were still on them, the track towards side deals on steel, aluminum and energy, it's hard to believe what he means by detailed negotiations. Now, obviously I'm not in the room, we're not in the room, so I don't want to second guess him, but if you're doing a side deal on steel and aluminum in particular, energy may be more complicated. But if you're doing a side deal on steel and aluminum,

it's actually not that complicated. It's really what's your tariff rate, what's your tariff rate quota in terms of the amount that could be imported tariff free before a rate potentially applies and TRQs are something that the US administration has gotten comfortable with over time. And what are you doing about transshipment, right? Of products from other countries that are trying to get around those potential rules. And so if in fact they were very detailed and maybe what that suggests is actually there was other stuff on the table beyond these things on steel, aluminum and energy. And if that's true, I think that's a very different kind of discussion than what Canadians may be open or acceptable for. And if that's true, I think reporters may want to push in on that a little bit, but I also think that it suggests that Canada was trying to have more of a horizontal negotiation as opposed to resolving these very specific sectoral tariffs that we're facing. And maybe I guess just the third point is we're now clearly in my opinion in a no deal scenario. And what's fascinating is earlier this week, Goldie Heider also said, it is an inconceivable, absolutely impossible outcome for us as the business community, the business council of Canada, if we get no deal, right? Well, I'm sorry, Goldie, you have to accept that that's actually a possibility and a reality and that in fact may be better for Canada, back to my point number one around leverage, then trying to negotiate on the basis of what our concessions are, because clearly the United States I think does not have an interest, or at least the folks around the president do not have an interest in getting to an outcome, at least in the short term, on deal terms that are beneficial to Canada. And so we may in fact need an extended period of no deal for pain to be felt on the side of the United States so that we quote, "lose less badly," right? And that we are then in a position potentially after the US midterms to negotiate more effectively, where hopefully Trump has lost some of his political leverage and there's been enough of a signal from Congress and potentially the US Supreme Court that the manner in which he has pursued these tariffs does not accord with his constitutional powers.

[00:26:59:14 - 00:28:43:12]

Shannon

I don't have much to add beyond what Tyler has said because I think he's essentially, regardless of ideology, has articulated the position of this firm, which is we have as a group essentially landed that our patriotic orientation isn't just what makes us feel good and makes us wrap ourselves in the flag. It's actually the best orientation and face for Trump to be negotiating with. That a strong Canada is actually much better than what we might lose in putting forth a position of strength in our negotiating is better for us than just laying down and accepting whatever terms that they give us. Economically that is, and that's why no deal is better than a deal that locks in some terms of trade that are very, very damaging to

us. The only other thing I'll say is this. In the last sort of go round of really turned up rhetoric from the president of the United States in Q1 of 2025, you saw the split between Danielle Smith and I guess the Trudeau government at the time around what we should do in response. Should we be strong or should we be weak? And Danielle Smith taking the position that we should be weak. Now you're seeing a split of a different kind with provinces where provinces are saying, "No, actually you are being weak and we would prefer you to be strong." You saw Wapkinneau be publicly critical of the Carney government. Last week at the Empire Club in Toronto, you saw David Ebe bust out the next day with, "Yes, actually we are going to dial up our advertising in the United States market around forestry." And so you're seeing a bit of a split from the federal government in that way. And that will be what to watch in how provinces move forward with their sectoral interests, whether it's auto, with the Ford government, whether it's steel, aluminum, forestry, and other access to American markets, agricultural exports with canoe and Ibe.

[00:28:43:12 - 00:30:53:09]

Tyler

And Ben, I want you to jump in on this in a second, but I do want to pick up on this point that Shannon just made about the provinces, because even if you are pro-ad, and I think it's fair to say, we're all on this podcast, probably pro-ad, right? We think that that's actually a tool that Canada hasn't used and probably should have been using earlier, but whatever. Regardless of what you think about the ad, we're potentially pro-ad. But nonetheless, I think you can make the case correctly that there's still a coordination problem that's been revealed by this ad, right? Which is how do we all speak from the same policy playbook? And the freelancing that has been going on, and it's freelancing on the part of provinces, as much as it also is freelancing on the part of the business community and stakeholders, right? We've not been on the same page as Canadians in the last number of months. And I think part of that is because we're starting to feel anxious, and that's a normal human feeling, and we have to get through that. But the other, frankly, is this stall of pores of vacuum, the behavior that we're seeing, a pores of vacuum. The vacuum has been created, I hate to say, and I'm not being critical here of my former colleagues, but I think there's some truth in what I'm about to say. The vacuum is because these negotiations have been held much more tightly than the negotiations that were done previously with Trump before. Now, there may be a reason for that because this is a more volatile, erratic presidential administration than was true even of the first Trump presidency. But nonetheless, the Kennedy US Council, for example, that supposedly advises the prime minister that was created by Justin Trudeau, which was previously meeting on an almost daily basis, so that

there was an information flow between stakeholders, premiers, and the government, the federal government, about what was going on and to take their pulse on negotiating strategy. It has met only once since the election, only once. And so I think what you're seeing in the public is people agitating for we don't know what's going on, and so we're just gonna start to do stuff. And if you're the prime minister's office, you need to get on top of that. We cannot manage our own agenda if we do not have a coordinated response. And whatever you think about the ad, it reveals, I think, a lack of coordination that exists right now, and we've gotta button that up as we get into the next rounds of how we engage the Americans.

[00:30:53:09 - 00:31:48:21]

Ben

Yeah, look, I think there is clearly, the united front that we had early in this does seem to be fading, right? Precinctly, it seems like there are provinces are openly disagreeing about how we should actually be approaching these negotiations, and that kind of lack of coordination between the feds and the provinces is weakens us, right? This is the prime minister himself, repeats what we said, that claimed that Trump wants to divide us. And so if that is the president's goal, then it's working, right? Like there is increasing division between the provinces. One thing I would add to this as well, something I've seen kind of the pundits fear is that people will point to all these other deals that Trump assigned with various countries and use this as kind of proof that we're failing on this. I do like to always point out to these people when they bring us up that none of these deals are deals that would be in any way acceptable to us. I think the best deal that any country aside into these major trade deals so far was, I think it was Britain, and that included basically baseline across the board, 10%.

[00:31:50:06 - 00:32:18:19]

Ben

If we woke up tomorrow and that was the situation we found ourselves in, something happened to Cusmo, it would be an economic catastrophe for us, right? And so it's funny, in a previous world, the term no deal is better than a bad deal used to mean something very different to me. I think in this case, no deal is better than a bad deal, right? I think the specifics of this deal are precisely why that matters. We have to, too often these

discussions now are in vague generalities. We actually have to be looking at these concrete details of what would a deal look like? What are we giving up to get this deal?

[00:32:18:19 - 00:34:16:04]

Tyler

Absolutely, and on this point, I would encourage people to go if they haven't done so. I encourage you to go read a really good paper that Jim Stanford did this summer, and people may have their views about Jim, but he is a serious economist, and he's pretty upfront about his baseline views. But he did this paper this summer that looks at, basically to your point, Ben, about if you superimposed on Canada the kinds of deals that other countries have thus far negotiated with the United States and the tariff rates, the baseline tariff rates that they've accepted as the entry fee to the club, right? The Marilago Club of the US market. How would that affect Canada? And what people forget is that, yes, it's true, the Canada today has the lowest effective tariff rate compared to our global peers, and even if that rate were to increase over time, even a tariff rate around 8, 9, 10%, which is not that much higher than the effective tariff rate we're at today, would have quite significant negative economic implications for Canada because we are even more trade-exposed to the United States than countries like China and Mexico just because of how integrated some of our trade is, and frankly also because there is, in some cases, like auto, just simply not a clear alternative buyer in the world for some of those exports, right? So if you were to take the Cure Starmer deal, right, as kind of sycophantic and bended knee as it was for him to be the first mover in the developed world to go in it and try to flatter Trump with that kind of a deal, that can work for Cure Starmer because the UK is much farther away from the US market, right, and doesn't have as much dependence on how it sells certain products to the US. I mean, it wants to sell more Rolls Royce engines, it wants to sell other high-value products, but it just isn't sitting right across the border, right? And so that Cure Starmer deal doesn't work for us. Stanford does this excellent analysis just of comparing kind of at what level is the pain threshold of a tariff simply unacceptable for Canada, and that's the kind of analysis we frankly do not see when we see talking heads on television from different stakeholder groups.

[00:34:16:04 - 00:35:50:15]

Ben

Yeah, I think with something we'll relax on there, I think I have to come back to at different points. And these stories are also obviously very fastly moving. Every day it seems like you wake up and there's a new development on these fronts. We'll leave that there. Our next topic, let's dig into what happened to the big news out of Alberta this week and some of the broader developments on the labor fronts. This week, the Alberta government used a Section 33 charter, known as the Notwithstanding Clause, to end the ongoing teacher strike in Alberta. It's been going on for a couple of weeks now, and this is the latest in a series of government interventions into labor disputes in recent years. This one's a bit different because it was using Section 33, but in recent years, the federal government has made, I think, safe to say, heavy use of Section 107 of the labor code to end labor disputes. Some recent examples include a flight attendants, WestJet mechanics, CN and CP railway workers, dock workers at major ports, and postal workers. And it's been used eight times since 2018 to strike some lockouts in federally regulated industries. So there's a clear pattern here. And this is gonna be an important thing to keep in eye because both because of what it tells us about the state of labor and labor unrest in Canada, but also because again, returning to that polling we did with Pallara before, Canadians are somewhat mixed on the role, unionized workers should play at national projects. And these kinds of it's going to clearly need to be a role played by unions and labor in any of these projects. So these kinds of things are going to be pertinent, not just to labor disputes, but also to what we end up doing on these national projects front. So Shannon, I'm gonna throw it to you here. You're very familiar with what's going on in Alberta. How did the government get to this point? What does it tell you about the state of labor politics in Canada?

[00:35:50:15 - 00:38:03:00]

Shannon

Well, the government got to this point because they essentially took class size and class complexity off the bargaining table and refused to bargain about it. When the government of British Columbia did this in the early 2000s, they were slapped down by the courts twice and eventually ended up at the Supreme court where the Supreme court said, you can't do that. And meaningful bargaining means meaningful bargaining about the working conditions. And part of that is classroom size and complexity. The government of Alberta refused to bargain about that. They starved the teachers out or attempted to for three weeks and then legislated them back using preemptive use of the notwithstanding clause. This is a five alarm fire for the labor movement across the country because the vast majority of labor relations occurs at the provincial level. Any, now I would argue any conservative government that doesn't proceed, they have anything to lose in their voting

coalition by legislating people back to work using this mechanism will feel free to do it. The instant they feel mildly and convenience by a public sector strike or private sector for that matter, they will reach for the notwithstanding clause. We have opened up a can of worms here on a legislature override of our fundamental freedoms that I think is extremely alarming, not just for the labor movement, but all Canadians. Because the check on using that section 33 of the constitution was supposed to be public opprobrium. And I think what you're going to find is a lack of coordinated response from the Alberta Labor Movement, let alone the Canadian Labor Movement. And part of this is because the ATA is not within the House of Labor and it's not affiliated to the Federation of Labor and the Labor Congress. And part of this is the historical weakness of the Alberta Labor Movement, which is well known, given our union density and other numbers. So I think this is really, really problematic for across the country. It is going to mean that likely, depending on what the courts rule, the federal government is going to reach for 107 more often, not less, because the alternative being to let the strike play out, that is one of their options. But if they are not circumscribed by the courts and how they can use 107, this allows them to use it without having to go in to the House and introduce back to work legislation, which I think is more problematic for them, given their voting coalition. That's a lot, but I think at the end of the day, we are in a really important political moment that frankly doesn't give me a lot of optimism for what it says about the strength of the labor movement and the response.

[00:38:03:00 - 00:42:27:16]

Tyler

I think we should start from the perspective of reminding people that it's not inappropriate to use back to work legislation, right? It in fact is judicially acceptable to use back to work legislation, but it has to meet a test about the degree of pain and harm that has already been inflicted and whether that is reasonable relative to the particular substitutes or alternatives that the economy has, right? So in the case of Air Canada, it's, you know, can passengers find accommodations on other forms of transportation? And, you know, does Air Canada have too much of market power, which is maybe a separate competition policy, hello, around its ability to move goods to market? And so it is actually acceptable to use back to work legislation. You just have to allow sufficient time and pressure effectively on the parties to have pursued the alternative path of going back to the table. And then for that to be irredeemable or irreconcilable that you then as government have to step in. And I think that the problem with not with the use of the notwithstanding clause is that, you know, it is government effectively vacating that need to demonstrate that there has been harm that's been incurred. And obviously this is the provincial government using

notwithstanding clause after the fact, right? It's not like they're using it at the start of this particular strike, but I think the precedent here, right? And, you know, we saw in Ontario, Doug, or tried to use the notwithstanding clause in also an education strike a few years ago, right? And had to back off because of the very significant blowback that he got politically about that. So this is Alberta testing that precedent, right? And if this can now be used in a proactive context, that sets a really dangerous context around labor negotiations in the future. Because I think Shannon, as you rightly point out on 107, at the federal level, there has been increasingly with the use of 107, a concern, I think, and this is true of both sides, both employers and unions, that as 107 has been used, you know, even if it was originally started in the context of longshore workers strike a couple of years ago on the West Coast, where, you know, it had been months effectively that that had been going on and government, frankly, for economic purposes, needed to resolve this. I mean, I think we can agree on that. It opened the door to its increasing use that has now resulted in employers and unions not engaging as meaningfully in the bargaining process as they could, because they just assume government is gonna come along and intervene. And when you get to that point, right, where the various players accept failure, right, they don't want to engage in meaningful ways, that is a breakdown of the entire labor relations system in this country. That's the problem we have to be thinking about, because if that happens, the risk for business, right, even as much as it may seem useful and comfortable that we can resolve these individual disputes, the risk for business is that this will increase the desire and need for labor to be much more aggressive in the use of its own bargaining power and the use of its own disruptive power, right, to find other means of demonstrating their displeasure. Because if you can't withdraw your right to offer labor, which is the fundamental to the existence of labor movement, then you're gonna find other means to do it, right? You're going to work to rule in a workplace. You're going to have wildcat strikes. You're going to see an increasing number of grievances that are filed to jam up the system. That is a separate problem and risk to productivity for business. It is in everybody's interest, in the national economic interest, to resolve this in an amicable way. And I think there actually is a desire on the part of the federal government to want to do that in the context of 107. I think Minister Zarachelli is reflective on that point. We'll see where that goes, if anything comes of it. But I'll just say maybe this last point. I think there has been, and now I'm gonna be a little critical of the union movement, I think there's been this assumption since the Air Canada dispute, that because of the blowback the federal government received in the use of 107, that therefore 107 became dead letter. And we've seen people like Jordan Leachnitz, friend of the pod, say elsewhere that, now suddenly the federal government can't use 107 in the future. I think that's BS. There will continue to be situations where there are existential economic issues at play. And I don't think Air Canada was an issue of existential economic importance. But if you had another port strike that lasted even

potentially a week, I think there would be a lot of pressure on the government from reasonable people to want to intervene. And so the question then becomes, how can we look at how to narrow 107 in its application and how to create other tools potentially that address the ability and the need to keep the pressure on the parties at the bargaining table and to deescalate the situation as it moves through the bargaining process?

[00:42:27:16 - 00:43:49:12]

Ben

A couple of things I would add here. First, as Shannon says, most big negotiations like this actually take place at the provincial level. It's quite a narrow range of industries where sexual harassment certainly does get, these have been much more, maybe just the nature of big national strikes, right? That they do get more attention sometimes. Something that has changed as well in recent years. Again, I don't necessarily think, I think some observers understand this, but I think a lot of people genuinely don't seem to understand that the dynamic in the federal parliament on a lot of labor issues has changed. And the fact that you have a conservative party now that has genuinely made efforts to reach out to labor that has changed positions on, including the leader himself, who has changed his position on some of these matters. What Section 107 does is it removes, you don't get debates about back to work legislation in the House in the same way, but it'd be very interesting to see if we did have a debate about some sorts of back to work legislation in the House. So we had one hypothetically tomorrow. I think you'd have a very different debate in the House between the government and the opposition than you would have had a decade ago. That creates some interesting cross plays here, right? The fact that the federal conservative party and perhaps other provincial counterparts don't necessarily see eye to eye on this stuff. Maybe someone has to do with being government versus not being government. But there are some interesting interplays there where what goes on federally may not always trickle down provincially. And I don't think it will in this case. It does suggest that the landscape on this is a bit more fluid, I think, than people realize.

[00:43:49:12 - 00:45:27:11]

Tyler

Can I just pick up on that last point, Ben, because I think it's very, very important. Two things to remember. One, 107 is kind of a bleak area of the labor code. It was never really intended to be used in this way long-term. And in fact, I can tell you, because I handled

labor relations policy for Justin Trudeau for the better part of all of his first mandate. This was one of the use of 107, or the potential use of 107, was never briefed by anyone in the Department of Labor as a tool in our toolbox. It got used somewhat accidentally and incidentally in the case of the longshore workers. And since then has been relied upon to resolve a lot of other cases. And I think, you know, if we go back in time, even if we were to have Seamus O'Regan on this podcast, he would probably tell you, because he was the first minister to use it, he would probably tell you, I never intended it to be used long-term this way. I never intended it to be a relief valve. I never intended it to go around parliament as a means to escape the accountability function, as you're referring to, Ben, where the government has to defend its decision to intervene this way, right? And so that's the point that we have to resolve, which is how do we ensure that this extraordinary power is only used in extraordinary ways? I think this is where there's significant opportunity for both employer groups and for unions to put forward ideas, because it is necessary, frankly. And parliament should reclaim some of its accountability function in this area. Like, even if you aren't necessarily pro-union, or you aren't as pro-union as others, as a legislator, you should be concerned about the increasing extra-parliamentary use of this power that gets around the function of parliament to demonstrate that its actions have been appropriate.

[00:45:27:11 - 00:45:46:05]

Shannon

I'll just add to that, that there's a difference in conservative positioning relative to public sector unions or private sector unions. And I think that division will only become more stark and people should watch for it. The fact is you can't differentiate within a labor code what type of bargaining unit. So that's gonna be a problem for conservatives going forward.

[00:45:46:05 - 00:46:20:06]

Ben

Yeah, I'll just close on this. I would encourage people to go for many reasons, but a couple weeks ago, we had a chance to chat with Lana Payne, and she had some interesting thoughts towards the end of that show about sexual monosense, and kind of maybe where it's going and where it needs to go. So I'd encourage people to go back and listen to that from someone obviously who's very, very involved in labor politics in this country. So I will leave that there. Let's close here. Well, let's quickly do as we always do is go around the hall in here. And because this is, if you're listening to this, it's Halloween. Because it's

Halloween, something that's spooking you guys out, something you think Canadians should be watchful.

[00:46:20:06 - 00:48:15:16]

Tyler

Well, I'm not sure that it's spooky, but it is something that I've been watching. Earlier this week, we saw new data from the EI coverage survey come out. It basically showed a bit of stability in people's qualifications for employment insurance. The only thing I would say is, I think we need to keep a watchful eye on this, because if Canada is in fact going into a recession, this will be the first recession since COVID. And there really hasn't been any significant changes to the accessibility of employment insurance. And if employment insurance is the primary vehicle that we are gonna rely on to ensure that workers in our economy have access to the income and employment support benefits that they need, if they are affected, there's a lot of work to be done. In fact, a lot of work that previous governments, including the Trudeau government promise, but never delivered on modernization of access to employment insurance. And so I would strongly encourage folks to continue to advocate on that front, to continue to think about practical ideas that would ensure that we can make employment insurance more available, at least to workers who have insured and employable work, but that aren't necessarily covered or not covered in the right way in different parts of the country. Because if we are headed into this big industrial pivot that the prime minister talks about, I think it is a concern. And just the last thing I'll say on a slightly different topic, because I would be remiss if I didn't say this, on a hopeful note, I do wanna give a shout out to SEIU and the healthcare workers who earlier this week finally got across the finish line, their PSW worker tax credit. I think it's a great initiative. I just think we undersell how much we rely on precariously employed low paid people to care for some of our most vulnerable people in this country. And the tax system in Canada supports lots of different boutique purposes. It gives money to firefighters. It helps you as a business person deduct a lot of things that the ordinary person might say that isn't necessarily a business expense. So if we can use the tax system to, you know, on the margins, get a bit of cash to low paid workers doing some pretty important work for some vulnerable people, I think that's a pretty good day at the Office for Public Policy.

[00:48:15:16 - 00:50:04:15]

Shannon

The Alberta government is on track to use the notwithstanding clause yet again in this session of the legislature. And that is this time to shield their, they have three laws on the books that deal with transgender people. And they are on track to subject those to the notwithstanding clause and shield them from judicial review. Now I know that the court is now examining the parameters of judicial review over the notwithstanding clause relative to Quebec's Bill 21. And that is good that we'll have some clarity there. But I just want to flag to people just how spooky this really is. That now we might have a situation where you have 10 different sets of protections for your security of the person. You have different provincial regimes prevailing. And maybe you're not trans, maybe you don't know anyone who is, maybe you don't have any friends whose children are trans. But one of these laws gets between parents and doctors in terms of choosing medical treatment for children. And that is a security of the person question under section seven of the charter and leaving aside even the equality rights provisions. It is dangerous to start having the state insert itself in people's individual lives and individual liberties in this way. What's spooky is that people are not making that either it is wrapped up in more of an equality rights argument. It seems to me that say political actors in this space need to be moving into an individual liberty, an individual choice, insecurity of the person mind set because that is politically that it's both presses in on what the actual rights at stake are, but also is a much more expansive and much less divisive way to understand what's actually at stake in this topic. It's been used as a political cultural. It's been used as a fundraising tool. That's also spooky in and of itself, but I think Canadians, all Canadians are gonna wanna watch this because if the state can insert itself in your individual decision-making in this way, it will not stop there.

[00:50:04:15 - 00:51:48:06]

Ben

I'll close this off here. I think by the time some of you are listening to this, the federal budget will have been tabled. We've been talking a lot about this recently. And I think Tyler has wrote, I think legitimately the most comprehensive thing that is at the time that's available anywhere, which is called "Carninomics" and how Carney at the Prime Minister thinks about these things. And I do encourage everyone to go and check those out. There's been some punditry, shall we say, speculation on whether this budget's actually going to pass. There's been increasing coverage of the House leader came out not too long ago and said that, as of right now, he does not think he has the votes to pass it. So I'll leave, I will leave the punditry aside of, you know, will it or won't it pass? The one thing I will point out to people though is that I do think we, people got, with the supply and confidence agreement that the NDP and the other boards had, people forgot what minority parliaments look like

and this kind of brinksmanship is what, this is not an aberration. This is what minority parliaments look like and there's a reason why, the average lifespan of minority governments is about 18 months and again, there's a reason for that. So I, without getting into what, will it or won't it, who's going to vote for it or who's going to vote against it? I would just remind people that this is kind of chaotic and unusual as it seems right now. We've had a lot of minority governments in the last few decades and this is a return to normality in that regard. So we'll leave it there. Thank you for joining us. We hope you found this enjoyable. I do want to remind people before we wrap up here, our content has been at MVP intelligences. We hope you've been enjoying it. It's been completely complimentary for now to give you a taste of it. Starting in November, we will be starting to move things behind paywalls and keeping stuff from members. So please visit our website, mbpenetelligence.com and sign up. We do have special rates for a certain people depending on clients. So please go to the website, check it out and we hope that many of you will keep listening to us. So thanks for joining us and we'll leave it there. Have a happy Halloween.

[00:51:48:06 - 00:51:49:23]

(Upbeat Music)

[00:51:49:23 - 00:52:23:04]

Ben

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