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Chair

Mr. Chris Warkentin

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● (1605)

[*English*]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, we're going to call this meeting to order.

This is the 36th meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Today we continue the study we've been undertaking over the last number of months, the study of land use and Sustainable economic development for first nations communities.

Today we are privileged to have Mr. Gordon Shanks here to speak to us. We have asked Mr. Shanks to prepare a ten-minute opening statement and then we'll have questions, as is the usual practice.

Mr. Shanks, I'll turn to you to explain a little of your history. I'm sure you'll do that. I won't steal your thunder, as I imagine that's part of your opening statement.

Thanks again for making time to join us today. We certainly appreciate your being available.

Mr. Gordon Shanks (As an Individual): It's my pleasure.

Mr. Chairman, members of the committee, good afternoon. I want to thank you for the invitation to speak with you about first nations economic development.

As the chairman said, I have a few opening remarks. I'll establish my credentials at the outset, such as they are, to provide a basis for my views on this topic.

My academic training is in economics and regional planning. As an undergraduate, I was fortunate to have studied under Professor Jack Stabler at the University of Saskatchewan, a well-respected practitioner in the art and science of regional economic policy. This sparked a life-long interest in understanding the factors that contribute to or detract from economic development.

I joined the then federal Department of Regional Economic Expansion, DREE, in 1980 and pursued a career with the federal government spanning some 27 years, including time at western economic development, and over 15 years at the Department of Indian Affairs and Northern Development. While at Indian Affairs, I was assistant deputy minister in a variety of roles, including having responsibility for lands and economic development. I've been retired from the public service for some six years.

I understood from your committee clerk that your topic of study is land use and sustainable development, specifically looking at the First Nations Land Management Act. I have some familiarity with the lands act, but I am by no means an expert, and any specific knowledge I have may well be dated.

Having said this, I'm prepared to offer some views to the committee on first nations economic development and engage in a discussion after this presentation, as you wish.

I don’t need to tell the committee that first nations economic development is a puzzling matter. Some first nations succeed beyond their wildest dreams in the most difficult of circumstances, while others fail miserably when it would seem they have the obvious attributes to be very successful. Why is this?

A few years back, when I was with the Public Policy Forum, I did a small research study on the question of barriers to first nations economic development. I interviewed a number of first nation leaders to get their insights into economic success and failure. The number one success factor described to me was a community commitment to succeed, a kind of community self-esteem. This is a rather intangible quality, but it's usually evidenced by strong community leadership.

Strong community leadership is often associated with strong governance. There's a great deal of evidence that good governance is a necessary condition for economic development. In terms of successful first nations, it may even be that good governance is associated with self-governance.

A few years ago the Royal Commission on Aboriginal Peoples looked at this problem and they provided a quote from Paul Samuelson, who some of you will undoubtedly have heard of, a famous American economist. He predicted in the 1950s that Latin America, not Asia, would be the next area of economic growth. Latin America was rich in natural resources, he reasoned, and did not have the population pressures that Asia faced. “I was wrong”, he said subsequently. “The key to economic development is not resources. The key to economic development is effective self-government.”

This same point is made by the Harvard University group that's studied first nations economic development in North America for many years.

A first nations community that exhibits strong self-confidence is also usually characterized by a strong desire to return to self-sufficiency. This translates into a strong work ethic, which often starts a spiral of economic virtue. Success breeds success.

While strong leadership and governance are necessary conditions, are they sufficient? The short answer is no.

Aboriginal businesses face a number of barriers, some of the same barriers that other small non-aboriginal businesses face, but some are unique to first nations. Within first nations there is great diversity.

Access to capital remains an imposing barrier. First nations businesses without a track record have a great deal of trouble attracting the necessary capital to start and successfully operate a business. Those that do attract capital often face crushing interest rates or partnership arrangements that are not necessarily favourable to the first nations.

Geography and lack of natural resource access are significant barriers for some first nations. In some cases, geography itself imposes a serious impediment to economic development. Some first nations simply do not possess any reasonable basis for economic development, whether it be proximity to urban centres or access to natural resource developments. Remote communities face enormous challenges that can be overcome only by finding a niche unrelated to location. But these opportunities are few and far between.

Some first nations leaders lament the lack of mobility of many first nations individuals. One of the enduring debates in regional economic development theory is whether public policy should favour “place prosperity” or “people prosperity”. I don’t pretend to have the full answer, but it seems that efforts to shift economic activity artificially through subsidies have generally had little long-term success. Ensuring that individuals have the capacity to participate in economic activity and supporting mobility to jobs may be a more effective policy.

To be effective, individuals need to be willing to move to where the jobs are. The corollary to labour mobility or access to the labour force is training and education. First nations have traditionally suffered because of low educational attainment. This in turn limits their access to jobs requiring education or to training opportunities requiring a prerequisite level of education. In the long run, education of the first nations population will be a very significant factor in sustainable economic development.

The Indian Act creates barriers to economic development, but it also creates opportunity. The constraints imposed on property ownership on reserve sometimes make it difficult for first nations to obtain the inventory or equipment they need to operate a business. But at the same time, on-reserve first nations individuals or businesses can use their non-tax status to advantage.

Land tenure is an important aspect of economic development. First nations that have clear rules on land tenure can create a business climate of greater certainty. I understand that there is a debate under way on whether fee simple land tenure is a necessary condition for further economic development. Certainty of land tenure is an important aspect, but so is transferability of title. The current legal regime on first nations lands limits tenure to registered Indians as defined by the Indian Act. It's an empirical question whether successful first nations are achieving a lower level of economic activity by limiting ownership only to first nations. I don’t know the answer.

It's important to consider the historic and cultural dimensions of land tenure. If Indian reserves had not been created, it is arguable whether first nations would have survived as vibrant modern entities. The fact that the alienation of first nations reserve land was severely constrained has been an important factor in maintaining first nations as separate entities. It’s not clear what impact it might have if this prohibition were to be removed.

From what I know of the First Nations Land Management Act, I would say that this is a positive institutional arrangement for first nations to facilitate economic development. Institutional arrangements cannot overcome geography or create an educated and trained workforce, but they can create a climate of certainty. According to the first nations leadership associated with the land act, the fact that the land act prohibits first nations from selling reserve lands does not appear to be a significant barrier to economic development at this time.

If a different type of land tenure were to be created, and I don’t have a ready description of what that might be, it would have to build in some kind of guarantee that the land ownership, in and of itself, could not result in first nations lands ceasing to be first nations lands. Equally important to the certainty that land tenure can provide is the matter of environmental regulation. Sustainable economic development goes hand in hand with a regulatory regime that provides timely decisions and a high degree of future certainty. Improvements to the environmental regulatory regime under the land act provide a significant benefit—creating conditions for economic development.

First nations economic development is a puzzling matter, and I don’t think there is any one factor that will make the difference. Rather, I think that the continued efforts of lawmakers and policy-makers working with first nations leaders on a variety of fronts will create an environment increasingly favourable to sustainable economic activity.

Thank you, Mr. Chairman, for the opportunity to make these remarks.

I welcome any questions or comments.

● (1610)

The Chair: Thank you, Mr. Shanks. We appreciate your opening statement. And we certainly appreciate the background that enables you to bring these statements and answer our questions.

We'll turn to Ms. Crowder to lead off the questioning, for seven minutes.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Mr. Chair.

Thank you very much, Mr. Shanks. I appreciate your taking the time to come before the committee today.

I have a number of questions. I'm sure you are familiar with the format. We have seven minutes to exchange.

I'm looking at the paper called *Economic Development in First Nations: An Overview of Current Issues*, from January 2005. You made a point about own source revenue in your paper. You raised the issue that economic development success is fragile and that there have to be incentives to prosper and reinvest.

We have heard concerns from a number of first nations that when they end up in agreements, whether they are for land claims or self-government, the clawback on OSR, own source revenue, happens far too quickly, before they have actually become firmly established economically. In fact, we recently had a case with the First Nations Education Act in B.C. It wasn't a term of the original act, but we've heard from B.C. first nations that OSR now has to be considered in financing the B.C. First Nations Education Act. Again, these are fragile economies.

I'm wondering if you could comment on that.

● (1615)

Mr. Gordon Shanks: It is a bit of a conundrum, I would admit. On the one hand, first nations argue that by being given access to resources and having the ability to create their own source revenues, they will become self-sufficient on their own and will not rely on federal or provincial funding. In the long term, that's obviously the objective. The trade-off has to be finding the balance. It's kind of like the welfare trap. If you make $100 on welfare and $101 from working, is it worth it to work for a dollar? Well, most people would argue that yes, it is, but not by that much.

Ms. Jean Crowder: If you'll forgive me, part of the argument I've heard from first nations is that because there's such a serious infrastructure deficit for many first nations, whether it's roads, water, or housing, the OSR clawback starts before they are actually able to have an equitable standard of living.

I would agree with you. What I hear from first nations is that of course they want to be self-sufficient. They agree that the own source revenue at some point will fund the community. But the clawback happens before they have actually reached that equitable level of living.

Mr. Gordon Shanks: It's clearly an empirical question. It would vary by circumstance. I can't comment on government policy. I don't know what the current negotiated rules are. Normally there is an expectation that there's going to be a transition and that you are going to take any resources that have arrived through settlement claims or resource development or whatever and will invest them wisely, build up some equity, and become self-sufficient. It's a question of time. I think it's a negotiable item.

Ms. Jean Crowder: In your paper you also mention the First Nations Land Management Act. I think the language around it was that it's interesting or that it needs consideration. It was a while ago, and of course more first nations are now participating in the FNLMA. The government has indicated that they are going to provide funding to....

Were you able to actually look at some of the success factors for FNLMA bands?

Mr. Gordon Shanks: I don't recall specifically. I think there are a couple of tangibles and a couple of intangibles.

On the tangible side, the regime created under the lands act is local. It creates local decision-making. Generally, that translates into speed, which is highly desirable in most economic instances. It provides the capacity to be nimble in terms of local circumstances. When you are operating under a national regime, such as the Indian Act, nimbleness is not something that is very common. That is important.

On the intangible side, that notion of community self-esteem, that desire to take charge of your own future, kicks in. That's a fairly powerful thing in a community. It works up and down. I'm sure that people here are familiar with aboriginal communities that, once they have gained some momentum, have had things carry along. If you don't have that ability the lands act provides, you may get one success, and often people will pile on to that and pull it down.

The lands act, by virtue of putting the decision-making at the community level, really does provide some significant benefits. Communities that are using it are showing some of those.

Ms. Jean Crowder: Do you have specific recommendations for this committee from the work that you've done? If we were to improve the First Nations Land Management Act, or some other aspect of land tenure, are there one or two key recommendations you think we should consider?

Mr. Gordon Shanks: If I had an answer, I would love to give it to you.

I've been thinking about this a lot. Really, I think the key to most successful communities is to get the community members engaged in their own future, essentially having them take charge. Some of the discussion goes around home ownership, for example. Whether it's home ownership or rental, people who have a stake in their future tend to put more effort into it, and if economic development is going to take off, it requires people in the community to really want to succeed and put some effort into it.

● (1620)

Ms. Jean Crowder: Perhaps I'll be able to get back to you.

The Chair: Thanks, Ms. Crowder.

We'll turn to Mr. Rickford now, for seven minutes.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

Thank you to the witness for coming.

I won't drag out my introductory remarks. We had a chance to share some thoughts and ideas, but for the record, Mr. Shanks, I do want to acknowledge the important work you've done over the course of your career in this specific area. I don't think there's a more timely instance in which your perspective would be more helpful to us.

Very briefly, I have five quick items. I had a chance to read your paper. I appreciated very much the public policy forum discussion you had, and it struck me that, indeed, as we found out in our trips, one size doesn't fit all. You've alluded to those challenges. Obviously, in the great Kenora riding we have first nations communities that are southern and border some of our towns and cities and have access to different kinds of economic development opportunities, and in stark contrast we have more than 25 first nations communities that are completely isolated, accessible only by winter road throughout the winter.

As you've said in your paper, it seems that economic development would be attached primarily to resource development, but there was economic infrastructure that you delivered to government as a message we must invest in.

The four points overarching were the legal instruments and legislation for modern governance, speed of business.... Notwithstanding the fact that the government does have a responsibility to ensure that the business plans being submitted have survived some degree of due diligence and are viable, there continued to be incentives for first nations. And as my colleague pointed out, one I generally agree with, own-source revenue appears to be a subject matter we need to discuss further—use, tenure, and jurisdiction of land, and, finally, economic infrastructure.

The steps required there are things like small business centres. For example, in communities those kinds of fairly safe assets generate a local economy but hopefully contribute to the development of regional activity, for example, in resource development.

With respect then to the use, tenure, and jurisdiction of land, in your paper you mention a high level of frustration with regard to the process of land designation and additions. We've heard lots about additions to reserves, so I was wondering if you could describe for us what specific legislative regulatory obstacles exist to economic development related to use of land and land management, and what specific recommendations you have for us to address them. I'm not sure I got as much of the specificities out of the paper as I needed.

Mr. Gordon Shanks: One of the challenges, and the lawyers around the table will be aware of this, is when first nations want to develop their lands often an outside non-aboriginal partner wants to get involved. They go to their lawyers and talk about the leases. The first thing their lawyers say is don't touch it with a ten-foot pole. There's this great uncertainty as to what the law really is. It's not as uncertain as most people who aren't in this on more of a full-time basis think. Nonetheless, there's this notion that there's a different world out there.

Businesses like to do things in a way that they know how they work, and they don't like surprises. When you get into leases with first nations designations, first of all, you have to overcome the barrier of getting the approval of the landowners. It appears the landowners generally are the community. You've often got a very high barrier. You might need 50% or even 75% of the population to agree to a decision. To achieve that level is very difficult. We all know how apathetic people can be, particularly at the municipal level. To get a vote of 75% of the people would be an enormous accomplishment. So that's a difficult thing to overcome in first nations. It's the time to do that.

Then it has to come back to the crown. The crown has to make those decisions and an order in council. What ought to be a relatively straightforward legal process often takes months, sometimes years. You know that any business that was interested has probably long gone. The timeframes of these kinds of things can be devastating. On the lands act, if you have that capacity at the local level, you could collapse that enormously.

● (1625)

Mr. Greg Rickford: Have you seen, Mr. Shanks, situations regarding the legal instruments or legislation around modern governance? To give a concrete example, the First Nations Land Management Act has built-in governance components that absolutely interface. They're not mutually exclusive to each other. In the context of economic development, we have this to deal with.

In closing, I'll jump right into your comments on page 9 of that paper around the Indian Act. You mention in your introduction that the Indian Act itself poses barriers and opportunities. Very quickly, over the course of your work, do you have some specific examples that have struck you as being particularly problematic or opportunistic?

Mr. Gordon Shanks: The main impediment for economic development in the Indian Act is the actual ownership of assets on Indian lands and that you can't attach any non-Indian ownership to assets that are on Indian lands.

Mr. Greg Rickford: Your rights to security.

Mr. Gordon Shanks: That's right.

As a consequence, anybody who gets into that either extracts an enormous premium or doesn't do it. You end up with convoluted kinds of relationships, which are costly.

Mr. Greg Rickford: Absolutely.

Mr. Gordon Shanks: Most of these things end up in terms of cost. They can be monetized, and you find that doing business on Indian reserves often just costs a lot more than it ought to.

The Chair: Thank you, Mr. Rickford.

We'll turn to Ms. Bennett for the next seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

In the two weeks that the committee travelled, I think we heard a lot about ATR, additions to reserve. Even though in our offices we've heard about it, it seems that even for the bands that have self-government or are in first nations land management, the delays in ATR are really hampering them.

I guess I would love to know the insider's view of why on earth this takes so long. I guess there's a view that the Department of Justice seems to get its hands in and that there's even an extra step that's been imposed by this government in the back-and-forth. I did an order paper question, and it doesn't seem that there's a real tracking system.

It also seems that certain chiefs don't even know where they are in the process—a certain piece of paper is missing or something's missing—so that it seems there should be a website the chiefs can use to see how it's going.

I think we were also concerned that a lot seemed to ride on the personality of the people at the regional office, and that if they had a really good relationship with them, then things seemed to happen a little bit better.

When Warren Johnson was here, he said he felt the minister should be able to make these decisions himself instead of it going as an order in council. I suppose I would say, having been at the cabinet table, that all politics is local, and I wondered if you've ever known of any situation where, when it got to cabinet, there was a sober second thought about something. Do you have a view as to whether it needs to go to cabinet or whether or not the minister should make these decisions himself?

● (1630)

Mr. Gordon Shanks: That's a bundle. Thank you for the questions.

As I said at the outset, my knowledge may well be dated, but my experience with additions to reserve is that the process in itself is fairly straightforward, but given the fact that you're taking land and making it into crown land and then also reserving it for Indians gives it a stature it didn't have before. So it's a serious proposition.

It used to be—and I presume it's still the case—that the department had fairly rigid criteria on what rules have to be met in order for land to be added to a reserve. I never have seen any instances when anybody's personality or whatever would have any play in that. My experience in the delays was that usually there wasn't the information that was required. People would say, “Oh, we sent that in three weeks ago.” Yes, but they sent this and we needed that.

Very often there is a lack of communication. Sometimes the things are incredibly complicated. You have to verify all the outstanding aspects of a piece of land. Are there any liens on it? Are there any environmental problems associated with it? Who owns the mineral rights? Who has any leases on it? All those kinds of things have to be known, clarified, and agreed to. They're often complicated.

Hon. Carolyn Bennett: Is there a navigator person? Are there enough resources to actually do that two-way communication coaching? Or is it a situation like two field officers dealing with a hundred of these, and the pile keeps—

Mr. Gordon Shanks: I honestly don't know.

Hon. Carolyn Bennett: How would we find out?

Mr. Gordon Shanks: I think if the deputy minister or the minister were sitting here, they could tell you what resources are devoted to particular regions, and there are parts of the organization—or there used to be, in any event—where that's what people did. They were experts in it. They knew the process. They knew how to do it.

It requires a lot of legal nit-picking to ensure that all of the right information is there. You're taking on enormous responsibilities when you add land to a reserve, so the crown wants to be very clear.

Also, in taking it on the first nation lives with the circumstances it's bought into, once it happens. If somebody's missed something, it could be a problem. I think people do double- or triple-check things just to be sure.

Hon. Carolyn Bennett: Do you think you could have a service expectation of something like two years?

Mr. Gordon Shanks: It varies, because some things are really simple and some things aren't. So, no, I don't think you could say that. I can give you some examples. There was one out on Lake Superior where there was an addition to a reserve that involved a sawmill. The sawmill had been there for a long time, and it had all kinds of problems. It took close to a decade to resolve. It wasn't that people were dragging their feet; it was sorting out a whole lot of things. There are other instances when you have a piece of farmland in Saskatchewan that has been growing canola for the last 20 years, and there's nothing else that ever happened on it. That shouldn't be very complicated. So it really depends.

The Chair: Thank you, Ms. Bennett.

We'll turn to Mr. Wilks.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Chair.

Hon. Carolyn Bennett: Mr. Chair, on the order-in-council thing, do you think the minister could make a decision?

The Chair: You had about 15 seconds left, so you can have an answer.

Mr. Gordon Shanks: I don't think that's a big issue. The minister essentially approves the order in council, in any event, before it goes to the cabinet committee, and it's never more than a week or two. So you're not saving great amounts of time.

● (1635)

The Chair: Thank you, Ms. Bennett.

Mr. Wilks.

Mr. David Wilks: In reading your document from January 2005, I wanted to focus on pages 4 to 9 and page 14. You wrote that economic development issues facing first nations are extremely diverse and complex and that one size will not fit all. You consequently pointed out that any response will have to be fashioned to fit a variety of circumstances. This is something this committee has heard repeatedly from witnesses.

Do you have any recommendations on how to create land tenure policies and programs that are robust as well as flexible?

Mr. Gordon Shanks: I think the answer lies in creating the opportunity for local communities to take charge and come up with a system that works in their circumstances. There are different cultures within the aboriginal communities. Some of them have a long-standing tradition of communal ownership, and they don't have any concept of parceling land off. Others have a culture of almost fee simple, with certificates of possession that have run through families for generations.

You have to be able to develop a system that's going to accommodate the various traditions within aboriginal communities. You can't do that without looking at the actual circumstances on the ground. I think you have to try to localize it or regionalize it as much as possible.

Mr. David Wilks: Do you find economic development varies from province to province? For instance, in Kelowna at Westbank, because of where they are, they have an advantage over people who may not have such a location. Is that part of the flexibility that needs to come forth?

Mr. Gordon Shanks: Yes. If Westbank hadn't had the opportunity to lease its lands out to non-aboriginals to the extent that it has, it wouldn't be nearly as successful. But go down the road a bit, and Osoyoos is using wine-making as their engine for economic development. So different circumstances offer different opportunities.

Mr. David Wilks: You also stated that creating a modern land tenure and land description system, coupled with an efficient land registry, would be an area for possible improvement in the conditions for economic development. This is on page 14. We have heard from a number of first nations that this is being studied. What accounts for the view that reform of the land registry and land tenure processes on reserves is required?

Mr. Gordon Shanks: It's the fact that in many instances it's quite difficult to describe the physical parameters of the land you're dealing with, and that if it is registered, there often are all kinds of caveats on those lands.

It becomes really complicated in the aboriginal world because of the system of wills that exists, as well. Land that has been passed down through a number of generations gets split up, so that you might end up having, I don't know, 25 to 30 names of people on the title.

There needs to be some system like a Torrens system, whereby you could have a guaranteed title, you would know who actually owns it and what their interests are, and you would have some method of disposing of interests that don't want to be there or aren't necessary to be there. You need that kind of land tenure system.

● (1640)

Mr. David Wilks: Following along this same line, what challenges are associated with reforming land tenure on reserve lands?

Mr. Gordon Shanks: I could give you anecdotal information.

It's incredibly difficult to get an agreement on who actually has the tenure. I can recall, from a meeting in your area about 10 or 15 years ago, sitting around the table on that exact question of setting up a land register and how we'd do it. The incumbent Lieutenant Governor of British Columbia was a lawyer in those days, and we were going to set up a system. We had a couple of people who said, "My grandfather's land went from that rock to the tree to the reef." Another would say, "No, it was that rock." After about 20 minutes back and forth, we said this isn't going to happen.

The difficulty in reaching that agreement was enormous. You'd have to go through a registration system—I would imagine quite a lengthy one—whereby people could resolve their disputes and could decide to agree to disagree and where to draw the line. But right now, in most cases there are no lines.

Mr. David Wilks: So this is quite difficult.

Mr. Gordon Shanks: It's very difficult.

The Chair: You have about 30 seconds left.

Mr. David Wilks: You mentioned certificates of possession. We've gone to a couple of places where CPs are extremely problematic. Do you have any thoughts on them?

Mr. Gordon Shanks: Well, I would agree that they're extremely problematic in some instances. In some communities they are viewed as essentially a fee simple title; in other cases, they are not.

Now, in law the land is all communal. CPs are at the.... Really, a council can remove them, but like many things, they develop into an economic benefit, and there's no council that would be able to actually say, "George, we're taking back your land."

But they don't exist everywhere. They're just something that communities that have them will have to figure out a way to regularize into some kind of tenure. The traditional methods work in some places, and in some places they don't.

Mr. David Wilks: Thank you very much, Mr. Chair.

The Chair: Thank you, Mr. Wilks.

We'll turn to Monsieur Genest-Jourdain for five minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Mr. Shanks, good afternoon. Do you understand French?

Mr. Gordon Shanks: Not yet.

Mr. Jonathan Genest-Jourdain: That's okay, we have interpreters.

Mr. Shanks, I was especially impressed by the fact that you mentioned such a diverse range of considerations in your presentation, from community governance and self-esteem to unique features such as non-tax status.

Given how much experience you have and how long you have worked in this field, I would say you will be able to give me insight into certain things. My background is as a criminal lawyer. And my next question will reflect that.

I'd like you to bear in mind the considerations I just mentioned and give me your take on how white collar crime affects community decisions. What impact do influence peddling and insider trading have, since they inevitably go hand in hand with major economic development and the noticeable wealth of certain aboriginal communities.

[*English*]

Mr. Gordon Shanks: That's an interesting question. I don't think I've ever had that question before.

Anecdotally, and I'm sure the committee has talked to lots of people, there are payments that go to communities and sometimes they don't always appear where they should. That's why I think the notion of good governance is really quite critical to economic development, so that any white collar crime or any impetus or incentive to it could be absolutely minimized by having a transparent accountable government.

When first nations are negotiating with large resource development companies, those companies are inclined to make all kinds of arrangements. It's really important that those be as transparent and open and defined as possible. Whether that's the case now or not could be an empirical question. I have no evidence or experience to say otherwise, but it's important to make sure that it's not something that could happen.

● (1645)

[*Translation*]

Mr. Jonathan Genest-Jourdain: I want to come back to self-esteem, which you mentioned. What is your take on it?

Some communities derive a sense of pride from going back to their traditional practices. That's an integral part of self-esteem. Does a return to traditional values factor into your understanding of that pride and self-esteem within a community? It's the very glue that holds some communities together.

[*English*]

Mr. Gordon Shanks: I think the whole question of self-esteem comes up at various levels, but it is fundamental. It is very important, I think.

I was talking to a chief from northern Alberta a couple of weeks ago, and they've been quite successful as the result of some opportunities in oil development and such. The reason they were successful was that he was able to take young people who didn't see they had a future and got them employed, got them into work that was actually productive and gave them a future. This built upon itself so they were actually encouraging one another to get into the labour force and get working. The values they talked about were very traditional values. They said their grandparents had told them there was no welfare, that they worked and were self-sufficient, so that's the value they're trying to re-establish.

The other thing he talked about, oddly enough, was that they were nomads. They went and followed their food, they followed the climate, whatever, and they realize now that maybe they have to do a bit of that too: if there isn't work right here we will move to where it is, but we take who we are with us and we come back. But that is a tradition, and they were saying that's who they are too.

That pride in being able to do that as a nation was a key element to their success.

The Chair: Thank you, Mr. Shanks. Thank you, Mr. Genest-Jourdain.

We'll turn to Mr. Boughen now for five minutes.

Mr. Ray Boughen (Palliser, CPC): Thank you, Chair.

Mr. Shanks, let me offer my word of welcome to match those of my colleagues' welcome. We're appreciative of you taking the time to meet with us.

In some of your documentation you mentioned "invasive legislation" as a contributing factor for significant economic and social gaps between first nations and others. Could you expand on that a little bit for us?

Mr. Gordon Shanks: I guess if you look back at some of the regulations and rules that first nations actually live under, they are relatively onerous. Many of them are old and unenforced. I guess I should have put prefaces. A lot of this stuff may not be an actual factor today, but it's within living memory, so it creates a kind of mythology.

First nations people within the last 40 years, for example, if they had agricultural produce they had to have approval from the government to sell it. That's not the case today, but that kind of regulatory overburden is a hangover that still sits there. The Indian Act is a kind of institution regulating the lives of Indian people separately from anyone else. This is something that many people find a real burden, and it is invasive.

Mr. Ray Boughen: Right. Thank you.

In your view, what are the top three barriers that need to be addressed in the area of lands that would specifically improve first nations' ability to access economic development opportunities on reserve? What do you think are the top three?

● (1650)

Mr. Gordon Shanks: I think the question of land tenure is important; the question of local decision-making in terms of leasing or designating lands for long-term leases, doing that quickly, with little red tape; and I think a very clear environmental management regime that provides certainty for the long term. I think those three things are key.

Mr. Ray Boughen: Okay.

In the absence of legislative and regulatory amendments, what could be done in the short term to implement immediate improvements to address some of the common barriers to economic development and land use through programs, policies, or procedures?

Mr. Gordon Shanks: As I think I said at the outset, probably the biggest barrier right now is still access to capital.

Mr. Ray Boughen: Even with the land...?

Mr. Gordon Shanks: Yes, even with the land tenures and such.

For anybody's who's tried to start a business, the first thing a banker will say is "What's your track record?" If you tell them you don't have a track record and you live on a first nation, they'll say, "Maybe you'd better go and see the bank next door." Even with the government banks, the interest rates are very high.

So if there's any way to create better capital institutions, put some more money into the aboriginal capital institutions, and get that money flowing.... It's kind of like Greece, I guess, in a way, in that we have to get some capital, get it from the right places, and create some momentum.

Mr. Ray Boughen: Thanks, Chair.

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

We'll turn to Ms. Morin now, for five minutes. She'll be sharing her time with Mr. Genest-Jourdain, if there's time.

[*Translation*]

Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP): Thank you, Mr. Chair.

Good afternoon, Mr. Shanks. Welcome to the committee.

This is also the first time I have been on this committee, but I do have some questions for you, nevertheless. I found your presentation quite informative.

In your report on economic development in first nations, you talk about the importance of coordinating all the efforts of the various levels of government and the aboriginal communities.

The state of housing on reserves is well-known. We've all seen the pictures of housing conditions in Attawapiskat. Just last week, a press release came out; it stated that many people still were still living in insecure housing. Some even live in trailers.

It is a fact that the current conditions on many reserves significantly impede their development, economic, social or otherwise.

You may know that I recently sponsored a bill aimed at ensuring Canadians have secure, adequate, accessible and affordable housing. The bill would require the minister responsible for the CMHC to work with all stakeholders, especially aboriginal communities, to establish a national housing strategy.

Do you think a similar strategy, requiring the various levels of government and first nations to work together, could be one way to find long-term solutions for these communities? Could it also help achieve healthy and sustainable economic development?

[*English*]

Mr. Gordon Shanks: Thank you for the question.

The short answer is yes. The whole question of housing is central to sustainable communities; it's central to healthy communities and it's a very significant economic driver. If you look at virtually any community of any size, probably the largest industry in that community is housing. It's building houses. It's fixing houses. It's maintaining houses. It's creating roads to build new houses. So housing is a very significant part of communities.

The issue that first nations have with housing is an incredibly complicated one. There are situations where housing is not a problem for first nations. There are various reasons why that is. Often it's a result of going back to this notion of creating self-sufficiency, self-esteem, where communities decide they're going to take charge of their future. I can recall being in some communities where the chief is taking me around and showing me a number of houses that they're building and saying, “I decided we'd better do this, because if I waited for you it would never happen.” So the notion of finding ways to create community momentum behind their own needs really does result in good things.

This is easier to say than it is to actually pull off, because a lot of first nations communities have some serious social issues. As to the cause of those social issues, you can point fingers all over the place, but the fact is that they remain. Until those are really dealt with, it's really quite difficult to create a housing strategy that is going to work. As long as we continue to simply provide houses, I think we're probably destined to fail. People who don't have a stake in their future don't have a stake in their future. Those who do, who really care, who are going to work towards it, tend to create a more positive environment, and it often results in a healthier community.

I think tackling housing is a great way to start, but it's not easy. It's not for lack of trying that there's still a housing problem.

● (1655)

The Chair: Thank you very much.

We're going to turn now to Mr. Payne, for five minutes.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Chair.

And thank you, Mr. Shanks, for coming today.

I read through your report, and one of that things in it that interested me was on land tenure. We were just on a fact-finding mission to a number of the reserves, and we saw that the FNLMA has been a successful vehicle. I think you indicated that in your report on development, and how attention needs to be paid to rapidly expanding that application. I know you've talked a little bit about land tenure. How do you see that as a tool for ensuring that this is expanded and opportunities are created?

Mr. Gordon Shanks: From what I understand, the number of communities getting involved in the lands management act is rapidly increasing. Again, the reason why it was so difficult to get communities into that is the notion of really understanding what their land base was, what interests there were in it. Often there were lots of leases that had to be clarified, etc. More and more communities that have gone through that work can now get to the point where they can take on the actual aspect of managing their own land and making local decisions. So that's got to be a positive thing. It's not a silver bullet that's going to solve the problem, but without it they're going to have more difficulty.

Mr. LaVar Payne: So what do you see as the potential 10 or 15 years down the road for the FNLM regime?

Mr. Gordon Shanks: From what I can tell, more and more communities are taking this on. They tend to be viewing it, in large measure, as a bit of self-government. That's a positive thing. Communities that are prepared to take responsibility for their own governance, and the outcomes, I think that's very positive. One of the biggest problems with many first nations has been that they tended to point the finger at somebody else when things went wrong. With the land management act, communities are saying “We're grown up enough to take charge, and if we make mistakes we'll take responsibility for it and we'll work through it”. I think that's a very positive thing for everyone.

● (1700)

Mr. LaVar Payne: Yes, we've seen that, obviously, in Westbank First Nation, and it certainly moved them to a comprehensive self-government.

Do you see this vehicle as an opportunity to move more first nations into self-government in the years to come?

Mr. Gordon Shanks: I would imagine so. I think what will happen is communities will get their feet wet. They'll find they can do it, that they have the capacity. Their self-esteem will grow and they will be able to take charge. I think they will probably take on other aspects of governance.

Maybe this is the place to add that one of the things that is missing.... This is not a partisan comment, but there have been attempts in the past to amend the Indian Act to make communities more accountable, more transparent, etc. Any efforts that could be done in that regard would be helpful, because community members still feel disenfranchised, by and large. They don't have the legal capacity to actually force their governments to be transparent in many cases. Some of them have codes that do this, but the overall regime is not that robust. So I think something in that legislative regime there would be very helpful.

Mr. LaVar Payne: Actually, on our trip to a number of the first nations, they did talk about transparency and good governance and open governance to their individuals, particularly because that gives them the opportunity, obviously, to make sure things are done right for the first nations.

How much time do I have left?

The Chair: Less than one minute.

Mr. LaVar Payne: In thinking about the opportunities that might be created, what types of economic benefits would you see being available to some of these first nations?

Mr. Gordon Shanks: I think you're going to see first nations become almost unrecognizable from other nations, other communities. They will join the mainstream.

I can cite an example just outside of Saskatoon now with the Dakotas. I don't think anybody going there would say this is an Indian reserve. They wouldn't. This is a modern community that is fully functional, that has good housing, good infrastructure. People have jobs. They're proud of their community. And I think you're going to see a lot more of that.

Mr. LaVar Payne: We did actually visit the Whitecap Dakota and certainly saw and heard from the chief and the councillors about how well they're doing and the progress they're making.

The Chair: Thank you, Mr. Payne.

We'll turn to Mr. Genest-Jourdain now for five minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Mr. Shanks, for years, centuries even, we've seen a complacent and anything-goes attitude towards aboriginal communities in this country when it comes to the environmental assessment and follow-up of sites that are sometimes contaminated. I'd like to hear your take on the environmental impact of the lack of any such assessments on communities, especially as regards a community's desire to pursue economic development.

[*English*]

Mr. Gordon Shanks: Thank you.

Contaminated sites are significant, there's no question about it. They're on the contingent liabilities of the Government of Canada as federal lands.

From what I know, there has been significant effort to try to deal with them, but there are so many. As you said, in the past people weren't as conscious about environmental degradation as they are today. As a result, you have some enormously difficult areas.

From what I know, the government is expending its resources to clear up as many of these as it can, as quickly as it can, but this is a resource issue. It's a very difficult problem in some cases. The efforts have to be to stop creating new ones, though, and that's an important aspect as well. I think there have been major strides in the last 20 years or so to stop further environmental degradation and then to work backwards and try to clean them up.

● (1705)

[*Translation*]

Mr. Jonathan Genest-Jourdain: Could that slow a community's economic growth? What's the real impact of these contaminated sites?

[*English*]

Mr. Gordon Shanks: Again, it's an empirical question. It depends. In some instances, it could be. In other cases, though, I hate to think of it as an opportunity, but it may well be.

Take, for example, the Sydney tar ponds in Cape Breton. The first nations now have a significant economic development opportunity in actually cleaning up those tar ponds. It can be negative in the sense that nobody is going to develop unless this is cleared up. But there is an opportunity to clear it up, if the resources are found to do that, and then move forward. It can be constructive.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Am I out of time?

[*English*]

The Chair: You have two minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain: I was very glad that you discussed education as a tool to foster economic development and assert a community's sense of identity.

Do you think access to higher education or post-secondary studies within the communities has a positive impact on their economic development?

[*English*]

Mr. Gordon Shanks: As I said earlier, that's absolutely critical. It's critical that people be given the opportunity for education. It's critical that communities, though, support the young people who want to get an education, so that they actually use it in the communities.

Unfortunately, sometimes—and this is not unique to first nations, but in many parts of the world—those who become more educated move to better opportunities rather than staying home and fixing the issues there. So you need to make sure you have an education strategy whereby students are doing things to benefit their community as well as themselves. Both are possible, and neither is a negative thing.

Without it, there's little chance. Without education, economic development is not really going to take hold. Any employment, particularly in the resource extraction business, now requires a high degree of education. This is not manual labour.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you.

[*English*]

The Chair: Thank you very much.

We'll turn to Mr. Clarke now, for five minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair.

Thank you, Mr. Shanks, for coming in today to testify.

One of the things we really noticed during our study and when we went on committee travel.... My portion of the travel was through Muskeg Lake, Whitecap, going to Westbank First Nation, Penticton, and then over to Osoyoos. And one of the main conclusions....

The theme of your paper is economic development. Chief Clarence Louie's main theme—and he was a strong proponent—was jobs, jobs, jobs, and keep people working, get them working, get them off the social assistance, and get them out of the Indian Act. He was quite passionate about that.

I'm reading your conclusion here on page 20. You indicated in one comment that "Serious effort should be undertaken to engage First Nations in defining success." You point out—and other first nations leaders have stated this throughout at least 50 or 60 years—that the smothering culture of dependency to a positive, future-oriented culture of self-sufficiency.... You also indicated that "Governments at all levels must resist the long-standing urges to impose paternalistic solutions. Governments must find ways to break the 'fiduciary grid-lock' to constructively engage and share risks with First Nations as partners."

We're seeing a lot of that, such as in Westbank, where they're doing the box stores. We're seeing one first nation in Penticton just beginning the process of development. You see that in Osoyoos, where they have a very strong leader. You mentioned that one of the main principles for economic development is to have a strong governance. We see a strong leader and a governance of Westbank in place. They are becoming more economically independent. We heard witness testimony of $1.4 billion worth of assets in Westbank First Nations. That's a huge benefit to first nations.

We're seeing that mentality or that desire of other first nations to come through. We're seeing that testimony here today, or last week when we had first nations from northern Saskatchewan. They're purchasing TLE land. They're finding resources for development in the urban centres of Prince Albert, Saskatoon, Regina, Yorkton, throughout Saskatchewan. Some of them are actually partnering in other provinces as economic development.

What are first nations looking for in economic development, and how do they envision their success?

● (1710)

Mr. Gordon Shanks: There's great variety in the answer to that question. Some first nations would see mainstream economic development as the ultimate solution to everything. There are other instances, though, in which first nations are not going to be having box stores and are not going to be leasing out subdivisions; they're just not located in places where that's going to happen.

But there are lots of opportunities still. You can imagine people getting into ecotourism or tourism in places where that's viable; you can imagine traditional building of various artifacts that can be developed. But in some instances, communities may decide that their future is really in urban centres, and if the people are educated and trained, and such, they may in fact decide that they're going to relocate over time. We shouldn't consider that a negative thing either.

I don't know whether there are any members here from Saskatchewan, but having grown up there, I know that we went through this: everybody left and went to other places. The regions are stronger as a result of it, and nobody lost.

So I think first nations may well take that on as well.

Mr. Rob Clarke: I'm just wondering what types of questions government should be asking first nations communities in order to support emerging first nations economies.

Mr. Gordon Shanks: I guess what first nations leaders would tell you is "Ask us. Don't decide on your own and then come and tell us what you've decided is your policy." That tends still to be the way it works, rather than what you're doing, which may be the right thing. You're actually talking to the first nations and asking, what is it you need; what's going to work for you?

Very often, if you're not living the day-to-day circumstances, you don't really have the key insights. You can come up with some broad-brush types of things, but it's the leadership that is going to be able to say what they actually need and what's going to work. You're talking to the people who have succeeded, and they're going to give you some good insights, I'm sure.

Mr. Rob Clarke: Mr. Chair, I still have one question, if you don't mind.

The Chair: You're out of time; you're over by a minute now.

If there are additional questions, we have time, but I know that some of you are trying to get out to flights, so I'm getting a sense that people want to get moving.

Mr. Shanks, we thank you so much for being here today. We certainly appreciate your testimony and your insight. This will be a complement to the report we read that you wrote, and this certainly is supplementary to what we've heard from previous delegations, so thanks very much.

Mr. Gordon Shanks: Thank you very much.

The Chair: The meeting is adjourned.

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