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Chair

Mr. Chris Warkentin

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• (1535)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I'd like to call this 44th meeting of the Standing Committee on Aboriginal Affairs and Northern Development to order. Today we are undertaking the continuation of our review of Bill C-27.

Today we have the privilege to have, in the first hour, the regional chief of British Columbia, Ms. Jody Wilson-Raybould, as well as Karen Campbell, a policy analyst joining the regional chief.

• (1540)

Ms. Wilson-Raybould, we'll turn it over to you to begin. I know you've been here many times, and we appreciate your willingness to come again today. As is the custom, we'll begin with your opening statement. We'll follow that up with some questions, if that works for you.

Ms. Jody Wilson-Raybould (Regional Chief, British Columbia, Assembly of First Nations): Thank you, Mr. Chair.

Thank you to the members of the committee for allowing me to appear again, this time on Bill C-27. As was stated, I am the regional chief for British Columbia and the national portfolio holder for first nations governance at the Assembly of First Nations. I am glad to be joined here today by Karen Campbell, who I work closely with within the assembly.

As I have said here before, and as the committee is well aware, I think first nations are in an exciting period of transition and are moving towards increased autonomy and self-government. This is good for first nations and good for Canada.

Increased autonomy is occurring in those nations that are considering and supporting the foundations of good governance, in order to transition our nations from essentially administering federal programs and services on behalf of Canada, or self-administration under the Indian Act, to self-government, with appropriate accountability to our citizens.

There is no issue that the governing bodies of our nations must be transparent and accountable. The vast majority are, of course, and they continue to demonstrate this to their citizens. In December 2010, the chiefs, in assembly, passed a resolution affirming the commitment to transparency and accountability, in part in response to a private member's bill, Bill C-575.

Chiefs were clear in their assertion that these proposed measures—in Bill C-27—are both heavy-handed and unnecessary, and they

suggest that first nations governments are corrupt and our leaders are not transparent and consequently need to be regulated by Ottawa. It is not surprising that many of our chiefs have resented this approach and are turning the lens back on Canada, suggesting that it is Canada that needs to develop more stringent accountability frameworks for their governing bodies, that it is Canada that needs to be held more accountable for the treatment of first nations.

However, rather than getting into an unproductive debate on whose government is more accountable to those whom they are supposed to serve, our collective task is to ensure that all systems of government in Canada are accountable and are meeting certain standards, while understanding that there is more than one way to skin the proverbial accountability cat and, with respect to our nations, to ensure appropriate political, legal, and financial accountability as part of nation-building or rebuilding.

The bigger question before you today is really not about accountability at all; rather, it's about who should be responsible for determining the rules that apply to our governments and our governing bodies. The simple answer is that our nation should be; however, the answer to this question is more complicated, given the evolving relationship in Canada between first nations and the crown under the current Indian Act reality.

On Monday, this committee heard from the minister of AANDC, and my MP, Minister John Duncan, who was asked if he thought it was appropriate for the minister to be telling first nations how to be accountable to their own citizens. It was pointed out to him that Canada does not do this for other provinces, so why does Canada do it for first nations? In response, the minister suggested that as a senior government, it was the government's responsibility, but added that when a first nation is self-governing, it is different—first nations control accountability themselves.

Herein lies the dilemma for you as lawmakers. Whether it be with respect to financial transparency and accountability, matrimonial property, or safe drinking water, and so on, what rules and laws—if any—should you be making for our people until such time as our nations are once again self-governing? Also, if you do legislate, how do you ensure that such laws are appropriate, have our consent, and support the long-term vision of self-government and do not in fact hinder it?

It is troubling during this period of transition, as we move away from governance under the Indian Act, that the federal government seems to increasingly want to design our governance for us, in spite of the fundamental need for our nations to undertake this work ourselves in order for it to be legitimate. In my own community of We Wai Kai on northern Vancouver Island, when Bill C-575 was introduced about a year and a half ago, we had a discussion about it. We had discussions about the piece of legislation addressing only one aspect of accountability. It really highlighted the need for my own community to take back control of the agenda and to establish our own laws with respect to financial administration and accountability to our citizens.

From my work in my own community as a council member, it was clear that it was not well understood among our citizens that in the absence of our nations taking control of our own financial administration and establishing our own rules, there is very little, if anything, governing the financial administration of our nations. There is nothing in the Indian Act, as you know, that speaks to first nations government budgeting processes and accountability and/or reporting to our members on how we invest, borrow, and use our moneys and so on. For sure, when our communities sign funding agreements with Canada, we contractually agree to audits, reports, and so forth, but there is nothing above this or nothing governing our own sources of revenue unless we take control.

As a result of this conversation in my community, we chose to develop a financial administration law, or FAL, under the first nations fiscal management act. Our law is as directed and ratified by our nations, it is far more comprehensive than Bill C-27, and, more to the point, it is legitimate in the eyes of our people. Similarly, for Indian Act bands that have implemented sectoral governance arrangements, the accountability framework is built into those arrangements.

Moving further along the continuum of governance reform, for those former Indian Act bands that are already self-governing, the accountability framework is typically built into the nation's laws, as developed and ultimately approved by their citizens. The accountability framework varies from nation to nation depending on a nation's conventions, types of government structures, and the range of jurisdictions exercised.

What we really need to do is increase the options or the tools for our nations to develop their own governance, including accountability frameworks, so they can build their own future within Canada rather than being legislated from above. We need to speed up this process so that where a nation is ready, willing, and able to proceed with reform, it can move, and Canada does not act as gatekeeper.

If Canada insists on pursuing and passing Bill C-27, notwithstanding the strong objections of many first nations leaders, there are some specific questions that must be answered and responses that are needed for problems that have been identified with it. On this note, it is unacceptable that there have not been any consultations—that I am aware of—with our first nations on this bill.

First, I would like to reiterate the commitment to accountability and transparency demonstrated by first nations. Most of the accountability measures in the bill are similar to those found in any first nations constitution or its laws. In fact, first nations are

already required to report on matters covered in the bill, through contribution agreements with the federal government. Whether an Indian Act band or not, our nations follow the handbook respecting public sector accounting, as prepared by the Canadian Institute of Chartered Accountants.

This does not negate the fact that there are serious issues with how this bill has been drafted, specifically, one, in the treatment of government business enterprises; two, in disclosure to non-members; three, on enforcement of provisions; and four, on conflict with other statutes and first nations law-making authorities.

First, while public sector accounting standards do deal with government business enterprises, Bill C-27 seems to go further by adding definitions of “consolidated financial statements” and “entity”, as well as its own interpretation of what it means for an entity to be controlled by a first nations government under subclause 2(2). It is not clear what the intention is here. Why not just make the public sector accounting standards apply? We would like clarity, and we need to ensure that this bill does not inappropriately modify the rules that currently apply to other governments in Canada with respect to government business enterprises

Second, a bigger but related issue for many of our first nations is the proposed new disclosure requirements, which would require the audited consolidated financial statements of each first nation to be made public by posting them on a website. This is not the case today unless a nation has chosen to do so. There is, of course, no concern where those receiving the audited consolidated financial statements are our citizens. This is, however, not the case where there is a requirement for public dissemination.

This is a material departure from what was proposed in Bill C-575 and the precedent set under the first nations fiscal management act. For some first nations, and in particular those with significant government business enterprises, this poses a number of concerns.

• (1545)

As we understand, Chief Darcy Bear will be here to speak about those concerns and potential amendments to this bill.

Third—and I'm getting close to finishing—with respect to enforcement, the provisions seem costly, and it's mostly unnecessary legal proceedings wherein the minister is authorized to apply to superior court for enforcement. Within their own accountability frameworks, first nations use different enforcement mechanisms, including the first nations law that my community has developed. These include calling community meetings, internal appeal processes or other alternative dispute mechanisms, as well as, in some cases, recall provisions for officials who breach a nation's law. Where outside courts are used, our nations may choose to use a superior court. In some cases, it is a provincial court or the Federal Court.

Fourth, with respect to the conflict of the laws, the bill correctly does not apply to first nations that are self-governing. However, it appears, perhaps unintentionally, that it does apply to first nations with financial administration laws made under the first nations fiscal management act. To have Bill C-27 apply will create issues if there is ever a conflict between a FAL and the bill. Politically, it also sends the wrong message to a first nation such as my own, which has developed a financial administration law, that it will still be regulated by Her Majesty. Nations that have enacted FALs or land codes need to be recognized and respected for the hard work they have done, which represents a level of community engagement resulting in political legitimacy of their institutions and their laws. It should be made clear what happens in the event of a conflict between the proposed legislation and any other federal legislation or laws of a first nation developed in respect of the sectoral governance initiative.

Finally, I want to remind the committee of work that was conducted by the AFN and the Government of Canada in 2005, the “Accountability for Results” initiative. This led to promising work that was halted in 2006. As part of this initiative, the AFN and Canada agreed to a number of common principles for furthering the accountability relationship. These were: one, the primary accountability is to our citizens; two, for policies, programs, and services to first nations, the primary objective is to improve results for first nations citizens; three, accountability is a shared responsibility, a mutual responsibility; four, there is a shared vision of adopting and adapting the five principles for accountability of the Auditor General of Canada as part of a collaborative process to develop a new model accountability for results that support the aspirations of communities while assuring everyone has effective management of resources.

In light of the reviewed commitments for actions stemming from January's crown-first nations gathering, particularly the review of financial arrangements as part of pursuing a renewed relationship, there is an opportunity to revisit and move forward on these principles as we support our nations. The solutions that are working are being found by working together, by creating the space and tools for communities to rebuild and to move beyond the Indian Act, to decolonize, and to rebuild government.

I would urge you to pursue approaches that truly support first nations governments. One proposal, as directed by our chiefs, is to create an office of the first nations auditor general.

I would encourage you to continue to visit first nations communities directly to understand how their governments are struggling with and addressing the constraints under the Indian Act, and how those communities are moving beyond it and are accomplishing this by taking a classic community development approach. They are the ones who have the solutions, and I urge you to consider how you can support those mechanisms. Instead of further sandbagging or shoring up the archaic and inadequate framework that is the Indian Act system of governance, such an approach lets us build a bridge together and support first nations in the work towards self-determination and what I hope is our collective vision for Canada.

Gilakas'la.

• (1550)

The Chair: Thank you so much.

We'll start the rounds of questioning now, and we'll begin with my colleague, Monsieur Genest-Jourdain, for seven minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): *Kuei Utshimau.*

Good afternoon, Chief Wilson-Raybould.

I am aware of the legislative tool that is being proposed here. Actually, I have studied it very closely. A number of questions occurred to me, including about those who really benefit from the disclosure of financial information that it requires. I wondered who was targeted by this kind of disclosure and who was going to benefit from it in the end. Is it the general public, is it a segment of the public, or is it members of the communities?

Could you tell me how your organization sees the situation and these obligations? Who will really benefit from these disclosures that are going to be imposed on First Nations?

[*English*]

Ms. Jody Wilson-Raybould: Certainly, as directed by the view of our chiefs across the country, the beneficiaries of releasing financial statements are to be the citizens of each individual nation. According to the legislation before us, there is a clause that would make consolidated financial statements available to the general public. The primary accountability for our governments, and the institutional framework we are establishing in that regard, must be for the well-being of our citizens, the beneficiaries of our collective rights as they relate to government and business enterprises.

Thank you.

[*Translation*]

Mr. Jonathan Genest-Jourdain: You mentioned business, business vehicles, strictly commercial vehicles. As you and your organization see it, what impact will the disclosure of this economic information have on the communities?

It must be said that, in most cases, economic entities, companies, are not necessarily required to disclose all their financial information. With the bill as presented, and with a commercial entity run solely or in partnership by a First Nation band, what impact will the disclosure of financial information have on that community?

[English]

Ms. Jody Wilson-Raybould: I recognize that Chief Bear will likely be addressing this issue in light of the legislation, the reality of first nations governments, and the definition of “entity”. The consolidated business financial statements are meant to extend the definition of an entity to government business enterprises. This is inconsistent with public sector accounting principles and is not something that private companies have to comply with. The challenge here is that there is a double standard—a higher level is expected of our first nations. There is an obligation among our governments to disclose investments and the benefits flowing from them. There is no obligation to disclose personal business information with respect to private enterprises, like the partnerships we create within our first nations. This leads to challenges with respect to commercial advantage and the disclosure of confidential business information that would put first nations at a disadvantage in pursuing economic development opportunities or creating partnerships with third-party business people.

•(1555)

[Translation]

Mr. Jonathan Genest-Jourdain: You mentioned a double standard. That is interesting.

I do not know whether you are a lawyer or not. You are first and foremost a chief. However, in strictly legal terms, when the government imposes different rules on different segments of the Canadian population and there is no uniformity in the way those rules are applied across the country, do you think that the government is setting itself up for legal challenges and court cases?

[English]

Ms. Jody Wilson-Raybould: Thank you for the question.

I'm not necessarily a chief; I'm the regional chief of British Columbia. I'm a council member in my own community, but I also have a lot of grief.

I understand the question. The law has stated in a number of previous cases that financial statements and information are required and should be provided to citizens or members of a first nation. That does not—and this has been considered by courts—extend to the general public at large.

I think it is a fair statement you make in terms of what's going to be different in the event that this bill becomes law and whether the government won't face some challenges in that regard.

[Translation]

Mr. Jonathan Genest-Jourdain: I am going to share my time with my colleague.

[English]

The Chair: You have one minute, Ms. Duncan, if you have a question that you can fit into that amount of time.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Thank you.

The Mikisew Cree managed to achieve an important ruling from the Supreme Court of Canada. I'm sure you're very well aware of that ruling, which involves the duty for advanced consultation con-

sideration of first nations interests in making any decisions. We've heard some concerns from some of the first nations. I wonder if you would like to speak to the issue of whether or not you feel that the first nations governments of Canada were adequately consulted in advance of this bill being tabled.

Ms. Jody Wilson-Raybould: Of course, here in the realm of public debate and opinion, there have been discussions in this regard. As I said in my statement, to my knowledge, there hasn't been any consultation with first nations across the country with respect to this legislation. That being said, while certainly there is a legal requirement to consult with our nations, from a fundamental, practical perspective, in terms of developing accountability mechanisms or measures within our communities, that is entirely the choice and the decision of first nations.

I'm not sure if the focus here should be on whether or not we have been consulted as first nations. The reality is that this legislation seeks to conduct and govern our first nations, or govern our institutions, or develop our institutional framework for us, and that, from a nation-building or rebuilding perspective is flawed. Certainly anything that is imposed upon our first nations that is not legitimized by our citizens is ultimately destined to fail.

Thank you.

•(1600)

The Chair: Thank you.

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

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

Let me welcome Jody and Karen to our meeting. It's good of you women to give of your time to come and meet with us.

I have four questions here from the AFN resolutions, and we'll just start and work through and see how time treats us here.

First of all, in December 2010, the AFN chiefs unanimously passed a resolution:

To lead by example and demonstrate to other orders of government processes for accountability, including:

- (a) Providing clear and timely access to audits and public accounts;
- (b) Itemizing and publicly disclosing salaries, honoraria and expenses associated with the operations of Chief and Council;
- (c) Ensuring information about community finances and decision making is easily accessible, and available via the Internet where applicable.

I guess, Jody, I'm asking, then, if you can explain the reasoning behind this resolution by AFN. In particular, we're interested in hearing about the link AFN sees between transparency and strong governance.

Ms. Jody Wilson-Raybould: I do have the resolution in front of me. Certainly the intent of the resolution in part was in response to the tabling of private member's Bill C-575, and in the other part it was a recognition that our first nations and our communities already, as required, disclose this information. We are required to do so by way of financial arrangements with the Government of Canada.

At the same time, our first nations are moving down what I call a continuum of governance reform and are—based upon their own priorities, based on their own needs in their communities—establishing an institutional framework around accountability and transparency within their own nations by developing their own laws, whether under a first nations financial management act, through the development of a financial administration law, or otherwise.

The intent behind the resolution was to recognize that we, as governments, have the choice and the ability to make decisions about how our governments operate and how our first nations are taking leadership in creating those financial accountability laws within our own communities. That, as with any other government, should and must be respected in terms of what's appropriate for individual nations.

That's the intent: to respect a government's decision to make decisions about how it operates and how it is accountable to its own citizens and members.

Mr. Ray Boughen: Overall, if you look at the spectrum from left to right, how would the first nations leaders respond to this resolution, in your estimation?

Ms. Jody Wilson-Raybould: Respond to the AFN resolution?

Mr. Ray Boughen: Yes.

Ms. Jody Wilson-Raybould: I think it's not just as a result of the resolution being passed; it was an affirmation of the activity that is currently under way within our communities. Certainly as our communities move away from governance under the Indian Act, essentially administering federal programs and services, towards self-government and the development or the increase of our own sources of revenue, the link or the reciprocal movement or obligation is not to report to the Government of Canada, but more importantly report our own sources of revenue. How we seek to spend our moneys, how we budget our moneys, how we acquire our moneys, and how we report our dollars as we move towards self-government is the responsibility that we as governments have to our citizens.

Mr. Ray Boughen: With respect to the commitment to ensure, and I quote here, "information about community finances and decision-making are easily accessible and available via the Internet where applicable"—Aboriginal Affairs has found that of 403 first nations with their own websites, only 19 have posted salary information.

In your view, Jody, would you suggest that the voluntary approach to disclosure, which the chiefs committed to in the resolution of December 2010, has been effective or ineffective? Which way do you see that?

•(1605)

Ms. Jody Wilson-Raybould: First nations that disclose their financial statements on websites that are publicly available beyond first nations citizens in our communities do so at their own prerogative, and it's their right to do so.

Quantifying the number of websites that contain financial statements is somewhat misleading, in the sense that not all first nations citizens—and I know this from experience in my own community—seek the Internet to acquire information about how their government is operating and the decisions that are made by that

government. There are a lot of different mechanisms for communication.

According to my own financial administration law, my first nation has gone through three readings of that law and has determined that the most appropriate way for our citizens to be familiar with our financial statement is to provide that in our government offices and to send them to individual citizens upon their request. While the website, as you say, is a useful tool for some and a choice by many, it certainly isn't the only way governments are currently delivering financial information to their citizens.

Mr. Ray Boughen: Do you see any necessity to improve these numbers? From your perspective, is it more desirable to have more bands have their information on the web? What do you think about that? Nineteen obviously thought it was pretty important. They've posted theirs, but there are a lot of bands that haven't.

Ms. Jody Wilson-Raybould: The point is that we must support an individual government's, in this case a first nation's government's, ability to choose what the most appropriate mechanism is to report, be accountable, and be transparent to their individual citizens. If a first nation seeks to expand the ability to access financial documents beyond their citizens, that's their choice. For many of our first nations, we are entirely committed to accountability and transparency to our citizens. We could get into talking about how we can have passwords to access information on websites. That's an opportunity, potentially, but there are different mechanisms to distribute information.

The Chair: Thank you very much, Mr. Boughen. Your time is up.

We'll turn to Ms. Bennett now for seven minutes.

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

You heard the minister's testimony on Monday because you reflected on it. The minister seemed quite clear that the bill didn't apply to having to disclose the books of band-owned enterprises, just aggregated numbers. Is that the way you read the bill?

Ms. Jody Wilson-Raybould: My concern about that—and I know there was some thought on Monday in terms of a clarification around what it actually means. My read of it, and my read of the public sector accounting standards, is that this bill adds a bit more to the definition of what an entity is, and it adds to the definition of what an entity or a government business enterprise is beyond what is articulated in the public sector accounting principles.

Hon. Carolyn Bennett: We also, I think, debated a previous document from the AFN that said it would increase already onerous reporting requirements. You said that's absolutely not true.

Ms. Jody Wilson-Raybould: Do you mean that this bill would increase onerous reporting requirements?

Well, it certainly would require first nations to ensure that they produce—and we do already—audited financial statements in response to obligations. But it would place upon first nations the obligation to disclose this more broadly within a specific period of time, and it would also require that we be subject to quite substantive punitive measures if we did not comply.

Hon. Carolyn Bennett: Did you get the sense from the minister that if a first nation is having trouble complying with this or doesn't have the internal capacity to do it, their funding would be cut off?

Ms. Jody Wilson-Raybould: I remember the discussion and the dialogue from the minister. It was around resorting to a superior court to enforce remedy, whether it be against a citizen or the minister himself.

To answer your question, I did get the indication that punitive measures by way of cutting federal transfers to a first nation are the ultimate result of non-compliance.

• (1610)

Hon. Carolyn Bennett: Was there not an organization set up to help...? I think maybe 200 or so first nations have participated in the coaching by the Institute on Governance, which was helping first nations to increase capacity. Was that organization not just cut in the last budget?

Ms. Jody Wilson-Raybould: There are several organizations that seek to assist in developing capacity for first nations. We mentioned the Aboriginal Financial Officers Association of Canada and the First Nations Financial Management Board. The organization that was cut in the last budget was the First Nations Statistical Institute, which was seeking to assist in the development of accountability measures and in first nations providing information.

Hon. Carolyn Bennett: In terms of—

Ms. Jody Wilson-Raybould: I'm sorry....

I love having Karen here.

It is true that the cutbacks are far-reaching from the federal government. There are institutions that provide governance support or support for principles around creating good governance, whether in financial accountability or otherwise. One of those institutions was the National Centre for First Nations Governance, which was significantly cut back and is having to consider closing its doors, while the intention behind the governance centre was to create that support—or create the centre of excellence, if you want to call it that—that would support first nations governments during this transition period. So there's another challenge.

Hon. Carolyn Bennett: It was to help them on the way to self-government and to being accountable to their members?

Ms. Jody Wilson-Raybould: That's right.

Hon. Carolyn Bennett: So it was an organization coaching and increasing capacity in hundreds of first nations.

Ms. Jody Wilson-Raybould: You're right. The national centre was, of course, as its name implies, a national centre, and it engaged with a significant number of communities across the country in providing, really importantly, the sharing of information about what other communities are doing, providing assistance in terms of best practices in governance, and celebrating the successes that other communities are having by bringing those good practices to other communities.

Hon. Carolyn Bennett: I am thinking of the presentation. Without consultation, and without any explanation of the need for this bill, you're saying first nations are not happy with it.

Ms. Jody Wilson-Raybould: I think our chiefs are unhappy with this piece of legislation, and I've been before this committee expressing displeasure with other pieces of legislation. For the most part, the reality is that there is a thinking that the government is introducing legislation that seeks to define our governments for us.

What first nations are engaged in right now, as I said, is this amazing period of nation-building. Of course, nation-building or community development work happens from within each individual community. There is a need for institutional support around various activities linked to our nation-building. But to have another government define our governance priorities or our institutions for us is something that is and will continue to be unpalatable, and it is certainly contrary to the concept of our governments evolving and determining for ourselves our priorities.

The Chair: Thank you, Ms. Bennett.

Hon. Carolyn Bennett: The minister didn't seem to know about the Montana decision. Has your organization looked at the jurisprudence around Montana and how it would affect this bill?

The Chair: Ms. Bennett, you are out of time.

If there is a short answer.... I apologize for doing this, but—

Ms. Jody Wilson-Raybould: The short answer to that is yes, and the requirement that disclosure of critical financial information must be and should be—I don't think there is any dispute with this—disclosed to our citizens. That is the obligation that our nations have—to do so.

• (1615)

The Chair: Ms. Block, we'll turn to you now for seven minutes.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

I want to join my colleagues in welcoming you to the committee today.

I'm grateful for the opportunity to sit in on these meetings. As you are aware, I introduced Bill C-575 back in October 2010.

I want to collect my thoughts around some of the things you have referenced in your opening statements and in some of your answers. You referenced the first nations fiscal management law. Is that correct?

Then you referenced the resolution passed in December 2010 by the AFN. And then, in response to some other questions, you have talked about first nations having the right to choose their governance priorities and how they will begin to define, perhaps, their financial accountability.

The absence of first nations choosing to share this information with their membership—which quite frankly seems to be the case for so many first nations members, certainly the ones I spoke to and those I continue to hear from to date—was the impetus for my introducing Bill C-575. They cannot access the financial information relating to their band. They ask for it; sometimes they get it, but many don't. Then they have to ask the minister to make this information available to them under the terms of their funding agreement.

My question to you is, why should these members have to ask the minister to release this information to them?

Ms. Jody Wilson-Raybould: I appreciate that you introduced Bill C-575, and I realize that the discussion has been ongoing for more than a year and a half. But I know that the perception out there that first nations do not disclose financial information to their citizens is greatly over-exaggerated. That's my assessment.

I can't account for those communities that don't. I think the number was 250 for which the minister had to undertake last year to release financial statements. I characterize the reality explaining why first nations citizens, of whom I am one, are seeking to get financial statements from the Minister of Indian Affairs as the reality of the relationship we have, or the governing structures we have, under the Indian Act. As our first nations change and develop their own institutions and create their own laws, the relationship with the minister—and having citizens going to the minister to seek and ask questions—will change.

I think about the question another way: how can the Minister of Indian Affairs and the parliamentarians around this table support our evolving governments—not to tell us how our government should change, or what rules or laws we should put in place, but how we can support the conversation within our communities, support our citizens in seeking and accessing the information that we require, and empower our citizens to direct the change that is sought within their communities, based upon our priorities?

As we move away from governance under the Indian Act, establish our own sources of revenue based upon fair access to lands and resources, and establish our own institutions of self-government, that relationship will change, and the accountability mechanisms will be those that are determined by our citizens.

Mrs. Kelly Block: I heard you suggest there was an understanding that this bill was seen to be shoring up the Indian Act, and at some point you talked about the need to bridge first nations who are in the process of nation building, who perhaps don't have the capacity to provide the information to move forward at this point. When you talk about Bill C-27, you talk about the fact that it places higher standards for first nations governments that surpass those for other elected officials in many other jurisdictions.

I would ask that you go back to the answer you gave to my colleague across the way when you talked about those higher standards, because that's not our understanding of Bill C-27. When you look at the fact that a resolution was passed in 2010 that there still are concerns about the level of information that is being given to first nations members when they ask for it...I would like to understand why you believe these higher standards might not be appropriate to put in place at this time.

• (1620)

Ms. Jody Wilson-Raybould: To address your question in a different way, transparency and accountability, which are articulated in this bill, go to one aspect of financial administration, and that is reporting. As we know, those first nations that are involved in the First Nations Financial Transparency Act, which used to be called the First Nations Fiscal and Statistical Management Act until the funding was cut, have gone through a process, a community-driven process, to look at financial administration from a more holistic

perspective in terms of how we raise finances, budget expenditures, and the decisions that are made within our nations to ultimately report those expenditures.

In terms of Bill C-27...and the ultimate objective that I think we have around this table is, how we can support first nations and build capacity? I would say, with respect, that Bill C-27 does nothing to support or build capacity within first nations. It seeks to disclose financial statements in terms of what a first nation is doing on that end. In terms of supporting first nations and building capacity and building institutions of good government, this bill does not address that, in my opinion.

We, the first nations, are seeking to work in partnership with you, the lawmakers, around this table to develop appropriate mechanisms, the tools that are necessary to support first nations capacity-building and to develop those institutions of government we're faced with right now and want to pursue.

The Chair: Thank you very much.

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

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair, and thank you, Ms. Wilson-Raybould.

I'm very pleased to have an opportunity to question you on this particular issue, because of course there are some troublesome parts to the basic philosophy of this bill, as you've outlined.

I asked the minister how he felt the relationship was between first nations and his government, and it was government to government. I don't know whether he would qualify that as between self-governing entities and those that don't have self-government. Are we still talking about a government-to-government relationship? I believe that would be the case.

Is that the feeling of AFN, that regardless of self-governing agreements, this is a government-to-government relationship?

Ms. Jody Wilson-Raybould: I believe we're seeking and want to embark on a government-to-government relationship. Solutions exist—solutions that were outcomes expressed in the first nations-crown gathering—whether it be in education, financial arrangements, supporting first nations governments, or looking at an ultimate resolution of the land questions for comprehensive claims. We have the opportunity to work in partnership to develop options or solutions, as opposed to options that are imposed upon other nations or another government.

First nations are in the process of building our governments and are certainly looking for partners to share in our collective vision of improving the lives of our people. I think that's the objective and interpretation we had coming out of the first nations-crown gathering. The objective is still to work with the Prime Minister and this government to do just that.

• (1625)

Mr. Dennis Bevington: Do you feel that the philosophy of this endeavour by the federal government has taken you any further along the road to government-to-government relations?

Ms. Jody Wilson-Raybould: I have had the opportunity to speak, at various committees over the years, to various pieces of legislation, as I mentioned, whether it's this, or matrimonial property, water, or otherwise, which have sought to tinker with the Indian Act or the relationship we had. For most of our first nations, it is a ward-type relationship between our nations and the Government of Canada.

What we are seeking as first nations, in supporting or building partnerships with other governments, is to be supported in our nation-building efforts.

I was going to mention this in my comments, but right now, what doesn't exist in Canada is a mechanism to support our nations when we're ready, willing, and able to move beyond the Indian Act, based on our own timeframes and priorities and the will of our citizens. There is no mechanism to allow us to do that right now, short of a court decision or short of interminable negotiations with the Government of Canada through a treaty process, or, if you're lucky enough, bilateral government negotiations with the Government of Canada.

In looking at all of the legislation that's introduced. However well-intentioned, how can we quarterback all of that legislation? What's the fundamental nucleus or core of all that legislation? It's rebuilding governments. It's supporting our governments in the realization of our objectives.

We continue, and we will continue, to come back to this table to have conversations about legislation that's introduced without our input. What we are seeking is how, as partners in the first nations-crown gathering, we can sit down with the national chief, the national executive, and most importantly our chiefs, our individual communities, and our citizens, and support our nation-building efforts in a partnership that respects that government-to-government relationship.

Mr. Dennis Bevington: I guess I have trouble with the “well-intentioned” part of your statement, because when I look at this, I see it as a duplicate form of legislation that really just serves as fodder for a political base. I don't really find it useful at all. Quite clearly, there are other motivations at work here, and I really don't appreciate them, speaking as a representative of many first nations constituents. I find that this piece of legislation is as you say it is, but I won't give you “well-intentioned”.

Ms. Jody Wilson-Raybould: There are varying perspectives in terms of the intention of this legislation. Certainly there is a perspective out there that the reality of having to disclose own sources of revenue will, in turn, as revenues increase, decrease federal transfers. That's a reality and a perspective on this piece of legislation.

One other thing to say, and it's sort of in response to your comments, is that for first nations that are approaching or going down that road of self-government, having consolidated financial statements and disclosing revenue or investments does, for the most part, actually recognize and expose the reality of what our first nations are having to bear in terms of supporting our own governments beyond the federal transfers we get, which are inadequate. And it creates that reality of what it actually costs to finance first nations governments. That's another way to look at it.

Certainly there is a mistrust that exists out there and a definite need to create mechanisms that will put back in place the trust that is waning with successive legislative initiatives, which continue to be introduced in isolation of our first nations.

The Chair: Thank you very much.

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

Mr. Rob Clarke (Desnethé—Missinipi—Churchill River, CPC): Thank you, Mr. Chair. Thank you, Chief, for coming here today.

One of the interesting things I want to mention, being first nations myself and also a former RCMP member, is that I've seen the best of first nations and the worst of first nations in releasing information to their band membership. Speaking now as a member of Parliament, but as a first nations band member, I hold my chief and council accountable. With over 50% of first nations living off reserve, communication—letting the band membership know what's going on, what the financial statements are on a year-to-year basis—is very difficult. That information has to get out.

What I see here, and in my past, is that first nations don't have that opportunity where the chief and council refuse to release that information to the band membership. I've seen access to information requests throughout my career, and some of the reserves refuse. That comes under section 10 of the Indian Act, in which the reserves have full control of their band membership.

One of the interesting parts about this is that in order for band members to make an ATIP request for the financial transcripts of a first nations community, they have to release their identity to the chief and council, and they have a fear of reprisal for asking for that information. That's everyday life for first nations membership. There are communities out there that do that, and there's a fear of reprisal.

There are a lot of good first nations out there. We're going to be hearing witness evidence to this.

Chief, you're spearheading and leading an initiative called, “The governance tool kit: A guide to nation-building”. Can you tell us about how the subjects of transparency and accountability are handled on your website?

• (1630)

Ms. Jody Wilson-Raybould: The reality is very different in every single community across the country. We are as diverse as we are similar, to great degrees, in terms of our objectives, which are to improve the lives of our people and to share our experiences.

You referenced the tool kit we have developed at the B.C. Assembly of First Nations. The objective behind that tool kit, in terms of transparency and accountability... There's a chapter in the tool kit that speaks to financial administration.

The premise of the tool kit is not to tell a nation what is the best thing for that nation to do, based upon the collective experience I have as the regional chief—absolutely not. What it does and why it has been so successful is it tells the story of what our nations are doing. It tells it from their perspective, whether it be under the FSMA or under self-government arrangements and the provisions that have been negotiated therein. In terms of financial administration, there are limited provisions available to create bylaws under the Indian Act. It provides the options for first nations to choose to celebrate the successes of others and adopt them into their own communities, or to create alternatives or options for other people.

I think the point of the tool kit, much like the point of the work that first nations are doing, is this: how can we develop tools or mechanisms to assist first nations in re-establishing their own governments? Certainly we're not saying that one thing is better than the other, but we need to ensure that we provide all of the options for the first nations to choose what's best for them, and not another government to do that for us.

Mr. Rob Clarke: Chief, no disrespect, but you're seeing first nations communities and leadership already providing this information to Aboriginal Affairs, correct?

Ms. Jody Wilson-Raybould: Correct.

Mr. Rob Clarke: Is it inappropriate, do you think, for that information to be released to the band membership in another manner, either through a first nations organization or through Aboriginal Affairs? There's no financial burden to overcome for that individual reserve to adhere to that. That's the question I have for you.

Ms. Jody Wilson-Raybould: I think it goes to the diversity that exists within our communities, beyond what's reported or the negative perspectives of certain first nations communities. Communities are doing that. In my own community, right across my province, we come together annually at band meetings—if that's what you want to call them—and have discussions around it. I know financial statements are available in my own community; they're available if you want to go in and ask for them. Yes, there are challenges with some leadership, but that exists in every government. Disclosure of financial information or transparency and accountability exists within the Government of Canada, as it exists within some of our first nations, as it exists within other nations in the world.

The difference is that another government doesn't tell other governments what to do about it, but it supports. If that's the partnership role we have here in Canada between first nations and other governments, it's to support our nations in developing those mechanisms that are appropriate to our individual communities, and not exaggerating something that simply doesn't exist.

•(1635)

The Chair Thank you so much. We do appreciate it. We have unfortunately run out of time.

We want to thank again Regional Chief Jody Wilson-Raybould, as well as Karen Campbell, for joining us this afternoon.

We'll now suspend, colleagues, for just a few minutes to bring our next set of witnesses in.

• _____ (Pause) _____

•

The Chair: I call this meeting back to order.

For our second hour we have witnesses here from the Whitecap Dakota First Nation. We have the privilege of having Chief Darcy Bear here, along with Murray Long and Lisa Dunville.

Thank you for coming. We appreciate having you here in Ottawa. The last time we saw you folks was in your community. We want to thank you for hosting us when we were there. About half of our committee was there, and we appreciated that and look forward to coming back again someday.

Today, we'll run things as we usually do. We have your opening statement, Chief. We'll turn it over to you for about 10 minutes, and then we'll begin our rounds of questioning.

Thanks so much.

•(1640)

Chief Darcy M. Bear (Chief, Whitecap Dakota First Nation): Thank you so much, Chris, and my thanks to the committee.

I'm here to speak on behalf of my community, Whitecap Dakota First Nation. I'm not here to speak on behalf of any other first nation, just so that's clear. I'm also going to share our experience, as it relates to the Whitecap Dakota First Nation.

I'm going to have to take you back in time a little bit, take you back to November of 1991, when I was first elected by my community. When I was first elected, our community didn't have a dime in the bank. We had a large overdraft and a stack of payables. Back then I was 23 years old. As a young man looking at our community, I had no clue of the financial state of affairs of our community, because our chief and council were not sharing financial information with the members. That very first day I was elected there were two choices. The first choice: "Who needs this? I may as well walk away and forget about it." But as leaders, as you all know, as you are elected, when there are challenges, we have to accept those challenges, find solutions, and go forward.

The first thing we had to do was ascertain the amount of debt we actually had and how much of this debt was real. Then we had to create a financial management plan and approach a financial institution for debt consolidation. But at the time we were on the brink of having a third-party manager come in to our community. One of the biggest problems for first nations is a lack of professional capacity, because of the way our communities are funded, through band support funding. A lot of our communities are funded and we have financial clerks. But a financial clerk cannot keep pace with the onerous reporting requirements of the federal government.

So I convinced the federal government to do something different: let's hire a professional accountant for Whitecap; in year one you pay 100%; in year two, you pay 75%, we pay 25%; in year three, we go 50-50; in year four, we'll pay 75%, you pay 25%; and in year five we're going to take over the position. They approved that and the rest is history. Third-party managers don't want to work themselves out of a job. They don't want to see the first nations build any capacity. Therefore, the model that we created back then worked for us.

The biggest key to moving forward in any kind of development is to get your financial house in order. That's not just for first nations communities; that's for any organization, any business. If you don't have your financial house in order, you don't have any credibility.

I can tell you today that we've had 21 consecutive unqualified audits. We are in the black. We can share our audit with anyone. We share it with our community members, we can share it with the financial institutions, and we can share it with businesses. We can create partnerships, because they have the confidence that Whitecap has a good financial track record. That's very important, if you want to talk about nation-building. If we don't have that credibility, how can we move forward as a nation?

There are many challenges that we face as first nations communities. Look at the Indian Act itself. The Indian Act is 136 years of oppression. It was never a piece of legislation that was created for us to have hope and opportunity and be a part of the economy. It was meant to segregate us from society, keep us out of sight and out of mind. I say to the business community, if you look at the Indian Act and apply it from a macro perspective to all of Canada, how far behind would our country be compared with the world economy? I say that seriously.

When you go back to the perspective of our first nations communities—having this piece of legislation put on our lands and segregating us from society and not being part of the economy—it has created so many challenges going forward. If you look at economic development, the key is real estate development. We didn't have a land tenure structure and we couldn't move at the speed of business. Under the Indian Act, if we wanted to have a leasehold interest, we had to do a land surrender. From the land surrender we had to create a head lease and there had to be ministerial approval. But this new legislation, the First Nations Land Management Act, has enabled us to self-govern our lands, open our doors for business, create a land code that's ratified by our people, and move at the speed of business.

When people are looking at the business environment, they also are going to want to look at the financial record of that community. It's no different from an investor going around the world and looking at different countries and asking, "Am I going to invest there? Is there leadership, stability? What kind of governance structure do they have? What is their financial track record, etc.? What kinds of laws do they have?" It's a similar thing when you're investing on reserve.

Since we've introduced the First Nations Land Management Act, and of course going forward with our financial track record, we've been able to move from a 70% unemployment rate to 4.1%. We've had over \$100 million in investment to date. We recently announced a hotel project that will be going into our community, and it's going

to create another 150 jobs. It'll be open in the summer of 2014, so if you're ever travelling and you want to come out to our community, we'll have a place for you to stay. Adding those 150 jobs takes us up to 830 jobs.

• (1645)

We are also looking at building a business park, and with that business park, the manufacturing sector.... Working with the local businesses, we did a feasibility study. We have about 30 businesses that actually want to relocate to Whitecap. Again, that's another 300 to 400 jobs there. So within the next five years we'll have over a thousand jobs.

We continue to move forward. It is because of our financial track record that we're moving forward. If we were not accountable to our people or willing to share our audits and our financial standing with our partners, we wouldn't be able to move forward.

I'll give you an example. Rob Clarke's first nation, Muskeg Lake, is one of the partners on our golf course. When we were looking at that project we looked at selecting first nations that also had comparable strong financial track records to ours, and the first nation we recognized was the Muskeg Lake First Nation, which actually has land in Saskatoon. It had a strong financial track record going forward, over 500 employees on their land, and extensive experience in economic development, so we wanted to have them as a partner.

The other partner we talked with at the time was Chief Harry Cook of the Lac La Ronge Indian Band, who owns Kitsaki Development Corp. Back then they were doing over \$75 million worth of business, and they're doing \$100 million now. It's another strong community.

So together, collectively, we developed the Dakota Dunes Golf Links. When we were doing our business plan and our pro forma income statements, we had originally expected a loss in year one, the second year we were going to break even, and in year three we were going to be profitable. We have been profitable since day one, and this is year seven.

We were originally planning on paying off our debt in 12 years; we have done it in six years. Again, that's about working together with other strong first nations that have the same principles of accountability to their membership, and that's what this is about.

We certainly do support the bill. Originally, when it was rolled out by Kelly, it was Bill C-575. We have no issue as far as being accountable to our members. We do share our audit with our members annually. Also, when it comes to the salaries of the chief and council, I'm going to tell you one thing. About six years ago we actually went on an exercise, again in partnership with the federal government, of creating a salary grid, not only for our council but for all of our employees and staff. If you look at the demographics in Canada, you have an aging workforce and everybody is competing for skilled human resources. We want to ensure that we're paying our staff appropriately, so that people aren't poaching them—that's what happens if you're not paying your staff appropriately; people will come in and offer them more than you're paying and they'll take them away.

Fortunately, and this is because of our financial track record, we have been able to generate a lot of our own-source revenues, so we can top up salaries and make sure we can be competitive. A good example would be water treatment operators. They have to be certified. In order to hire a certified operator... Right now, Aboriginal Affairs only issues \$25,000. You can't pay anybody \$25,000 and get a certified operator. The going rate in Saskatchewan, if you look at SaskWater or other municipalities, is a minimum of \$50,000 plus benefits. We have been able to top that up, so we are able to ensure that our certified water treatment plant operators stay in our community.

These are some of the things that our financial track record has enabled us to do.

As far as the salaries of the chief and council, we actually have a chief and council compensation commission in our community that's made up of our membership. They set our salaries; we don't set our salaries.

One of the things that we do not agree with in regard to the bill itself, the current wording, is that we don't want it to scare business away. We don't want this bill to have a different set of accounting standards from the private sector off reserve.

We have recommended some wording changes to make sure this bill does not scare businesses from first nations lands, because that's not what this bill should be about. This bill should certainly be about accountability and transparency, but it shouldn't be a whole new set of accounting rules for first nations communities or for the private sector. If they're going to come on to our reserve, they should be treated as if they were off reserve, using generally accepted accounting principles. That's very important.

Similarly, in the bill it talks about remuneration and expenses, and it ties them together. Again, that is not fair. It's inconsistent with the government's definition regarding remuneration, where your flights.... If you fly around, that's not your salary. Why would they want to incorporate that as part of our salary? That has to be separated, and we made that very clear in the recommendations.

I believe Murray has given the clerk some of the recommendations we're making to separate remuneration from expenses, because they're not the same.

If you're staying in a hotel, or if you're flying, or you have other transportation costs, they shouldn't be considered as part of your salary. Certainly, it's not for any of you. You don't have to experience that, so why would you impose that on first nations leaders? That certainly has to be corrected.

With regard to the Income Tax Act, when it comes to flights, transportation, meeting expenses, and so on, those expenses are not considered as part of your personal salary under the Income Tax Act. Again, that's another act of the federal government. You have to be consistent, when you're moving bills forward, that you're also following your own rules when it comes to personal income under the Income Tax Act and when you're following generally accepted accounting principles. That's the only way we're going to be able to move this bill forward, and that's the only way you're going to get support from Whitecap.

● (1650)

Certainly we're supportive of the actual principle of accountability and transparency, but we want to make sure that this bill is not going to scare away businesses from our community. You have the private sector off reserve and they have certain reporting requirements, but if they go on reserve and they have to disclose their competitive information to all of their competitors, they're going to say they don't want to go on reserve, that it's not right for them. We need to make sure it doesn't happen to the businesses coming to Whitecap.

We did support the original bill. The only issues we had, as I said, were about remuneration and expenses, as well as the level playing field for businesses.

Those are my opening comments.

The Chair: We'll open it up to questions now. Thanks so much, Chief.

We'll begin with Monsieur Genest-Jourdain, for seven minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you.

Chief Bear, a few minutes ago, I asked the witness before you a question and she suggested that I ask you. So that is what I am going to do now.

The question deals with a community's economic initiatives, in other words, a company that a community may wholly or partly own.

As you see the legislation we are studying today, what will be the impact of the disclosure of financial information about a commercial entity owned by a community or jointly owned by a community and a private company? What would be the effect of making a company's financial information available to the general public in this way?

[*English*]

Chief Darcy M. Bear: If you don't mind, I'll refer this question to Lisa.

Ms. Lisa Dunville (Chartered Accountant, Whitecap Dakota First Nation): Sure. I'll just rephrase what I understood. I'm sorry, I was having problems with my earpiece.

The question was, basically, what are the effects of potentially having private enterprises disclose their information publicly?

The issue comes down to the fact that there is no other requirement for any other private entity in Canada right now to publicly disclose, for example, executive compensation, as a public company would. The requirements of generally accepted accounting principles that apply to governments right now are very specific, that they specifically exclude government business enterprises. For that reason, under generally accepted accounting principles, you don't want to have a comingling of requirements under private enterprise and public governments that are publicly accountable.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you.

I am going to share my time with my colleague, Ms. Duncan.

[English]

Ms. Linda Duncan: Thank you.

It's nice to see you again, Chief Bear. You were before us earlier in the year. We always appreciate your interventions. You're a very pragmatic chief.

There was a report by the Auditor General in May 2006 that raised a concern, not with the fiscal practices and reporting by first nations, but with the Government of Canada in its overloading onto first nations the duty to report. They found that the Government of Canada had been unsatisfactory in responding to its recommendations to improve and reduce the reporting requirements for first nations.

You raised a really good point, Chief Bear, where you seem to be agreeing with the presentation by the Assembly of First Nations that what the first nations are asking for is not always to be treated as one-size-fits-all, and not to immediately intervene if problems arise or if you've got fiscal problems or accounting.... There can be other arrangements made rather than sending in third-party management.

I'm wondering if you could speak a bit more to that. Do you think there should be greater flexibility for first nations in resolving these fiscal matters, rather than taking a more heavy-handed approach and simply going to third-party management, or, in the case of this bill, should first nations complain that they aren't being provided the information, that the funds could be seized from the first nation?

• (1655)

Chief Darcy M. Bear: Again, as I said in my opening comments, I certainly don't speak for other first nations. I can speak on behalf of my community and our experience, and in my opening comments that's what I was speaking about.

Twenty-one years ago, when I was first elected, there was no accountability, no transparency, and that was very unfortunate.

I'm not going to be in this role forever, and I want to ensure that future generations, regardless of the change in chief and council, and my community members will continue to have disclosure. I think that's very important, that our young people coming forward can see our audits. After I'm gone.... We have an election coming up this year in November. If I'm re-elected I'll put in another four years, but I think that's it for me. I'm going to be finished after that. Once I'm gone and walk away, I want to ensure that the future chief and council share information with our young people, so they'll know exactly what they're getting themselves into.

I know I can leave that for them within the next four years and leave our community with a strong balance sheet. However, we've seen time and again that because of a leadership change, the community has actually crashed. You can have a first nation with good leadership, moving things forward, and all it takes—it's easy to spend money, anybody can spend money—and bang, it goes down. Then what happens?

So I think it's important that we have some kind of mechanism in place, but we need to make sure that there are corrections to this bill that address the concerns we have, so we're not scaring away business. We have no problem disclosing our salaries and no problem disclosing—

Ms. Linda Duncan: Chief, have you put in place measures similar to those the regional chief mentioned for her first nation? Have you put in place measures to require the disclosure of information to your members?

Chief Darcy M. Bear: We do have measures in place, which I talked about. We have the chief and council compensation commission.

Right now, as far as the audits being shared, that's something we do as leadership, but there is nothing right inside our own legislation. That's one of the things we're working on through our self-government process, to have in our own Whitecap constitution—I'm not talking about the Canadian Constitution, but inside our own community constitution—that this financial information has to be shared. But it's not there yet. As far as the self-government negotiations, that takes a few years.

We just got through the framework agreement and now we're at the agreement-in-principle stage. We're working with our community members to ensure that this is entrenched within our own constitution, that our future leaders have to share that information.

Ms. Linda Duncan: Would you agree with the Assembly of First Nations, who were suggesting in their resolution that the first nations themselves would like to pursue that kind of legislation within their own nation?

Chief Darcy M. Bear: I think that's something we want to pursue. But let's say it wasn't in place. What happens? Let's say I die tomorrow and there was a leadership change and the next leader didn't want to share anything. How do you guarantee that somebody is going to share that with the people?

Ms. Linda Duncan: What do you think the repercussions should be if the information isn't shared? Do you agree that the money should be seized by the government?

Chief Darcy M. Bear: As far as I'm concerned, we're going to share it, so that doesn't impact us.

Ms. Linda Duncan: What if you didn't?

Chief Darcy M. Bear: I'm just saying that this is where we're coming from; this is our stance.

The Chair: Thank you very much.

We'll turn to Ms. Block, for seven minutes.

Mrs. Kelly Block: Thank you very much, Mr. Chair.

I want to welcome you here, Chief Bear, and Murray and Lisa. It's good to have you here.

In January 2011, you announced your support of my private member's bill, which you referenced. Then in November 2011, Minister Duncan and I had the privilege to announce Bill C-27 at the Whitecap Dakota First Nation.

Every time I hear your story, from the time that you became a chief—it's a compelling story, it's an inspiring story, and I just want to commend your commitment to transparency and accountability. It seems to me that you would say that financial transparency and accountability actually build the capacity in a first nation to move forward and to fulfill the dreams they have of being successful as a community and as a first nation.

I also want to thank you for raising the concerns you have regarding the current drafting of Bill C-27, and for sharing your proposed amendments with us.

My question is, are the issues you just outlined Whitecap Dakota's only concerns with Bill C-27?

• (1700)

Ms. Lisa Dunville: In response, and adding to what Chief Bear said, I think the issues really are as he outlined: the definition of remuneration and splitting that apart from other expenses that would be reimbursed to individuals outlined in the bill. That's simply so there isn't misinterpretation in terms of remuneration versus expenses. He did refer to the Income Tax Act and the definition of remuneration under that act.

I think the idea is that we need to be consistent, so that there isn't some miscommunication or misinterpretation if that information is to be made public.

As we mentioned, the second issue is to make sure, under generally accepted accounting principles, that you aren't inadvertently scoping in entities that aren't intended to be scoped in as part of this bill.

Mrs. Kelly Block: You would say that the proposed amendments that you have just shared with us would fully address all the concerns you have with this bill.

Ms. Lisa Dunville: I'm not sure what copy you have. We did share one with the clerk as we walked in today. I don't know if that's been fully circulated, but those are the amendments we're proposing.

The Chair: Colleagues, we do have the document the chief has presented to our committee. Unfortunately, it's not in both official languages. We can do this in one of two ways. As you know, I'm forbidden from circulating that document until it's been translated, unless I get consensus from the committee to circulate it. It may be helpful to committee members to see it as the testimony, but I respect the decision either way.

Seeing consensus, I will make sure....

Mrs. Carol Hughes (Algoma—Manitoulin—Kapusking, NDP): But they will be translated.

The Chair: They will immediately be translated. For the sake of this meeting, we'll have it circulated immediately.

Thank you.

I do apologize, Ms. Block.

Mrs. Kelly Block: Just to clarify, then, the proposed amendments that are being circulated right now would fully address the concerns you would have with Bill C-27.

I know as well, Chief Bear, that Whitecap Dakota has had 21 straight unqualified audits. I know that you've shared that information in other venues and that you present your audits to your community members every year, and that you do this without any legislation requiring disclosure.

You've already shared with us your commitment to financial accountability and governance, and I just want to get your sense of how this legislation that's being introduced would enhance financial accountability and governance.

Chief Darcy M. Bear: We don't have any kind of mechanisms in our community legislation currently, and if a new leadership came in and decided they didn't want to share that financial information, there is no obligation for them to do so. I think it's important going forward that all Whitecap members know what's happening in our community from a financial perspective: where we are, if we are financially healthy, what kind of shape we are in.

I think it's important that there is a mechanism to catch that for our members. As leaders, we have to share that. Unfortunately, as I said, when I was first elected, there was no such bill in place. I didn't know the financial health of my community when I first got involved. After being elected, it was a shock to find out that we had no money. We were overdrawn. We had a stack of payables. We owed everyone money. We weren't able to do any business with anyone. Nobody wants to experience that. I think we want to ensure that our communities are healthy.

I also talk about capacity. I think it's very important that first nations do have the appropriate capacity to hire professional accountants so they can address the onus reporting requirements, so that as leaders we can get good financial information at our boardroom tables. I think so many times you see communities who are having a hard time making good decisions, whether it be to build 20 houses.... If the financial clerk has given them poor information and they build the 20 houses and find out from the auditor they're \$5 million in the red, you're now going to a third party. But if they had a professional accountant in their organization who could say they couldn't build 20 houses, they could build five and they're going to be okay, that's the kind of information that's needed.

It's no different from your table, where you need to have good financial information to make good decisions as leaders. That's the same thing that first nations people should have as well—the professional capacity to make those good decisions for the people.

• (1705)

The Chair: There are 16 seconds left, if you have a short question.

Mrs. Kelly Block: I do.

Do you believe this legislation is an important step forward for first nations?

Chief Darcy M. Bear: As I said, it's ensuring that we're sharing our information with our people.

There have been many times that other first nations members have approached me and said they wished their community was doing the same thing that we were doing.

If that answers your question, that's all I can say.

The Chair: Thank you, Ms. Block.

We'll turn to Ms. Bennett now, for seven minutes.

Hon. Carolyn Bennett: Thank you very much.

Thank you, Chief, and your team, for being here.

Thank you again for your hospitality. My husband wears his Dakota Dunes shirt with pride.

When we were in your community, you shared a letter with us that you had sent to Ms. Block, as well as a letter from KPMG, your accountants, as well as “track changes” suggestions for the bill. I see that today there are a few more changes.

I guess it was clear that scaring away business was a huge concern. But in terms of consultation, I was quite taken by the paragraph that said that before they came to your community for the press conference, if you'd only been given a backgrounder on the bill.... You were quite surprised when it was introduced in Parliament that it scoped in these other things. Your support had been for the previous bill that was really just for “chief and council”, not this other truly risky scoping-in, as Ms. Dunville said.

On Monday the minister said he was open to amendments. He used the word “clarification” a lot. But he made it sound like this bill doesn't mean you have to show the books of band-owned operations. I guess I'm unclear, and maybe you could help me on this. It's almost a year since you sent this letter. Have you been given any assurance that the amendments will be there and will take care of the concerns expressed in that December 2 letter?

I was concerned that on Monday the minister didn't seem to understand what's in this bill and why you would have concerns about the way it's written. We were pleased to hear that he's open to amendments.

Has there been a toing and froing? Are you coaching these people as to how we make this bill acceptable to you? What have you heard since your letter of December 2 last year?

Chief Darcy M. Bear: Well, first of all, I'm not a coach.

As I said, our original intent was supporting Kelly Block and Bill C-575. When you did make the announcement, unfortunately, there were certain procedures that have to happen here—it has to be translated into both languages and that—so we didn't get the opportunity to see the full bill. Once we did see the full bill, we had some concerns, but we raised them immediately.

We said we had some concerns, and I think I met with Kelly shortly after that and presented her with a letter. I did speak with our accountants to share the wording in the bill, and we said we had some concerns going forward.

We're not against accountability and transparency. That's very important.

• (1710)

Hon. Carolyn Bennett: I don't think anybody is.

Chief Darcy M. Bear: It's important for any organization. It's not just first nations communities. Whether you're a municipal, provincial, or federal government, or a non-profit or for-profit organization, accountability and transparency are very important, and having a strong financial track record is important.

What we're proposing is to get rid of the ambiguity. If the bill is moved forward the way it sits today, there is so much ambiguity in it that people could misinterpret it.

Businesses could look at that bill and say, “I am not going on first nations land. I'm not going to set up business there because I'm going to be held to a different standard when it comes to accounting.”

No longer do generally accepted accounting principles apply, but a whole new set of rules apply. I think what we have to do is take out all the ambiguity, make sure that the phrase “generally accepted accounting principles” is used in certain sections, so it's very clear, so that nobody can make that misinterpretation.

I think that's what we're trying to say. We're not trying to coach anyone. We're trying to say that in order to address the concerns we have, this is the language we want to put forward to address those concerns. This way, I guess it eliminates all the ambiguity. Businesses know that if they're setting up on Whitecap or Dundurn or Saskatoon, they're going to be treated the same way.

Hon. Carolyn Bennett: Would it be fair to say you wouldn't be able to accept the bill in its present form?

Chief Darcy M. Bear: It would be fair to say that in the present form I certainly would not accept it.

I believe they passed out what we're proposing. If the committee is prepared to accept that, we'd support it.

Hon. Carolyn Bennett: Thank you.

The Chair: Thank you so much.

Mr. Rickford, for seven minutes.

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

Thank you, Chief Bear, Murray, Lisa, for being here today and giving us a real, situational context, if you will, about how this could work, because it already is working.

I think what you described in your opening remarks, Chief Bear, was a history that suggests that this financial management and transparency has been a journey, one that started when you became the chief. As you disclosed, you were not so sure how that would evolve, but certainly, by all accounts, you've done a great job, so congratulations on that.

I want to explore this whole idea, and I'm glad you brought Lisa, by the way, as an accountant here, because we're talking about posting documents that could raise questions for members. As is often the case, particularly in accounting—as somebody who belongs to a couple of professional designations, and accounting isn't one of them—it's not necessarily a really quick and easy thing to understand.

So my question is this, Chief Bear, and perhaps I'd like to hear from you on this, Lisa. Can you tell this committee about some of the key practices that you and your council have taken, not just to demonstrate financial accountability and transparency of the nation, but also, Chief Bear and Lisa, to facilitate that?

Chief Darcy M. Bear: Some of the practices?

Mr. Greg Rickford: Yes, some of the practices.

Chief Darcy M. Bear: I have a couple of my councillors here as well, Councillor Royal and Councillor Eagle, in the back.

It's an expectation from our community mandate that we have to bring in unqualified audits. We're not to run deficits, so we always bring in a balanced budget. Certainly, everybody would love to run surpluses, but there are always all kinds of needs and limited resources, so we have to continue to move forward.

As far as the practices go, on October 30 of this month we'll be presenting the financial position of the first nation to our community members. Again, our community members will accept that and move and second it.

Mr. Greg Rickford: Do you have a public forum?

Chief Darcy M. Bear: Yes, we have a public forum for this, and this is done annually every October.

There are some concerns with that, though. If you look at other levels of government, whether it be municipalities, provinces, etc., they get six months to do their audits. Our auditors—and you can maybe talk to this, Lisa—only get four months to do ours. But there is so much onerous reporting. I think that's one of the things you may want to look at extending, to be consistent and to treat first nations the same way you would any other level of government, to give us that six months. With all the onerous reporting requirements, a lot of first nations aren't able to deliver their audits on time. It's not because they don't want to. You ask the KPMGs and the Pricewaterhouses of this world. They will tell you they don't have enough time to make it happen, and that's what's happening right now. So I think you need to consider that extension of the six months, and be consistent with how other levels of government are being treated.

The other thing is this. Three years ago, I think it was, they changed us to public sector accounting. In the past it was the accrual method, where the community members could understand the statements. They will show your revenues, your expenses, and then the bottom line. That's no longer there, and now it's all under public sector accounting. The thing is, we're not like cities and towns; our communities are more like shareholders. It doesn't matter where they live, they're still a Whitecap member. You can leave a city or a town and you're no longer a member. The reporting should be done more in that style.

The end user is supposed to be the community member, so why would we want to share with them an audit or a financial statement that they don't understand? They don't understand the public sector accounting process, so—

• (1715)

Mr. Greg Rickford: That was my point. It's just to get at that whole notion of user friendly.

I take your point, by the way, on the timeline piece, and I'd be happy to follow up and hear a little bit more about that.

What I'm interested in understanding is coming into that public forum. There's an example of how this information is disseminated and how it's dealt with. What other practices does the community take to translate what can be some fairly complicated information, certainly presented—no disrespect to the great profession of accounting—for people to be able to interact with it and match it with their issues or concerns, if you will?

Chief Darcy M. Bear: We have actually taken the public sector accounting piece and converted it so that members can understand it, because it is very important for them to understand how much revenue came in, what the expenses were, and what the bottom line is. That's very important for our people to understand. Even with our own chief and council, our salaries and expenses go through a

council compensation commission. It's shared with the community. So all those processes are open and transparent.

I think now there has been talk about putting this on a website, but certainly we have to make sure that it is accessible to Whitecap members. I don't think it has to be accessible to the world.

Mr. Greg Rickford: I have just a final question, Chief Bear. My colleague is going to talk about business, but I'm just going to segue into that. Over the course of this 21 years, it strikes me that more and more of your community members have become very familiar with financial information. Do you think it has helped them? The extent and scope of your business activities in your community are known. Has that been an enabler for them to feel confident about entering into different kinds of businesses, either as sole proprietors or to build on the successes as band-owned and band-operated businesses in whole or in part?

Chief Darcy M. Bear: Right now we don't have a lot of that entrepreneurial spirit that we want. We have had a business incubator inside the community trying to start that process so that we can get members interested in some other service delivery they could provide. That might be a concept—for example, if we have 680 employees and some of the businesses require dry cleaning. We're just doing that whole initiative right now as a business incubator.

The focus for us has been on creating a business-friendly environment first, and ensuring that the business community knows that when they come to Whitecap, they're going to be treated no differently than when they are off reserve. That's important.

The legislative change, the land tenure structure, having the commercial leasehold interests and residential leasehold interests—these are very important. By having a real property tax bylaw—we actually have the Province of Saskatchewan do the assessments for us through the Saskatchewan Assessment Management Agency—there's also redress when businesses don't like the assessment. There is a redress system when we apply our mill rate and give our tax notice, because while it's good to have a legislative change to enable us, through the First Nations Land Management Act, to attract business, we also need infrastructure to make that business happen. Therefore, we require the real property tax—

Mr. Greg Rickford: The community members' level of comfort with your business activities is because you've built this capacity of understanding financial information.

Chief Darcy M. Bear: Absolutely.

Mr. Greg Rickford: Thank you.

The Chair: Thank you. Unfortunately, your time is up, Mr. Rickford. That seven minutes always does go too quickly.

Ms. Hughes, we'll turn to you now for the next five minutes.

Mrs. Carol Hughes: Thank you.

If I have any time left, I'm going to share it with my colleague, Mr. Bevington.

We're talking about accountability here, and a comment was made a little while ago by, I believe, Ms. Block, who talked about the fact that the level of information given when asked wasn't coming forward. I find that interesting, because on this side of the House we've asked for information on Afghanistan, the budget, and E.coli, and we certainly haven't been getting it from the government. I find it strange that they are trying to push something like this here.

I just want to talk to you for a few minutes about capacity. You talked about how it was 21 years ago. I know that in many of my communities 21 years ago, things were different compared to what they are now. We have much more progressive chiefs now leading the way as well. I'm sure, based on what you've indicated, your community has had some difficulties, as have others, and for a lot of them it has been the capacity because the membership is small in some areas. They may not have the resources. For example, there are some communities at this point in time, even in today's day and age, that may not have the Internet, that may not have the resources to buy computers. Those are problem areas that that I see with respect to having to post this on the Internet.

I'm just wondering, because even with some of the non-first nations municipalities, there are differences in how they do certain things. We visited some first nations on other issues, and the way they dealt with it was through band resolutions or bylaws that they put in place.

Do you not think that the overall goal could still be achieved by ensuring that those accounting practices are done internally, and that they decide on how best to distribute that to their members, whether it's by mail or posted on the Internet? Do you think that people should be forced to put it on the website?

• (1720)

Chief Darcy M. Bear: I think the information should be for the members of the community. That's who the information should be for. That's who we should be accountable to, the Whitecap community members.

As for how each community gets that information to their members, it should be up to them. If it is going to be via the net, then there should be a pass code that they have to use, because it's information that is privileged to them as a Whitecap member.

That would be my answer, anyway, with regard to the Internet. It shouldn't be available to everyone. I don't think it's everybody's business what we're doing.

It's very important, though, that we share that audit with anybody providing resources to us, such as the government. We can share that audit with the government, not a problem, but it should be shared with the Whitecap members; another first nation, I don't think it's any of their business.

Mrs. Carol Hughes: Now, as you've said, you certainly get funding from the government, and they get some resources. I'm sure that currently you are reporting to them on those funds now. Is that not the case?

Chief Darcy M. Bear: Absolutely.

Mrs. Carol Hughes: So would this not be like a double duty?

Chief Darcy M. Bear: No, I don't think this is a double duty; I think this is ensuring that the members are getting the information. That's all this bill is doing. It's ensuring that the members are getting the information so that it doesn't matter....

As I said, if I drop dead walking out of here today and there's a leadership change, and the next leader says, "I'm not going to share the information with my community members, I'm just going to go on a spending spree", there's the end of the Whitecap. That's happened. I've seen that happen time and again in Canada. It's happened to strong first nations. They go down just because of a change in leadership where they're not prepared to be accountable to the membership.

Mrs. Carol Hughes: Chief, I have just one more question for you. When we see something like this here, do you think...in terms of the percentage of first nations, they should all be consulted on this, to decide whether or not this is something that should go forward?

If there are only maybe 20 first nations that think this is a good project to go on, that this is a good piece of legislation, I'm just wondering whether that should be imposed on every first nation when there is maybe a bigger percentage that says they're not in favour of it.

Chief Darcy M. Bear: Well, as I said, I speak for Whitecap. Certainly we're in favour as far as being accountable to our people and sharing our financial information. I think it's very important.

I can't speak on behalf of the other 632 first nations. That's up to them to speak on it.

Mrs. Carol Hughes: Again, just to clarify, I understand your position on this, that it's something you would support. But do you think every first nation should be consulted on such a matter?

Chief Darcy M. Bear: I don't see the big issue here. I think if we're open and transparent, why would we oppose something that's just saying that it's transparency and providing that to our members?

Providing the changes we put forward are made, I don't see the issue. It's just about being transparent to our people.

The Chair: Thank you so much.

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

• (1725)

Mr. Blake Richards (Wild Rose, CPC): Thank you, Mr. Chair.

Thank you, Chief Bear, Ms. Dunville, and Mr. Long. I appreciate you all being here and sharing with us your experience.

Certainly from my understanding of what I've heard from you here today, and from what I've heard from other committee members as well, you're a shining example of the success you can see when you really work hard to develop businesses and opportunities and economic development on a first nation. My congratulations for the work you've done in creating transparency and accountability on your reserve, but also in terms of your economic development and what you've done to encourage that.

I'm new to the committee, so I wasn't there when the committee visited your community in May, but I understand from other members that they certainly discovered that one of the big parts of your success has been working on partnerships with other first nations and with non-first nations businesses and trying to develop your economic opportunities that way.

So I just want to congratulate you on that. I think it's just a great example for other first nations and other communities across Canada of what you can do when you set the stage to allow business to thrive and succeed. You might even say you're creating jobs, growth, and prosperity on your first nation.

But I do have some questions related to that, I think, to tie in with our subject matter today, Bill C-27. I'd like to just ask you a few of those questions. Hopefully we have time to get to all of them.

I'd like to get a little bit of a sense, in terms of the experience you've had, of the economic implications for band-owned businesses in terms of disclosing their financial information. What kinds of economic implications are there in that disclosure?

Ms. Lisa Dunville: As Chief Bear alluded to before, it goes back to the idea that you don't want to scare away private enterprise from partnering with first nations in that economic development activity. The idea is that if it's a requirement of the first nation to disclose certain information, we would never want to scope that into the private enterprise. Obviously, that might deter private enterprises from wanting to partner in business with the first nation. The key message is that we don't want to detract from or deter that economic growth and development of the first nation by inadvertently imposing some sort of restriction or requirement on private enterprises.

Mr. Blake Richards: Given your experience, you wouldn't see that type of disclosure as undermining the competitiveness of the business, would you?

Ms. Lisa Dunville: Absolutely we would, actually.

In Canada there's no other requirement for private enterprises or private business owners to publicly disclose financial information and financial statements—for instance, CEO, CFO, and executive compensation. It's private information. It could contain competitive advantage information and things of that nature that other private enterprises are not required to disclose. Again, if I were a private

business owner looking to partner with a first nation and I realized that this legislation would somehow cause me to now have to publicly disclose some of that information, obviously I would not be in favour of that.

Mr. Blake Richards: You've suggested some amendments and have distributed those to us. Obviously I haven't had a chance to look through them. I would assume that if these are concerns you have, then you have addressed those in your amendments. What specific changes are there that would address these?

Ms. Lisa Dunville: The main issue in dealing specifically with the scope of private enterprises is the use of the word "control" in the draft legislation or the original draft. Because of the definition of control and how it's used under generally accepted accounting principles, we can get into an interpretation where someone may assume that if a first nation has control or an economic interest in a private entity, then that would be scoped in. To clarify the bill, what we've said is that the wording should just follow what is required to be disclosed in the consolidated financial statements of the first nation, which would specifically exclude government business or enterprises or private enterprises. That is a requirement under generally accepted accounting principles. It's just cleaning up the language so there's no ambiguity in terms of what information you need to include when following the requirements of the bill.

● (1730)

Mr. Blake Richards: I have some more questions.

The Chair: Unfortunately, you're out of time. If I let you go, then I'd have a mutiny from others.

I appreciate committee members keeping to the time. Today, I think we had a great deal of success in terms of the two different groups of witnesses.

Chief Bear, we want to thank you and your team for coming today. We know that you have many things on your plate, so we certainly appreciate that you have taken the time to be with us. We look forward to hearing from you again at a later date.

Colleagues and committee members, we'll continue the review of this bill at our next meeting. We'll see you then. Thanks so much.

This meeting is adjourned.

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