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# **Standing Committee on Aboriginal Affairs and Northern Development**

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**Chair**

**Ms. Nancy Karetak-Lindell**

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## Standing Committee on Aboriginal Affairs and Northern Development

Tuesday, December 7, 2004

•(0905)

[English]

**The Chair (Ms. Nancy Karetak-Lindell (Nunavut, Lib.)):** I'd like to call the meeting to order.

This is meeting 13, on December 7, 2004, pursuant to the order of reference of Friday, November 19, 2004, to consider Bill C-20, an act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority, and First Nations Statistical Institute, and to make consequential amendments to other acts.

This morning we'd like to welcome the Honourable Andy Scott, Minister of Indian Affairs and Northern Development. Good morning to you, sir. You're welcome to start. I know we're rushing this morning.

And you'll have to excuse me, I have a cold. I'll try not to talk as much I have other times.

**Hon. Andy Scott (Minister of Indian Affairs and Northern Development):** Thank you very much, Madam Chair.

[Translation]

It is a pleasure for me to be here today.

[English]

Madam Chair, since becoming the Minister of Indian Affairs and Northern Development, I've had the privilege of travelling to almost every region of the country. In Nova Scotia and British Columbia, I've met with first nation leaders to develop robust partnerships. In New Brunswick and the Yukon, I've discussed with aboriginal entrepreneurs their business achievements. In Ontario and Saskatchewan, I've gathered with aboriginal youth to learn about their hopes and plans for their future.

These travels, these meetings and discussions are vital to my work. They're a vivid expression of a solemn commitment made by this government to rekindle its relations with first nations on the basis of equality, trust, and mutual respect. They are clear proof of our pledge to undertake a collaborative new approach to working with first nation, Métis, and Inuit leaders.

Bill C-20 is a tangible product of this approach. It is legislation that fulfills this government's commitment to work closely with first nations. It is legislation that ensures first nations have access to the practical tools required for economic growth and prosperity. It is legislation that respects diversity and the ability of first nations to create their own solutions and apply them in ways that make sense

for their communities. It is legislation fueled by the direct input of first nations.

Bill C-20's core strength is that it was inspired by first nation leaders and crafted with their genuine involvement. Work began on this bill in 1999, when a group of visionary first nation leaders approached the federal government for assistance in removing barriers to economic development. The determination, skill, and personal commitment of these creative first nation men and women has guided development of Bill C-20.

As the committee's first witness, Madam Chair, I'm eager to respond to members' questions. But before I do so, I would like to provide members with a brief overview of Bill C-20 and its impact on first nation communities.

Bill C-20 creates four national institutions that will provide first nations with the fiscal and statistical tools needed to attract investment, build infrastructure, address social needs, and create jobs, tools that all other governments in Canada utilize to improve the well-being of their communities.

The first institution, the First Nations Finance Authority, will provide first nations with a means to pool their borrowing requirements and raise capital on the bond markets by pledging their property tax revenues as security. The strength of joint borrowing should produce a marketable credit rating for participating first nations. In fact, it's estimated that through this new institution, first nations could raise \$125 million of private capital over the first five bond issues. Gaining access to the bond markets will lower the cost of borrowing for first nations by some 30% to 50%. That's bolstering the purchasing power of every dollar raised.

This crucial capital funding will enable first nations to build essential physical infrastructure. Investment in infrastructure attracts investors and entrepreneurs to first nation communities, increasing the property tax base, raising land values, and providing employment opportunities for first nation members.

It's this type of critical capital investment, Madam Chair, that creates a healthy cycle of economic development in first nations that can continue generation after generation.

The second institution, the First Nations Financial Management Board, will certify the standards of financial management of first nations that wish to gain access to the borrowing pool. However, its services are not restricted to just those first nations who choose to participate in the taxing or borrowing regimes established under Bill C-20. In fact, any first nation will be able to approach the board for advice and guidance on any issue of financial management.

The third institution is the First Nations Tax Commission. This body will establish the standards for the first nation real property tax system established under Bill C-20, and will approve property tax laws made by participating first nations. The guidance offered by this institution will enable participating first nations to make their property tax regimes stronger, more consistent, and more transparent. Transparency and consistency are essential characteristics of robust property tax systems. These qualities provide greater certainty to taxpayers, build investor confidence, and attract private capital and potential business partners.

• (0910)

The fourth institution, the First Nations Statistical Institute, will collect existing data from a variety of sources to develop a complete, relevant, and accurate statistical profile of first nations across Canada. Currently, first nations do not have at their disposal the basic statistical information available to the majority of Canadians, a situation that hinders planning and the ability of first nations to make the most of economic opportunities. Information available through the statistical institute will support local decision-making and ultimately lead to improved socio-economic conditions on reserves. By developing the capacity of first nations to utilize statistical information, the statistical institute will also encourage first nation participation in national data collection activities. As a first-nation-led organization, the statistical institute will be able to provide a first nation perspective to the collection and analysis of first nation data, a perspective that will benefit first nation decision-making and help support effective design and delivery of government programs and services for first nations.

Although these four institutions will be crucial instruments for many first nations as they move toward self-government, I appreciate that there is no such thing as a one-size-fits-all solution to the divergent needs and aspirations of first nations. Respecting both diversity and the importance of choice, this legislation enables first nation governments to make use of the tools provided, if and when they choose; no individual community will ever be forced to take part.

In fact, since it was first introduced, the bill has been amended in response to concerns raised by first nations. These amendments serve to clarify that the bill will apply to first nations only if and when they choose. The first amendment added a non-derogation clause; this clearly demonstrates that Bill C-20 is not meant to derogate from aboriginal rights. Other amendments to the bill provided first nations with the option to tax under the First Nations Fiscal and Statistical Management Act or under section 83 of the Indian Act. These amendments also provided for the development of a schedule to the bill so that it is clear which first nations have chosen to opt in.

As you are aware, the government has submitted nine technical amendments for the review of the committee. These amendments do not change the policy direction of the bill, nor do they affect its optionality; they merely address inconsistencies or they are required for clarity. Just as the first nations' proponents of the bill have been involved in its development, they've also been involved in the development of these amendments, and support their inclusion.

Madam Chair, before I conclude my remarks, I'd like to thank the first nation leaders who've worked so diligently to make Bill C-20 a reality: Strater Crowfoot, the chair of the Indian Taxation Advisory Board; Chief Tom Bressette, chair of the First Nations Statistical Institute advisory panel; Deanna Hamilton, president of the First Nations Finance Authority; and Harold Calla, chair of the First Nations Financial Management Advisory Board panel. In particular, I'd like to salute Manny Jules, spokesperson for the first nations fiscal and statistical institutions initiative, and the principal architect of this legislation.

I would also like to thank members of Parliament, including many members of this committee, for their support of Bill C-20 and their active engagement through its development.

Bill C-20 is the product of a new approach based on the values of equality, trust, and mutual respect, an approach that can only be successful if we act in a spirit of genuine collaboration, cooperation, and compromise. I'm confident that the spirit of this new approach will guide all members of this committee as they undertake the review of this very important legislation.

Thank you. Merci.

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

We will start this round of questioning with Mr. Harrison.

• (0915)

**Mr. Jeremy Harrison (Desnethé—Mississippi—Churchill River, CPC):** Thank you, Madam Chair.

First, I would like to thank the minister for his comments and his presence at our committee here today.

I'm proud to say our party is supportive of this legislation; we think it's definitely a step in the right direction. We particularly appreciate the fact that this was, in a very real way, a first-nations-led initiative, drafted by people with firsthand knowledge of how this legislation would affect their communities. We are also very supportive of the optional nature of the legislation, which I think is something that, if not unprecedented, is at least unusual in this type of legislation. We are supportive of that as well.

I'm wondering if I could have the minister possibly elaborate on the fact that this was a first-nations-led initiative and on the process leading to us being here today talking about this legislation in committee.

**Hon. Andy Scott:** As I mentioned in my opening comments, the process began in 1999, and it began with a request on the part of the community and a number of first nations leaders to allow for an economic development opportunity that they were aware of and engaged in to be taken to the next level. So the opportunities that would be available in my community in Fredericton or in the communities in my constituency, the small villages and towns and so on, would be available to them in the same way and for others in those communities likewise. The process that has taken place since 1999 has seen amendments, as I mentioned in my opening remarks.

I can't say that the level of my familiarity prior to last July was significantly different from it has been since last July. As a member of Parliament, I would be aware of the debates and the amendments and the response to those debates that took place and that people who at one point might have been less receptive have become more receptive. I think that's the way this place is supposed to work. I think we need to be respectful of difference in opinion and try to learn from that. At the same, decisions have to be taken, actions have to be taken.

In this case, I think that the underlying feature of this is that it was the result of a request by first nations. I think that's the way this collaboration has to work. I think we need to be supportive. I think we need to be offering everything that's available to other Canadians. But I think we can't do it for first nations; I think we have to do it with first nations.

**Mr. Jeremy Harrison:** Thank you for that answer.

The second question I'd like to ask is a more technical question in nature and it has to do with how the FNTC will differ from and build upon the work the Indian Tax Advisory Board had and has been doing up until the passage of this legislation. I'm wondering if I could have some comments on that.

**Hon. Andy Scott:** As soon as you mention the word "technical", I started looking around. I'm going to go to Brenda for that one.

**Ms. Brenda Kustra (Director General of Governance, Lands and Trust Services - First Nations Governance Directorate, Department of Indian Affairs and Northern Development):** The First Nations Tax Commission actually builds on the expertise that has been built up through the Indian Taxation Advisory Board. They will continue to work with all of the first nations that choose to tax under Bill C-20 to assist them in their work in developing tax laws. They'll continue to provide advice and assistance to first nations that choose to tax under section 83 of the Indian Act as well. The key feature here is that the tax commission is built on the years of experience that have been developed by the Indian Taxation Board since 1989, when it came into effect.

**Mr. Jeremy Harrison:** Thank you.

I have another question. I know in 2002 the AFN passed a resolution that was in opposition to what was then Bill C-19. I'm wondering what the position of the AFN is on this piece of legislation now and whether they've had input into any amendments that have taken place since then.

● (0920)

**Hon. Andy Scott:** Certainly the AFN has been engaged. I've been personally involved in a number of meetings, and as recently as yesterday the AFN chief for Ontario hosted a meeting, which we

facilitated, of first nations chiefs from Ontario who had difficulty with this legislation.

I think the position of the AFN now... I have a letter from the national chief to the effect of support, but I think it should be recognized that there is a difference of opinion within the community. I think we shouldn't hold the first nation community in Canada to a higher standard than we hold ourselves. There's a difference of opinion in this room. In fact the party that's governing the country is a minority. I think the reality is that's the way the democratic process is supposed to work, and that's the way it has.

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

Mr. Bellavance, please.

[*Translation*]

**Mr. André Bellavance (Richmond—Arthabaska, BQ):** Thank you, Madam Chair.

Thank you for being here, Minister. I'm not sure whether it's because you're making an appearance, or whether it's due to the importance of Bill C-20, but the committee seems to be a very popular venue today. I sense that this bill is extremely important to First Nations. The same holds true for the Bloc Québécois which plans to support the proposed legislation. There is considerable interest in this bill which wasn't quite as popular in its previous incarnations as Bills C-19 and C-23.

First off, Minister, I'd like you to explain to us the main differences between this bill and the earlier versions. One important amendment as far as First Nations are concerned pertains to optionality. Can you give us any assurances on this matter? Will participation for First Nations really be optional?

Those are my two questions, for starters. If I have any time left, I'll ask you some others.

[*English*]

**Hon. Andy Scott:** I think the first answer to the optionality question is absolutely. The optionality provisions are an important part of the exercise that brought us to this place. It's absolute, and there's no question of that.

The other, most significant, change would be the non-derogation clause, which was also an important exercise in collaboration with the community to make sure that the legislation underwent the same exercise and rigour that we all go through when we develop legislation.

If there are others, Brenda, that I should speak to beyond that... Those are the two principal issues, but there may be others, more technical in nature, that you can...

**Ms. Brenda Kustra:** Those are the two major changes that responded to the issues that were raised by first nations.

As the minister has indicated, the non-derogation clause clearly indicates that nothing in the legislation is going to change the aboriginal rights, and there is a specific clause—clause 3—in the bill that people can refer to for the exact wording. It says:

For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act*, 1982.

With respect to the optionality, again, there is a specific clause in the agreement that very clearly indicates the optionality. That is found in subclause 2(3), and it indicates:

At the request of the council of a band, the Governor in Council may, by order, amend the schedule by adding, deleting or changing the name of the band.

Clearly, it is the choice of the first nation to come forward and request that their name be added to the schedule, and that is the decision of the first nation to make.

[*Translation*]

**Mr. André Bellavance:** For example, could a First Nation choose to avail itself of the services of only one or two of the four financial institutions? Is it possible to opt in to some, but not all, of the services provided by the four financial institutions?

[*English*]

**Hon. Andy Scott:** I think it's important to mention that some of the services that are provided—I think of the management institution—are available, regardless of whether one is opting in or not. That advice and assistance would be available.

Are there other examples?

• (0925)

**Ms. Brenda Kustra:** When a first nation chooses to participate and have their name added to the schedule, it indicates that they are going to participate in all of the opportunities available in the legislation. So they will develop their tax laws under Bill C-20 rather than under section 83 of the Indian Act. They will have an opportunity to participate in the borrowing pool, as well. There are certain rules and regulations with respect to the development of local revenue laws and financial management laws they will participate in. They are making a choice to take part in all parts of the bill. However, it's clear that the Financial Management Board is available to help other first nations that choose not to tax or to borrow in the particular act.

[*Translation*]

**Mr. André Bellavance:** Thank you.

That's all, Madam Chair.

[*English*]

**The Chair:** Thank you.

Mr. Martin, please.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Thank you, Madam Chair.

Thank you, Minister, for being here today.

I think it's fair to say that Bills C-19 and C-23 were doomed, largely because they were tied to the larger first nations governance initiative by Bob Nault's lifetime work, or career project if you will. Some people say that if Bill C-23 had been introduced as a separate, free-standing item, it wouldn't have had the opposition it faced. But you would have to admit that the opposition was resounding right across the country, with the exception of some of the 110 first nations that have some ability to tax—largely, groups in B.C.

I remember strong representations to this committee from the Chiefs of Ontario, the MKO, the Assembly of Manitoba Chiefs, and the FSIN. There was strong opposition right across the country, because of the fear this would lead to the municipalization of first nations, in one sense. But they also didn't buy this idea of optionality.

No matter how you state it, there was a fear that this was a way to get out from under fiduciary obligations of the minister and the government by creating a borrowing club, in layman's terms. The point kept getting made over and over again that this was optional, in the same way that a driver's licence is optional—unless you want to drive a car, then you have to have one. That's the best analogy, I think, for the lay public watching this.

I haven't seen a resolution at the Assembly of First Nations that reverses their clearly stated opposition to this bill. Back in November 2000—I can't remember now when it was—the Bloc critic and I went out to the Musqueam in B.C. to witness the Assembly of First Nations general assembly. There was a resolution on this bill that the B.C. chiefs thought they could get passed, but it failed.

Are you aware of another resolution at the Assembly of First Nations, other than the letter you got from the national chief, that actually says they now support this bill as it stands currently?

**Hon. Andy Scott:** I've had a number of conversations with various representatives of the AFM, and I can't say that I... I'm looking right now.

This was in July in Charlottetown. I was there, but not for this. Before I read this, was this passed?

**A voice:** Yes, it was.

**Hon. Andy Scott:** It says:

Further be it resolved that the Committee be open to and encourages the inclusion of further members to ensure representation, with the consent of regional offices, appropriate to regional processes; and

Further be it resolved that this Resolution affirms and confirms the inherent authority of all First Nations to represent and negotiate their own interests; and

Finally be it resolved that nothing in this Resolution or the process envisioned within it is intended to impede or derogate from any existing processes or initiatives involving any First Nation, Tribal Council or Provincial/Territorial or Treaty Organization and the federal government.

• (0930)

**Mr. Pat Martin:** Who wrote that? It sounds like one of your lawyers who wrote that, Minister. Honestly, it's almost that confusing to me. I don't see a clear mandate there.

We have the same reservations we had in the past that there are those who could avail themselves of these—

**Hon. Andy Scott:** If I may, what this resolution really speaks to is because of the optionality of this legislation and the fact that some of the communities wish to pursue this, it speaks to the right of them to do that or not. I think that's what it speaks to, if you read it. It speaks to the diversity of the community.

**Mr. Pat Martin:** Are you aware that the AFN is having their general meeting today and tomorrow in Ottawa?

**Hon. Andy Scott:** Oh, yes.

**Mr. Pat Martin:** But on Wednesday on the floor there will be a clearly written resolution specifically about whether or not they support and endorse this bill.

Are you willing to take direction from the wishes of the Assembly of First Nations in this regard? In other words, if the legislative body—some people call them a lobby group, but I don't, I call it the Parliament of Indian country—decide they cannot support this bill, are you willing to put on the brakes and hold off on this? That will happen tomorrow.

**Hon. Andy Scott:** Given the process we're engaged in now, I think the first place that outcome would be considered would be here. Legislation is here now and has gone through Parliament to get here.

**Mr. Pat Martin:** Well, then, do you think this committee should be guided by the resolution that will take place tomorrow at the Assembly of First Nations?

**Hon. Andy Scott:** Mr. Martin, as chair of the justice committee for a very long time, I would have taken offence if some minister had told me I should be guided by him or her. I wouldn't do it to you either.

**Mr. Pat Martin:** That's interesting. You understand the spot we're put in. In fact, the majority of first nations I've talked to aren't in favour of this bill. They view it as a wolf in sheep's clothing. They're apprehensive, they're nervous, and they don't see any particular benefit for them. But they also see that those communities that can benefit from some of these provisions....

I'm going to move off that. I have a specific question.

The Indian Taxation Advisory Board, which you said started in 1988 or 1989—or whenever—shows up twice in the public accounts of last year for almost identical amounts of money, but the Lands Advisory Board.... My point is, these institutions seem to have been up and running for a long time as lobby groups to get this legislation passed. It's odd to be lobbied by a group that is lobbying for the creation of the legislation that would allow it to exist. In other words, the cart was put well before the horse.

In the case of the Lands Advisory Board, they get \$6,700,000 and essentially they exist solely to lobby Parliament to give themselves statutory authority. The First Nations Finance Authority got \$789,000, again, to lobby for their own creation.

**Hon. Andy Scott:** I think there are a couple of points here. In terms of other activities these groups have been involved with in the past, I'll leave that for someone whose knowledge of this is more complete than mine.

This is an important feature of this relationship the Government of Canada would hope to have, which some would argue we already have and some would argue needs to be better. Notwithstanding a desire to have a respectful, government-to-government relationship—you mentioned the annual meeting this week—the reality is that the resources that are available to this government significantly exceed the resources that are available to the other government.

To some extent, if you really want a first-nations-led initiative to be filled out and done right and if you want to have the research done

that would be required to actually build an institution like this, there has to be an investment made. If all you offer is collaboration with the people who are involved, at some level you are perpetuating a very unequal circumstance.

● (0935)

**Mr. Pat Martin:** What you're saying is dangerous. It actually says this government is justified in funding the work it wishes to see done by the other government. That's not a government-to-government relationship. That's one exercising its domination and control over the other.

**Hon. Andy Scott:** It's quite the contrary, Mr. Martin. We fund a lot of initiatives within the community that wouldn't be in the government's interest, frankly. That's not my point at all. My point is that policy development requires research, support, and resources. Whether the conclusion come to by this research and effort is the conclusion the Government of Canada would like to see is not the issue.

In fact, very often what happens is that we fund research that finds there are changes that should be made that the government has resisted in the past. It's more support for the kinds of first-nations-led public policy initiatives that requires a certain independent resourcing in order to actually allow that development to take place. I think it is important and I think it is not in any way causing conclusions to be reached that are in our interest. Quite often, if one were to be very narrow about what our interests are—I choose not to be, frankly—for those who do see it that way, one would have to say they're not always in our interest.

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

Mr. Valley, please.

**Mr. Roger Valley (Kenora, Lib.):** Thank you, Minister, for coming today and answering some questions.

I have several quick questions. My first question follows Mr. Harrison's line of thought. This legislation was brought forward by the first nations and it's a credit to them. Can you tell me, in your experience, is it common that a group would drive this legislation forward?

**Hon. Andy Scott:** My experience in the context of this particular portfolio is quite limited, but it's certainly what I hope for going forward. This puts practical application and real activity...attaches it to the kind of language we use about respect, the policy on inherent right, and self-government. This basically reflects, I would argue, what we're trying to do. Whether it has been the way things have been done in the past is probably the subject of considerable debate. I'm only hoping that this will be the way it's done in the future—and even better.

Regardless of what problems face first nations in Canada, we have a significant obligation and a significant responsibility as a government, but that doesn't necessarily mean we are the best to know how to respond to those problems. In fact, I think we aren't. The people who know best how to respond to problems are the people in the communities themselves, the people who live those problems. We need to be very creative in how we collaborate to find solutions that are driven by the communities that wish to see these solutions.

This isn't a perfect model of that collaboration. This is a step in that direction. I think we could do it better, but this is more like the future than the past, and the future will depend on our ability to have the kind of relationship that has been referred to. It will have to be creative. The present structure does not lend itself to what we would consider equal and mutually respectful collaboration because the circumstances are pretty out of balance right now.

**Mr. Roger Valley:** Thank you for that.

In my short time here that's been my impression, that legislation brought forward by the people who need to use it is going to be more successful.

We do know there is some opposition to this bill. In my riding there's some opposition. How much have we communicated the difference between this bill and Bills C-19 and C-23, I think they were, which have been mentioned? Do we communicate only through the grand chief and the AFN, do we communicate at a different level, or...?

• (0940)

**Hon. Andy Scott:** No. As I said, at a personal level there are certain time limitations in terms of the kind of involvement I can have. Yesterday we facilitated a meeting; we've been doing this within the department significantly. I've had this discussion on both sides of the debate with numbers of people since July.

I think I'm aware of the concerns, and some of the concerns are more fundamental than the issue of optionality and the non-derogation section. Some of the issues are fundamental to the way we go forward. There is a live and vigorous discussion within the community, and again, that's a healthy thing.

We have live and vigorous discussions in the House of Commons every day about how we will respond to circumstances we find ourselves in as a country. I think everybody involved in these debates in the House of Commons and in the first nations community in Canada is seeking the best results for their communities. It's normal that we wouldn't all agree on what the best solutions are. Otherwise, it would be a lot less colourful in this place.

**Mr. Roger Valley:** Thank you.

I see I have time for one more quick question.

You made a statement in your opening remarks, Minister, that I was happy with, and I'll just refresh your memory. You mentioned that no first nations will ever be forced to participate. We all know things change. I'm hoping we can keep that sentiment alive, because that will be a big part of buying into the confidence of first nations.

**Hon. Andy Scott:** Going forward as a government, we can speak about this in the context of Bill C-20. There are other issues having to do with collaboration and the way this legislation was brought forward and so on, but I personally think there's a serious responsibility on the part of the Government of Canada to remedy a lot of rather unhappy history—and I apologize for my lack of a better word.

One of the ways we are going to move forward is to be very serious when we say what we're going to do. Members of the community would know that, as the Minister of Indian and Northern

Affairs, I would probably meet first nation organizations or first nation communities or tribal councils almost every day, and there are very serious problems that I'm confronted with every day.

My first instinct would be to simply say, "Look, I'll do everything I can to fix that." The reality is that to the person to whom it's said, that probably means it's fixed. I have to be very careful, because part of the problem is—and I think this is with all the best intentions—that in the interest of maybe instilling some hope, people have really believed at that moment that it was just going to be done because the circumstances demanded it. I think it doesn't do the relationship any good to overextend what we can do. So I wouldn't sit here and say it if I didn't mean it and have confidence that it would live.

**Mr. Roger Valley:** Thank you.

**The Chair:** We're now into our second round. Mr. Harrison will start off our five-minute round, please.

**Mr. Jeremy Harrison:** Thank you, Madam Chair.

First, I'd like to say that most members of this committee know that my riding of Desnethé—Missinippi—Churchill River, which is the northern half of Saskatchewan and about 58% of the province geographically, has well over 30 first nations and 108 separate reserves, many of which wouldn't be able to participate in this because they probably wouldn't meet the threshold. I think some of them would like to participate in this, but they aren't able to.

I have a two-part question. The first question is how they can become eligible and whether there are provisions to help these first nations to become eligible when they would like to participate but don't meet the threshold. Secondly, I think there is a concern out there—and it's a concern I enunciated in my speech on this in the House at second reading—that we might be creating a situation where we have "have" and "have-not" first nations. I think there's a danger of that happening, so my second question would be if you could address that, Minister.

• (0945)

**Hon. Andy Scott:** I'll answer the second one first.

Again, getting back to the issue of the first place to start to fix a problem, it's to acknowledge its existence, even if it's somewhat embarrassing for governments to do that. We have "have" and "have-not" first nations now. As a consequence, one has to decide, and we do this as a government.

I come from Atlantic Canada, whose provinces have been described from time to time as not being "have" provinces. The reality is that you cannot, in the interest of building capacity and opportunity and equity in my region, hold back the other parts of the country for which a different set of opportunities exists.

The beauty of what we're trying to do here is that, as I said, it doesn't intend to be a one-size-fits-all solution. We have to make opportunities available for those first nations that currently have access to this, we have to make opportunity available for those that don't but would like to, and we have to make opportunity available to those first nations who don't want to, equally and with the same rigour. I believe that simply speaks to the complexity of the department and the challenge we are confronted with as a country.

**Mr. Jeremy Harrison:** And with regard to the first part of my question, how can first nations that wish to participate but don't meet the threshold be helped along in that process?

**Ms. Brenda Kustra:** The First Nations Financial Management Board is available to assist all first nations in the development of local financial matters, capacity development to improve their financial law-making, and financial administration. That is a service available to all first nations, not only to those who choose to develop their tax laws under this bill.

In addition, there are other organizations that are available to help. I'll make specific reference to the Aboriginal Financial Officers Association of Canada, which is a professional association of financial officers across the country. They are also involved in working with communities on the development of best practices related to financial management; in assisting in the development of financial management laws in the community; and in working with the people in the community to increase their level of—I want to say “development”, but that's not really the right word—skills transfer to the community so that they are in fact better placed to move forward and take advantage of opportunities that will be available for them.

**The Chair:** Thank you.

Mr. St. Amand, please.

**Mr. Lloyd St. Amand (Brant, Lib.):** Thank you, Madam Chair.

There is clearly some opposition to this bill, Minister—and I'll address this perhaps to the officials as well. It may be that we're in a situation in which there will never be agreement, but that shouldn't necessarily preclude us from moving forward.

In response to the suggestion of opponents—who are certainly persons of quality—that this bill is simply another attempt by the federal government to impose upon first nations communities a paternalistic, “let us do it for you” type of legislation—and that's my phrasing, not theirs—in response to the suggestion that this isn't necessary, why is federal legislation even being thought about? Is there a response to that from you, Minister, or perhaps from the officials?

• (0950)

**Hon. Andy Scott:** This was born of a request by first nations leaders to the Government of Canada. Much of the work that has been done around this has been done by first nations themselves. I'm going to step down here in a few minutes and the proponents of this legislation from the first nations are going to appear here and take questions, so that says a lot about where this comes from.

Frankly, I wouldn't have anything to do with a piece of legislation that I genuinely believed perpetuated the paternalistic approach of the Government of Canada toward its citizens, and in this case first nations citizens. If that was what I thought we were going to be doing, I wouldn't want this job.

Quite the contrary, I believe we are now embracing an entirely new approach, and I think this is again an imperfect step in the correct direction. I don't believe that it is in fact the Government of Canada exercising its will, certainly not unilaterally; it is the Government of Canada collaborating with the community and taking a step forward that the community wishes to take. It is not without

dispute or debate as to whether it's the right step, but that again is what this process is about. That's why we're all here.

Frankly, I'm respectful of the views of those who would feel otherwise. That's why I answered Mr. Martin's question the way I did. Certainly the events of this week will impact my thinking on all of these things. That's me. But in the process, it's the committee that will have to be seized with that first.

I think it's unfortunate if we try to suggest that progress that is made in first nations communities, whether we support it or not, somehow has to be held to a higher standard of unanimity than progress that is made by the government at large. Again, I say we're sitting here in a minority Parliament, so there are all kinds of views out there, but we can't let our inability to find unanimity paralyze us.

**Mr. Lloyd St. Amand:** I have a technical question, Minister, again to yourself or the officials, through Madam Chair.

Will this legislation, as currently drafted, obligate first nations communities to enter the world of real property taxation?

**Ms. Brenda Kustra:** There is nothing in this legislation that will require first nations to tax, just as there is nothing under the Indian Act that requires first nations to tax. It is a choice that first nations can make. Now they have a choice. If they decide they want to tax, they can use either the Indian Act or Bill C-20, but this in no way requires first nations to tax unless they themselves make that choice.

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

**Hon. Andy Scott:** My time is coming to a close, and I don't want to deny anyone else the time, but the only other point I would make—and I think this is important for reassurance—is that not only is no one obliged, but when I spoke earlier about the fact that we have to offer opportunities for those who are currently capable of being involved, those who would like to be involved, as Mr. Harrison's question suggested, I think we also have to be respectful of those who choose not to be involved and make sure that all of the opportunities they choose to exercise as a result of that are also available. This is respect for a decision that is made. That's critically important, because I think some people feel that, as we go down this road, there's going to be less and less available for those who don't.

Self-determination doesn't mean choosing to behave the way we do; self-determination is the ability to choose to behave the way you believe you should behave, and all of those have to be supported.

I thank you, Madam Chair.

•(0955)

**The Chair:** I just have time for one more question, but a very short one, because we want to make sure we allow time for the other witnesses to get to the table, please.

Mr. Boulianne.

[*Translation*]

**Mr. Marc Boulianne (Mégantic—L'Érable, BQ):** Thank you, Madam Chair.

In your opening statement, you mentioned a small community in the Maritimes. I lived along the North Shore in a Montagnais community in Betsiamite. You're correct in saying that the bill touches on many of the problems experienced by the residents of these communities. You talk about supporting initiatives. That's a first step, in my opinion.

I want to get back to my colleague's question concerning optionality. The witness provided a partial response to the question when she observed that the decision to exercise property taxation powers was optional. Are there not certain criteria that must be in place for the property taxation regime provided for in the bill?

[*English*]

**Ms. Brenda Kustra:** When a first nation chooses to develop property tax laws under this bill, there will be, through the tax commission, criteria and subject matters that have to be treated.

Something that is totally new under this bill, which we don't have right now, is something called taxpayer representation. Currently, non-first-nations people who are taxed on reserve have no representation in the development of the local tax regime. This bill, through the tax commission, will provide for that kind of representation for those who are currently paying taxes.

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

Perhaps you could take a minute to do your closing remarks, and then we'll get ready for the next witnesses.

**Hon. Andy Scott:** Again, I thank the members of the committee. I think this is the way these things ought to be done, and I do pay tribute to the members of the committee who have in fact themselves gone through an exercise in deliberation that I think reflects well on Parliament.

Merci.

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

We'll take about five minutes to get organized for the next round of witnesses.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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•(1000)

**The Chair:** I'll now call the meeting back to order.

We'll start our second hour of witnesses. We have before us, from the Indian Taxation Advisory Board, Manny Jules, spokesperson for the First Nations Fiscal and Statistical Management Act, and Strater Crowfoot, chairman; a representative from the First Nations Statistical Institute, Tom Bressette; from the First Nations Finance

Authority, Deanna Hamilton; and from the First Nations Financial Management Advisory Board, Harold Calla.

What we thought we'd do this morning is start with Mr. Manny Jules and work back in the agenda for the rest of the witnesses. We have about 55 minutes to deal with this round of witnesses, so we'd like to get started.

First of all, thank you, everyone, for coming this morning and helping us with this legislation. Also, welcome to all the people who are here to listen.

Mr. Manny Jules, please.

•(1005)

**Mr. Clarence (Manny) Jules (Spokesperson, First Nations Fiscal and Statistical Management Act, Indian Taxation Advisory Board):** Thank you, Nancy.

I sat at my home on Friday, November 19, listening to the first reading debate on Bill C-20. Each of you needs to be thanked for your supportive and positive words.

Canadian history must record the names of the Honourable Andy Scott from Fredericton, Sue Barnes from London, and Jim Prentice from Calgary. It needs to record the names of Bernard Cleary, Pat Martin, Lloyd St. Amand, Jeremy Harrison, Marlene Jennings, André Bellavance, and Carol Skelton.

We still have an oral tradition. Your names will be remembered in Secwepemc history. We do not have many opportunities to put our stories or our names on the parliamentary record. The story of this legislation needs to be told. The chairs will tell you more about the role of their institutions.

The people who make up this story need to be mentioned. With that comes the risk of missing some, and for this I apologize. All contributions are important. As Ben Stein said, personal relationships are the fertile soil from which all advancement, all success, all achievement in real life grows.

I stand on the shoulders of giants—my father, Clarence Sr., and other Secwepemc chiefs. My father was chief of our community during the sixties and early seventies. He helped establish our industrial park. He taught me about the value of investors and taxpayers. He taught me that politics is the art of the possible.

For me, the story of this legislation begins in 1969, when all but four communities in B.C. came to Kamloops to reject the proposed federal assimilationist policy. As a 17-year-old, I skipped school to attend that meeting. Leaders like Phillip Paul, Dennis Alphonse, my dad, and others spoke. Their vision was clear. We wanted to restore our nations. We wanted to build our economies. We wanted to generate revenues. We wanted to have self-reliant first nation governments within Canada.

I was first elected to the Kamloops Band council in 1974. I was in Chilliwack in 1975 when we rejected government funds. At that debate, Clarence Joe from Sechelt was the voice of caution. He said we were not ready for this. He was right. We did not have the institutions of government to deliver local or other services. We did not have the jurisdiction to collect revenues. We did not have the infrastructure to attract investment.

We are slowly climbing a mountain toward fixing this. This bill before you, Bill C-20, represents another anchor on that steep ascent.

In the seventies, my community was engaged in the property tax battle with the Province of B.C. and the City of Kamloops. Our chief at that time was Mary Leonard. We tried the courts to resolve our issue. We lost at all levels. The conclusion I came to was that we must change the Indian Act to collect property taxes.

In December of 1984, I was elected chief by acclamation for the first time. In January of 1985, I wrote letters to every first nation community in Canada asking for their support to amend the Indian Act. We received letters and band council resolutions of support from 120 communities across Canada.

For three years, we worked on changing section 83 of the Indian Act. It involved the tireless and visionary work of individuals like Anabel Crop Eared Wolf and Leslie Pinder. It involved the constant support of my council, especially Clarence Jules Sr., Rick Jules, Fred Camille, Ricardo Seymour, Jesse Seymour, and Russell Casimir.

In addition, together with three dedicated bureaucrats—Garry La-douceur, Hugh Ryan, and John McKennirey—we made Bill C-115 a reality in 1988, so that first nations could collect property tax across Canada. Bill C-115 received all-party support. At that time, Jim Fulton, NDP Indian affairs critic; Nelson Riis, NDP member for Kamloops; and Keith Penner, Liberal Indian affairs critic, had the courage to support our legislation. This was introduced by Minister Bill McKnight, and it has been supported by every minister since then.

The Indian Taxation Advisory Board, or ITAB, was established in 1989. The purpose of ITAB was to implement first nation property taxation. I was chair of ITAB until last year. Ken Scopick was my capable right hand during that time.

Original ITAB board members included Bill Montour, then Chief of Six Nations; Myrtle Bush, from Kahnawake; and Oscar Lathlin, from Opasquayak, who is now the Minister of Aboriginal and Northern Affairs in Manitoba.

● (1010)

John Taylor, who was here today, was an original board member. He was a former deputy minister of municipal affairs in B.C. Without John Taylor, the Attorney General at the time, Bud Smith, and so many others, there would be no Bill C-64 in B.C. to make room for a property tax jurisdiction.

Of course, this was not only a B.C. issue. In Quebec, Bill C-67 was necessary to facilitate first nation property tax systems in that province. The work of Robert Beaudry, Ricky Fontaine, and Bruno Bonnevillie was crucial for that advance. I am proud to be working with two of those original board members and the two new ones since, who I consider to be among my best friends.

There was a young man in 1988 with so much energy his leg shook. Today I know him as a man of uncommon courage, loyalty, and vision. Where there is no vision, the people perish. Strater Crowfoot is the right man to lead the First Nations Tax Commission into the future.

There was a young artist from Tobique, New Brunswick, who today is a well-respected businessman, and the main reason that so many first nations in the Atlantic region support this legislation—David Baby Paul.

In 1995 a very bright young financial analyst from Sept Îles, Quebec, joined our board—Ricky Fontaine. It is so important for us to have an articulate spokesman in both official languages.

In 1997 a soft-spoken and able chief from Ontario joined the ITAB, Bill McCue. His community, the Chippewas of Georgina Island, will soon be a part of the property tax family.

The history of the ITAB embodies our hope for Bill C-20. We thought that Bill C-115 and the ITAB would only apply to 15 or 20 communities. There are now 104 first nation property tax systems in Canada.

These 104 communities are why we are here. The first nation tax authorities have provided us with two resolutions of support to develop this legislation.

The passage of Bill C-115 was a strong anchor for us. It allowed us to provide services to our taxpayers. It helped attract investment. In my community, the property tax base has grown by 250% since we implemented it in 1990. We use the ITAB to encourage a strong working relationship with taxpayers; after all, they are the investors who are helping build our economies.

Richard Johnson, another original board member, helped form a partnership with the Canadian Energy Pipeline Association. In 1999 Ken Marsh helped us establish a working relationship with the Canadian Property Tax Association. We worked with CPR and developed a regulation so we could collect taxes from railways. Brent Morrow and Paul Salembier were instrumental in this regulation.

We formed a partnership with the Federation of Canadian Municipalities to establish a centre for municipal aboriginal relations in 1998. We have worked with municipalities across the country to implement first nation property tax systems and negotiate service agreements. The ITAB has accomplished a great deal. It is a model first nation institution. Without its success, there would be no Bill C-20. The draft of Bill C-20, which is before you, began in 1998. That was when Deanna Hamilton and Tim Raybould visited the ITAB to suggest that we work together on our separate initiatives to create the First Nations Tax Commission and the First Nations Finance Authority.

In the summer of 1998 I was working with Tom Bressette to create the financial management board so that we could improve our financial management standards. In 2001 the first nations summit in B.C. began sponsoring the financial management board.

That explains three of the four institutions. The story of the first nations statistical institute is a little different.

In 1990 Stats Canada was looking at ways to increase participation in the 1991 census by establishing regional first nations statistical systems. Under the leadership of the late Bob Manuel and with the support of Wayne Haimila and Andre Le Dressay, we built the Secwepemc information system. This became our vision for the First Nations Statistical Institute.

The statistical institute was sponsored by the Union of Ontario Indians in 2001. The AFN became formally involved in this process in 1996 when we passed the fiscal transfer act resolution. In 1998 we established the national table on fiscal relations. This table was coordinated by a strong and loyal woman, Doris Bear.

●(1015)

Through the national table we made significant progress on expanding our revenues under the leadership of Harold Calla. We made progress with Trenton Paul at the helm towards a new formula-based transfer system. And of course we made progress on institutional development.

It is important to remember that all of this was done with the support of the Assembly of First Nations—six resolutions of support, to be precise. Three national chiefs have supported us: George Erasmus for Bill C-115, Phil Fontaine and Matthew Coon Come for Bill C-20. We have received strong support from former Vice-Chief Satsan in B.C., and so many others.

February 2001 was an important milestone. The Kamloops draft of the legislation was completed in four days. It became the blueprint for Bill C-20. I want to mention Greg Richard, a distant relative of Maurice, for his significant contribution to that early draft.

In 2001 the legislation was discussed at the AFN annual general assembly. The debate went on for seven hours. It was one of the most tense and articulate debates I have ever witnessed.

The schedule in Bill C-20 allows us to move forward. When this legislation is passed, our communities will be able to finance infrastructure with debentures and development cost charges. They will have reliable information for their communities and potential investors. We will have greater confidence in financial management of first nation governments. Our first nations property tax jurisdictions and revenues will be secured. Taxpayers will receive regulatory assurances of quality services at fair prices. We will move further up our mountain. We are right to be proud on this day. On this day first nations in Canada have made progress.

In closing, my son Clarence asked me a while ago on a walk, “Why am I here, Dad?” You don’t expect to get this question from a 10-year-old boy. After thinking about it for some time I answered, “All we can do is to try to make this world a little better place”. With that, I urge every member of this committee, each member of Parliament, and eventually each member of the Senate to support Bill C-20.

Thank you.

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

We’ll go to Ms. Deanna Hamilton of the First Nations Finance Authority.

**Ms. Deanna Hamilton (President and Chief Executive Officer, First Nations Finance Authority):** Thank you.

*Way’Limlimpt.*

My name is Deanna Hamilton. I’m from Westbank First Nation, located in south-central B.C. I am CEO and president of the First Nations Finance Authority. I am here to speak in favour of Bill C-20, the First Nations Fiscal and Statistical Management Act, as one of the proponents of the bill.

With me are Chief Sophie Pierre from St. Mary’s and Chief Joe Hall from the Tzeachten First Nation, who are both board members.

The first-nations-led fiscal institutions initiative reflects a vision to see the establishment of national first nations institutions that will support our first nation governments. It is a practical effort by first nations to create a better future for our communities. By stimulating economic growth on our reserves, we aim to improve the quality of life on our reserves.

Change is never easy. An important change occurred in 1990 when some first nations began collecting property taxes. The system is working well. Shortly after taking over taxation, a group of us decided that we needed a way to use our new-found, predictable, and stable tax dollars to borrow for public purposes, such as building water and sewer infrastructures that our communities lacked, but that non-aboriginal communities take for granted. Basic infrastructure is needed to attract economic development and enable our economies to grow.

Westbank led the First Nations Finance Authority—FNNA—initiative. At the time, we were building a water system. We watched the adjacent non-native community of Kelowna build similar infrastructure more efficiently and more cost-effectively. For us there were legislative barriers and legislative gaps to public financing for our projects. We realized then we needed access to affordable, long-term public debt financing with a regulatory framework to make it work.

Typically, first nations are small, diverse, and generally under-developed, with limited administrative capacity to undertake complex financial transactions. Some of us soon realized that if we wanted access to the bond markets, we needed to work together. We realized we had no realistic opportunity to go to the bond markets on our own. If we did, the cost of borrowing would have been prohibitive. Westbank therefore hosted two national conferences in 1992 and 1993 to consider our options for first nations public debt financing.

A number of models were reviewed. The model we chose was the Municipal Finance Authority of British Columbia, the MFA. We liked the model not because we equated our governments to municipalities, but because the model favoured small governments working together. The MFA, with its solid legal foundation, raises all the capital for local government in B.C. It does so with a triple-A credit rating. Through economies of scale, the MFA has significantly reduced the cost of borrowing for its members and made it easier to borrow. Today, all local governments in B.C., whether urban or rural, small or large, have access to affordable capital and have the benefit of a triple-A credit rating.

Under the MFA model, local governments secure each other's borrowing by pledging their property tax revenues. The cost of borrowing is a reflection of this collective credit. The "one for all and all for one" approach works. It is self-help on a viable communitarian basis.

FNFA Inc. was incorporated in 1995 to develop a national public debt financing institution for first nations along the same lines as the MFA, a body governed by first nations where benefits would be shared by the members. Through the FNFA, a member community has an interlinked economy, more powerful and viable than that individual community on its own.

To create a borrowing system, the FNFA Inc. asked Canada to pass legislation and make the FNFA a statutory body. That is what we have done in Bill C-20, a well-thought-out and appropriate regulatory framework to provide comfort to first nation governments that borrow together and assurance to purchasers of our bonds that they are a good investment.

While the FNFA is modelled on the MFA, there are of course differences in the legislative framework, given that first nations are not municipalities and have inherent law-making authority. Bill C-20 has been drafted accordingly. The four institutions created under the bill will work together to make the system work.

First nations that opt to participate in the FNFA borrowing process will first be certified by the First Nations Financial Management Board. They will then pass a borrowing law that is approved by the First Nations Tax Commission. The FNFA will then batch the borrowing laws and issue bonds in amounts sufficient to meet all the requirements of the individual borrowing laws.

• (1020)

To help investors make informed investment decisions, investors will have access to information on borrowing members through reports published by the First Nations Statistical Institute. FNFA bonds will not be secured with hard assets. No land is mortgaged. Rather, it is the integrity of the property tax system that supports the credit. The First Nations Financial Management Board and the First Nations Tax Commission will ensure the integrity of the property tax and financial management systems that stand behind the FNFA bonds.

From discussions with Moody's Investors Service, Standard & Poor's, and RBC Dominion Securities, the FNFA and Canada are satisfied that the structure proposed in Bill C-20 will support an investment-grade credit rating for the FNFA, probably a single-A. We expect that our bonds will be purchased by institutional investors

in Canada and abroad; however, we hope that bonds will be available to retail customers who wish to invest in first nation communities. There has been interest internationally, where investors see our bonds as being "ethical". We believe demand will far exceed supply.

As we grow, it is our vision that Canadians will become as accustomed to buying first nations bonds for their investment portfolios as they are to buying federal, provincial, or municipal bonds. Those of us involved in this financing initiative sincerely hope that our example of creating our own solution to a specific problem we faced will demonstrate that there are steps we can take to begin rebuilding our economies and improving the quality of life on our reserves.

While the activities of the FNFA will make a significant difference to the core infrastructure in our communities, it is of course only one step forward in our development. Many of our communities are in a desperate situation. The collection of property tax, public debt financing, and economic development are often the furthest things from our people's minds. Many communities struggle with unacceptable suicide rates, desperate poverty, and social problems of the worst kind.

Bill C-20 is not a substitute for Canada's collective responsibility to all first nations and the national healing and reconciliation process that should take place. The FNFA is not a substitute for federal infrastructure commitments, where those dollars are most needed. Infrastructure to support economic development is not the same as basic infrastructure to save lives.

Establishing national first nations institutions using federal legislation has its challenges. While the FNFA will be governed by a first nations elected board of directors, the appointment of individuals by Canada to the other three institutions has created debate. How do first nations ensure representation on these institutions when the Governor in Council makes the appointments? We have been assured by government that these will be truly first-nations-controlled institutions. This is very important if these institutions are to work. We have told the rating agencies that they will be controlled by first nations institutions.

In closing, we should celebrate this historic moment. A great many individuals have been involved. Without our partnerships, progress could never have been made. It is very significant that the FNFA will be the first aboriginal government or institution in the world to be rated by an international credit rating agency. We should all be very proud of that fact.

Canada and first nations are leading by example, demonstrating the power of cooperation as our communities move forward, re-establishing our rightful place in this country. Bill C-20 is an important step forward and one taken together.

Thank you for listening to me.

*Way'Limlimpt.*

• (1025)

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

I have next on the list Mr. Harold Calla. Your presentation please, Mr. Calla.

**Mr. Harold Calla (Councillor, Squamish Nation; Chairman, First Nations Financial Management Advisory Board):** Thank you, Madam Chair. Thank you for allowing me to be here today.

My name is Harold Calla. I'm a member and a councillor for the Squamish Nation. I'm an accountant by training, and I returned home about 18 years ago, in response to what we all are told: go out and get the education, and come home and work. Finally, I did. It was quite a shock to see what I was capable of doing in the outside world but what I was told I was incapable of doing once I sat across the table from people and was identified as a first nations person.

This is a step in the right direction. It responds to a lot of the circumstances the Squamish Nation found itself in. This will help first nations engage in the economic mainstream and support our objective of eliminating poverty in our community. This is historic. About once every ten years we get an opportunity to make some changes in the relationship between Canada and first nations.

I think the first thing I want to say is this is not the silver-bullet solution to all of the problems. One of the questions that was asked of the minister was, how do you get more first nations involved and have that opportunity? There has to be investment in economic development. Parliamentary appropriations need to recognize that there needs to be more investment in economic development to get that ball rolling.

In the development of this legislation, it was apparent that issues around accountability and transparency were becoming the focus of public discussion. It was also apparent that first nations needed to engage in that agenda. As Chief Tom Bressette said, "If we don't deal with it, somebody else is going to". We felt it was important that we began to deal with it on our terms.

The First Nations Financial Management Board was born out of that concept. Being the lone accountant in the group, I was asked to participate in helping establish it. I think when you look at the legislation you will see that the financial management board initially is there to provide services to the First Nations Tax Commission and the First Nations Finance Authority.

The strength of the system we're proposing is based upon the strength of the legislation and the ability of first nations to find solutions within the legislation to any particular problems. We need this legislation, because the rating agencies, in order to provide us with investment-rate securities, needed to know there was arm's length from government, that policy could not be changed at will and impact our abilities.

I think we also needed legislation in order to satisfy ourselves who is going to jointly and severally guarantee these bonds that we issue, that there are appropriate mechanisms in place for our communities to feel comfortable. At the end of the day, I'm Squamish. I may be participating in this initiative to support the development of the institutions, but at the end of the day I'm a member and a councillor with the Squamish Nation. We see tremendous benefits in this. We've always proceeded on the basis that we want to ensure that the first nation interest is not jeopardized.

The role of the financial management board is to provide some technical support to the other two institutions, certify the financial health, look at the financial codes, and, where required, intervene in support of any potential defaults. We expect that this will never be the case, because there's never been a default in the case of the B.C. Municipal Finance Authority in the 40 years it's been there. I think we have built upon the strength of that, and we will operate in a way that will never require us to undertake those severe steps.

As we move forward and look at how we're going to respond to the needs of first nation communities, accountability and transparency are aspects of the relationship that will need to be established. They cannot be the reason for not continuing to invest in first nation communities and eliminating poverty. Those are red herrings, and we have to deal with them. I think we can establish the standards. As you will see from the legislation, we will work closely with the Aboriginal Financial Officers Association, of which I am a member, in supporting the capacity development of first nations in the area of financial management.

● (1030)

If you want to engage in the development of an economy, you have to be able to manage your finances and you have to be able to demonstrate to those you're going to have relationships with that you have that capability. We think that now is the time for those relationships to be developed, and we have been working closely with AFOA to ensure that there is no overlap in the work we're undertaking and that the capacity development that is needed in first nation communities will take place. It takes time.

Capacity development in first nation communities takes time. I was the first professional to come home and work in my community 17 years ago—18 years ago now, actually. We now have graduated four members of our community to professional accounting designations, but it took ten years before that process was in transition. So we know that in time we're going to develop that capacity in first nation communities. What we need to be able to do is to provide opportunities for those we train, and by creating economic development opportunities in our community, we're going to allow them to come home to a job and to continue to contribute.

I just want to close by saying I think the First Nations Financial Management Board will provide invaluable support to other institutions and to those first nations that would choose it. I can remember going home for the first time and after about a month I closed my office door and I sat there and I wondered who else in the world had these challenges. I was absolutely overwhelmed. And now what I see is the opportunity for shared best practices and capacity development to all first nations as a consequence of both the AFOA and this legislation.

I think there are some who at this time would choose not to opt into this legislation, and I respect that decision, just as I hope they will respect those of us who choose to go forward at this time with this initiative. I'm always reminded of the fact that we need to be in a position where these tools are on the ground, to seize the opportunity when economic development initiatives arise. You cannot wait until opportunity arrives and then start trying to put in place the institutional frameworks to be able to support that. This is a step in the right direction. It is enabling. It will provide those who choose at a time of their evolution when it's right for them to opt in.

Thank you, Madam Chair.

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

In reference to time, we don't have that much time, so I'm going to try very hard to limit people to their five minutes of presentations and do a very short round of questioning, because there is a committee coming in here at eleven o'clock also.

Mr. Tom Bressette, please, for the First Nations Statistical Institute.

• (1035)

**Chief Tom Bressette (Chippewas of Kettle & Stony Point; Interim Chairperson, First Nations Statistical Institute Advisory Panel):** Thank you, Madam Chair.

Good morning. I'm Chief Tom Bressette, the chief of the Chippewas of Kettle & Stony Point First Nation. I am also the interim chairperson of the advisory panel for the First Nations Statistical Institute. I would like to thank the standing committee for inviting me to speak before you today on Bill C-20.

I was re-elected chief this past summer for the Chippewas of Kettle & Stony Point First Nation, which is located in southwestern Ontario. I've been involved in first nation government now for almost 20 years. During that time I have been involved in a lot of community planning work, and it is clear we do not have the necessary information to plan effectively.

We have the basic data sets collected through Statistics Canada census. We have the administrative reports prepared for the federal government to support the fiscal transfer process. What we don't have is specific data on other key areas that are crucial in building strong communities. We lack information to support economic development and promote investments.

Potential investors and entrepreneurs expect to see specific community information readily available. A community's ability to market itself is compromised by not having this specific data. The First Nations Statistical Institute will fill these gaps. It will be a service agency for first nations that focuses on analysis, interpretation, and above all on improving the statistical capacity of first nations. And it will improve the quality of statistical information.

Improved data on first nations will benefit first nations. It will benefit policy-makers and researchers in all governments. It will be a benefit to the public and for potential investors on first nation land.

The First Nations Statistical Institute will support the other institutions in Bill C-20. It will work with the First Nations Tax Commission to develop statistics that support the first nation

property tax system. The First Nations Statistical Institute will work with the First Nations Finance Authority, the First Nations Tax Commission, and first nations to provide reliable and timely information to support a strong credit rating. The institute will work with first nations and other institutions to market opportunities to potential investors. The institute will help first nations determine what types of investments they are best able to attract. The institute will work with first nations to build understanding and increase capacity in communities to utilize statistics.

The First Nations Statistical Institute will help coordinate the collection of first nation administrative data. In the year 2002 the Auditor General identified the data reporting requirements of first nations as a significant administrative burden. The quality of first nations statistics is poor. The statistical institute will work with Statistics Canada and first nations to improve the quality, relevance, and timeliness of our information. These are the gaps that the First Nations Statistical Institute will fill. There is no statistical agency that is doing that now.

The First Nations Statistical Institute will be providing the same service role that the provincial and territorial statistics agencies currently do. Provincial statistics agencies use Statistics Canada and other public sources to support the system of national transfers. They use this information to represent their interests in trade and federal-provincial negotiations. They use this information to ensure that their communities have necessary information to attract investors. The creation of this institute levels the playing field for first nations.

The First Nations Statistical Institute will have a role to play. It will help build strong first nation communities through sound planning and economic development. It will help build statistical capacity in first nations. It will work with Statistics Canada to improve first nations information. In short, it is vital infrastructure for first nations.

I'd like to close by thanking all the parties for their support for this legislation.

*Chi-miigwetch*

• (1040)

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

We now have as our last presenter Mr. Strater Crowfoot, chairman of the Indian Taxation Advisory Board.

Mr. Crowfoot.

**Mr. Strater Crowfoot (Chairman, Indian Taxation Advisory Board):** Thank you.

My great grandfather, Chief Crowfoot, signed Treaty 7 on behalf of the Blackfoot in the territory of what is now Alberta. He said on the day he signed the treaty, "I have to speak for my people, who are numerous, and who rely upon me to follow that course which in the future will tend to their good".

Today we have taken a big step down the path that tends to our good. I'd like to thank all parliamentarians and their parties for their support for this bill. This is a great day for first nations people. It takes us along a course that tends to our good.

I'd like to say that it's also a great day for Canadians, because today we have confirmed a very important principle: in Canada, we don't shape people to fit governments; we shape governments to fit people. That principle is like our moral compass. The principle sometimes gets lost, because this bill shows that in the end and no matter what the issue, we always come back to that principle. By keeping to that principle, we are ensuring that we are always on the path that tends to our good.

My job as chairman of the ITAB is to help first nations develop the same quality of life prevailing in the rest of the country. That means my job is to help bring the benefits of economic union to first nations. ITAB demonstrates that the goals of promoting first nation interests in economic development and protecting the interests of residents and investors on first nation lands are one and the same. These interests are the same because in the final analysis it is individual investors, be they first nation or otherwise, who decide whether first nations prosper or not. It is not government programs that build economies, create jobs, and build wealth; it is private investors. But investors must feel confident they are going to be treated fairly, or they will not invest. No confidence means no investment, and no investment means poverty.

What we as first nations must understand is that we can create confidence collectively better than we can individually. The reason is that events in any one first nation affect investor confidence in all first nations. This legislation has given first nations the means to promote and protect that collective interest.

With this in mind, I'd like to say a few words about the philosophy that will guide the First Nations Tax Commission. First, we understand that we have many different members; many of them have valuable assets, such as sites that are located...and their natural resources. However, our most important asset is our reputation. Are we good places to do business? Are we good places to live? If we have a good reputation, we will prosper.

The job of the First Nations Tax Commission is to enhance and protect that reputation. We will do this by ensuring that first nation tax administrators are as good as any tax administrator in the country. We will do this by working with our members to ensure they understand that actions affecting one member's reputation affect us all. We will do this by holding the government to its commitment to treat us like other governments in Canada, and not subject our local revenues to transfer offsets. We will do this by working with our members to ensure that everyone understands that tax revenues are not an end unto themselves, but are means to an end. We will be guided by a very simple mission—quality services at fair prices.

How will we measure success? Again, it is very simple. When people, first nations or otherwise, feel as confident or even more confident in investing on first nations lands as anywhere else, we will all have succeeded.

Thank you.

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

I thought we'd do a very short round of questions, so that all parties can get in at least one question. So I'll ask everyone to be very brief, in the interests of time.

Mr. Harrison, please.

**Mr. Jeremy Harrison:** Thank you, Madam Chair.

I think I can speak for all members of the committee when I say thank you very much for being here today. We greatly appreciate your presentations; they're very well thought out.

Speaking for myself, I would really like to applaud your courage and foresight. I know this wasn't an easy path to get to where we are today. I take my hat off to you all for the tremendous amount of work you've done on this.

I guess I don't really have a whole lot of questions I'd like to ask, but I think one question that I would like to put forward is that we know this bill was before Parliament previously—and it must have been very frustrating to have it die on the order paper. The question I would like to ask is what changes have been made in the different incarnations of the bill? How does the bill we see today differ from the ones that were before Parliament previously?

• (1045)

**The Chair:** Mr. Jules.

**Mr. Clarence (Manny) Jules:** Firstly, I want to make it very clear that this process is outside of the AFN process, so there's no reliance on AFN resolutions for this particular piece of legislation.

Fundamentally, the difference between this bill and Bill C-19 and Bill-23 is that there is a non-derogation clause. This came up during the debate on those particular pieces of legislation. I think, fundamentally, it also retains section 83 of the Indian Act, therefore making it truly optional for those communities that want to participate.

I think those are the two fundamental areas that make this different from the other pieces of legislation that went forward. As well, I think the schedule or listing is absolutely critical to this.

**The Chair:** Thank you.

Mr. Bellavance.

[*Translation*]

**Mr. André Bellavance:** Thank you very much for being here. Obviously, I have no wish to take anything away from the Minister, but you are in fact the ones who spearheaded this bill, hence the importance of hearing what you had to say to the committee today. We're very happy to welcome you here.

I have a question concerning the preamble to Bill C-20, which is basically the same as the preamble contained in the former Bill C-19. The bill does not purport to define the nature and scope of any right of self-government. I'm wondering if there may still be a tendency on our part to want to communalize anything connected to aboriginal governments in a preamble of this nature. Bill C-23 contained a reference to the delegation of taxation powers, whereas in fact, the real objective here to provide greater financial autonomy.

Do you share this view? If not, why are you comfortable with the preamble to Bill C-20?

[English]

**Mr. Clarence (Manny) Jules:** The reason we feel more comfortable with this, of course, is that we've been involved in the drafting of the preamble, and it does respond to some of the queries made to us in the past.

The fact of the matter is that this reflects the hopes and aspirations of our communities. The reason I feel very comfortable and confident in this particular piece of legislation is that it responds directly to the needs of our communities. As I mentioned in my presentation, this is something we've all worked towards for many, many years. In every one of these communities here, we've been actively involved in economic development and all of those things that come with it, and in some cases for over 40 years.

So I'm very comfortable with the legislation as it is, and I feel very confident that it reflects the hopes and aspirations of our member communities.

**The Chair:** Mr. Crowfoot, would you like to add to that very briefly?

**Mr. Strater Crowfoot:** I think this bill does one important thing: it recognizes and establishes first nation jurisdiction over taxation. That puts it apart from other governments. It's our jurisdiction, and we will help build that jurisdiction so it's equal to, or even better than, our counterparts'. This recognizes our rights as first nation governments. It doesn't put us into the other system, but sets up our own system and has our own jurisdiction in place so we can move forward.

Thank you.

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

Mr. Martin.

**Mr. Pat Martin:** Thank you, Madam Chair.

Let me say at the outset that I agree with the minister and with your point of view that a lack of unanimity shouldn't be used as justification to stop certain groups from going forward, just because you can't demonstrate unanimous consent, either at the Assembly of First Nations or among other leaders.

With my conceding that, you should be ready to concede that it is unusual at these committees to hear only from the minister and the pro side of an argument, and not to hear any witnesses from the con side of the argument at all. I realize that's no fault of your own, but the choice the standing committee made that we would only hear from you and that the witnesses would then be capped off. But in deference to those others who disagree with you and who won't be here to voice their concerns, how do you square the legitimate criticism and fear that this reliance on own-source revenues is in fact an escape route for the federal government to avoid or diminish their financial obligations to communities, that this reliance is setting the stage for eroding and chipping away the tax immunity generally, and shifting the financial burden in the future, slowly and incrementally, for social and economic programs to the communities?

•(1050)

**The Chair:** I have Mr. Calla, and then Mr. Crowfoot.

**Mr. Harold Calla:** Thank you, Mr. Martin.

Part of my answer is that it's your job; it's the job of the parliamentarians to ensure that doesn't happen, because you'll be the first people we'll come to see. It's not the objective of us or this initiative to see the fiduciary duty diminished.

But we can only do so much; we're bound by the Indian Act. In fact, I think one of the things I wish could happen is for each of you to live under the Indian Act for a quarter and to see what decisions you could or couldn't make.

What if, through the actions of this minority government, you are able to ensure there is a more appropriate distribution of the wealth in this country into first nations' hands? I'd like to ask that question, because it would respond to some of the things we have heard you speak of in the past.

But I fully expect it is the duty of you around this House to ensure that doesn't happen.

Thank you, Madam Chair.

**Mr. Pat Martin:** That's a good answer.

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

Mr. Crowfoot, please.

**Mr. Strater Crowfoot:** Thank you.

In regard to your latter question, Mr. Martin, there is no guarantee if this bill passes or not that we'll have our funding secured through DIAND. It's happening right now. Look at the last ten years. There's been a decline in federal transfer payments to first nations, and first nations that have oil and gas revenues, or other revenues—fishing and timber rights—have seen a decline. So there is no guarantee from DIAND or from the government that we'll continue our transfer payments the way they are, but as Harold says, we will ensure that this does not offset our transfer rights or take away any fiduciary obligations the federal government has.

In regard to the opposition to this bill, there is opposition to this bill, definitely, but this bill is optional. If they don't like it, they don't have to use it. It's for those who want to use it, who want to move ahead. The Indian Act has been there for 124 years or so, and it hasn't done us any good, really. This breaks away from that tradition, the Indian Act, and helps us to establish what we see as our future as first nation communities.

Thank you.

**The Chair:** I have Deanna Hamilton, and that will be the last answer to this, so I can get one more questioner in.

Thank you.

**Ms. Deanna Hamilton:** Mr. Martin, we anticipated such a consequence, and as a result in the legislation there's a firewall built in between the revenues for first nation governments and also for the tax revenues, so they are separate from the old source revenues, so they will be able to be a stand-alone.

**The Chair:** Thank you.

Ms. Barnes, please.

**Hon. Sue Barnes (London West, Lib.):** Thank you very much, and congratulations to all of you.

Yesterday I met for a brief time with the regional chief for Ontario, where I come from, and I know Chief Bressette comes from there also. There are currently, Madam Chair, 102 taxing first nations in Canada, 11 of which are in Ontario, and all of these first nations may wish to participate. That will be their choice.

The support for this bill can be compared, in my opinion anyway, to the first nation interest in the First Nations Land Management Act, which began with only 14 bands in 1996 and has grown to 44 bands today. And my understanding is that there is a list of 20 to 30 first nations waiting to participate. So the fact that not everybody is ready to go or wanting to go is not new. That's the reality. It's the reality whether it's first nations or it's my community on anything.

It was a unanimous decision from this committee to hear these witnesses. It was not my push. And I want to very clearly state that when I heard the opposition from the regional chief in Ontario, I made it my business to let all the critics in the House know that immediately, and we are still here today.

It is a very difficult thing when a minority is ready and perhaps a majority.... And we acknowledge there are 600 first nations; this is not unique to my province of Ontario. I know in Quebec—and the critic for the Bloc addressed it in his original statements in the House—there were some in disagreement, and in other areas too.

We have a responsibility in this Parliament, and there may be some who wish to interpret that responsibility, rightly or wrongly, that we are not doing sufficient in the consultation. The reality is, this is a minority Parliament, the life of which we do not know the length of, and there is only one more week in this Parliament and there is another house in the Senate. So I do not say we are doing things perfectly, and I would love to do things perfectly.

I have been a chair of a committee faced with the same types of decisions as this chair was when asked if more and more witnesses could come, or even one more witness could come. The reality is, written documents can come in to this committee still. This committee could conceivably change its mind. But we are all on record, as parties, being supportive of this because we feel that all of those enunciated problems that were very real for first nations have been addressed in the changes. There are even some further amendments we can do to further separate this, and one of them is

particular to the old separating off from what was called “the suite” to ensure that's done.

We will individually make our decisions, but collectively we have been unanimous to date, and I have not had any indication from any party or any individual that this is not the situation. But I can only speak for myself, and for myself I want to wish you well. I also want to wish all of those first nations that don't feel they are ready to participate at this time well, and I hope they avail themselves of the facilities. The First Nations Statistical Institute is available to everybody and will affect everybody, but there are those other financial administrative parts of this legislation that somebody doesn't have to be part of—the borrowing, the capital pools—to benefit from.

So congratulations to all of you. I know our time is over, with another committee there. I for one am doing this taking the responsibility you have shouldered.

Thank you.

•(1055)

**The Chair:** Thank you very much, and I'm sorry we didn't give you time for your closing remarks.

I appreciate everyone's cooperation here this morning. I want to thank all the witnesses. I especially want to thank Mr. Elijah Harper for coming to our committee this morning and listening to our deliberations. We were very honoured to have him here.

I want to remind you again that tomorrow, Wednesday, December 8, at 3 p.m. is the deadline for any amendments to this legislation. We will have another meeting on Thursday at 9 a.m. to hopefully get through the clause-by-clause.

I appreciate everyone's attendance here this morning. There is another committee coming in, so that's why we're trying to stay on top of our time allotment.

I wish to invite everyone to a special presentation of the Mushuau Innu, called *Surviving Canada*, tonight at 6 p.m., in West Block, Room 200. This is a documentary hosted by Senator Bill Rompkey.

Thank you so much.

The meeting is adjourned.







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