

THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES
EVIDENCE

OTTAWA, Tuesday, February 22, 2005

The Standing Senate Committee on Aboriginal Peoples, to which was referred Bill C-20, to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other acts, met this day at 9 a.m. to give consideration to the bill.

Senator Nick G. Sibbeston (*Chairman*) in the Chair.

The Chairman: I see a quorum. I call the meeting to order.

The Standing Senate Committee on Aboriginal Peoples is meeting today to deal with Bill C-20. This is a bill dealing with the First Nations fiscal and statistical management act. Mr. Andy Scott, Minister of Indian Affairs and Northern Development is here.

Welcome. Please proceed, Minister.

The Honourable Andy Scott, P.C., MP, Minister of Indian Affairs and Northern Development: Thank you very much, Mr. Chair and members of the committee, for the opportunity to lead off the committee's review of Bill C-20, the First Nations fiscal and statistical management act. I believe that this legislation will help first nation communities build viable, thriving economies, and I am confident that members of this committee will support Bill C-20 once they have scrutinized and analysed it carefully and comprehensively.

Last year, members of this committee began a valuable investigation into the involvement of aboriginal communities and businesses in Canada's economy. Thanks to the diversity of perspectives presented during the investigation, committee members have acquired a deep understanding of the difficult obstacles aboriginal peoples face and the significant opportunities that might be made available to them. The importance and relevance of this work will become increasingly clear as the committee reviews Bill C-20.

Last November, the committee heard from Manny Jules, a successful entrepreneur, former chief and passionate advocate of Bill C-20.

Given the fact that the Mr. Jules is here, I hesitate to quote for fear I will be corrected, but I will persist. At that time he said:

...legislation is about a simple fact: governments do not build economies; businesses do.

This...legislation is not asking the government to build our economies with a pile of public money. This is about us building viable economies ourselves.

Today, I would like to describe how Bill C-20 will enable First Nation communities to fulfill the vision outlined by Manny Jules. I am convinced that the legislation will serve as a crucial stepping stone for first nation communities eager to improve living standards and fiscal performance, and I expect that committee members will quickly recognize that Bill C-20 supports a range of development options. In fact, the flexibility and inclusiveness build into Bill C-20 is perhaps its greatest strength.

Unlike the Indian Act, this legislation is not prescriptive. It has been designed and created by First Nations for First Nations. It recognizes and fully supports the right of communities to plan and follow their own paths. It is entirely appropriate that the men and women who conceived of Bill C-20 are members of First Nations themselves. After all, they are most familiar with the particular problems facing their communities. They have recognized the crucial link between physical infrastructure, economic development and community well-being.

Until now, however, few First Nation communities have enjoyed access to the tools needed to develop physical infrastructure. Bill C-20 will alter this situation in a fundamental and positive way. With this legislation, a First Nation community is free to take advantage of a wide range of fiscal and statistical tools and legal mechanisms, the same instruments long used by municipalities to attract investment, address social needs and create jobs.

The viability of communities across Canada depends absolutely on strong, reliable infrastructure from roads to communication links to modern water and sewer facilities. Community leaders recognize that modern infrastructure is essential to economic growth, but the construction, maintenance and expansion of infrastructure is expensive. To offset high costs, municipalities have long relied on long-term low-interest loans. Lenders invest in infrastructure projects because they are confident in the legal status, financial health and stability of municipal governments.

Few First Nation communities, though, are blessed with these advantages. In fact, their legal status alone limits the access of most First Nation communities to low-cost financing options. Financial studies of the current borrowing options of First Nations describe these options as comparable to mortgaging a house with a credit card. In many cases, the borrowing costs are prohibitive and many projects cannot be completed.

The First Nations fiscal and statistical management act establishes four institutions that will enable First Nation communities to raise much needed property tax revenues, to pool their resources and finance infrastructure improvement projects, and to make effective decisions to benefit their members. Participation in these organizations is completely voluntary. No First Nation community is required to avail itself of any of the services offered through Bill C-20.

These institutions -- a tax commission, a financial management board, a statistical institute and a finance authority -- would provide discrete yet complementary services. They would operate at arm's length from one another, have distinct mandates and offer particular advantages. Although the benefits of each organization are significant, the combined effect of all four institutions is both powerful and enduring.

Allow me to describe the role that each institution will play. The first institution created under Bill C-20, the First Nations tax commission, is designed to facilitate the implementation of fair and effective First Nation property tax regimes. The commission would provide standards for the development, by First Nations, of property tax laws that both balance community and ratepayer interests and are consistent with those in neighbouring jurisdictions. The commission would also provide for effective dispute resolution. In short, the tax commission will assist First Nations to foster the secure and stable fiscal environment sought by investors and lenders alike.

The second institution, the First Nations finance authority, will enable communities to raise private capital at preferred rates. Here is how it works: A First Nation community that collects property tax under this bill may become a borrowing member of the authority if it meets the strict requirements of the authority. On the collective strength of the property tax revenues of its borrowing members, the finance authority would then raise private capital with First Nations bonds. The proceeds of each bond issue would be loaned back to the participating borrowing members at a competitive rate of interest. Analysts estimate that this mechanism could generate more than \$125 million in debt financing over the first five bond issues.

The third institution, the financial management board, would provide a range of technical and support services to any interested First Nation. The board would assist with research and advocacy on financial matters, policy and capacity development, along with financial procedures and reporting standards. These activities will help First Nation communities to make the most of their financial resources. The board would also play a role in the borrowing pool. It would approve the financial administration laws of borrowing members and provide an independent assessment and certification of the financial health of these First Nations. This would provide investors with the information and the confidence needed to invest.

The fourth and final institution created under Bill C-20, the First Nations statistical institute, would address a problem that has long faced First Nation communities in Canada, limited access to an essential precursor to development of accurate, relevant and reliable information. For community planners, unfettered access to precise pertinent data is crucial. Not only would the statistical institute be able to help First Nations both access statistical information held by federal departments and create new data sources, it would be able to provide a First Nations perspective on the collection and analysis of First Nations data. This would also benefit First Nations by providing valuable input into federal programs.

Mr. Chair, this legislation seeks to put First Nation communities firmly in control of their own destinies. To quote again from Manny Jules' appearance before the committee last November:

I want our people to be able to create their own institutions and build their own economies so that we do not need to go cap in hand to anyone. We want to be an integral part of this economy and this federation and to be able to trumpet that to the world...

Mr. Chair, Bill C-20 enables First Nation communities to realize this vision to build self-sustaining economies and to foster prosperity across the land.

In the last three weeks, I had the occasion to participate with Senator Rompkey in a signing ceremony in Nain, Newfoundland and Labrador. Last weekend, a First Nation in the Yukon became the first First Nation to settle a land claim and establish self-government inside an urban municipality, that being Whitehorse. In both instances, it became extremely apparent to everyone in

attendance that, generally speaking, the solution to most of the problems that exist is to put the capacity to determine a community in its own hands, which is what this legislation attempts to do.

Senator Stratton: Welcome, Minister Scott. On many occasions when a bill comes before the Aboriginal Committee, we are concerned about whether there has been consultation with the affected people. In your opinion, if there has been consultation, what were the concerns expressed by the affected people and their objections to this bill. Did they express a desire to have modifications to the bill? Did you accept those modifications or are there outstanding issues with respect to this bill such that you could not go along with that they wished to have?

Mr. Scott: Thank you for your question, senator. It is an important one and probably should lead the questioning when we come forward with proposed legislation.

I would ask Ms. Barnes to respond because she has that information before her.

Senator Stratton: We were in a committee meeting yesterday where the same thing happened. We call it "passing the buck."

Mr. Scott: The reality is that before becoming parliamentary secretary, Ms. Barnes served as Chair of the Aboriginal Affairs Committee in the other place and so she is can provide firsthand knowledge and testimony in terms of the things that have been brought forward in the past. I would say that the first point in answering the question has to be to direct everyone's attention to the fact that this came from the community; and that is critically important. Notwithstanding that fact, it is not unanimously supported within the community. I do not know that we should expect a higher standard of consensus than we would be able to achieve outside the community, even for other things that we do. I have a partial list of items, but I am sure that Ms. Barnes has the complete list and so I will ask her to speak to that.

Ms. Susan Barnes, Parliamentary Secretary to the Minister of Indian Affairs and Northern Development: Thank you, senator, for the good question. This is the third version of the bill and there were significant changes in two substantial areas that you should be most concerned with. There is the non-derogation clause that Senator Watt was concerned about in the last reincarnation, which was Bill C-19, the predecessor to Bill C-20. It was introduced without a non-derogation clause. I was at that meeting when it was inserted unanimously at the committee stage. When C-20 was introduced, it came with the non-derogation clause. That important part was wanted by a large number of people who were originally opposed and who raised concerns about. That has been rectified in the bill.

Concerning the optionality, while First Nations could choose if and when to implement property taxation, once the choice was made First Nations had no option but to tax under Bill C-19. Again, this is an important change in Bill C-20 as a result of the amendments that were made to Bill C-23 at report stage, a previous reincarnation, in response to those first nation concerns. The current version, C-20 before you today, is completely optional. First Nations can still choose if and when they want to implement property taxation, however, First Nations have the option to tax under this bill or under section 83 of the Indian Act. First Nations choosing to participate in the tax and boring regimes established by Bill C-20 would be listed in the schedule to the bill. The name of the first nation would be added to the schedule only at the request of the council of that first nation. The process for adding the name of a first nation to the schedule is found in the act. It is to ensure that people understood that it really was an optionality, especially with respect to the three institutions. The procedure on the statistical is somewhat different but there is an ability to use it within that institute to gather information that is beneficial to the community; and that did not exist before.

Senator Stratton: I will ask the same question of the later witnesses on their side as to whether there are outstanding issues that were not addressed. That is the critical issue for the committee: are there outstanding issues that you are unable to address and the reasons why that is.

Ms. Barnes: Perhaps I could follow up on that. There were some amendments made in the House committee to Bill C-20. You will see the legal counsel for West Bank in the room today. That was one of the original proponents 15 years ago when this first came on the landscape. There was some wording that may have been looked at as not including them in opting in after a self-government agreement. We clarified that and made some changes. There were about five or six minor changes of a technical nature, all of which were approved unanimously in the House, as was this bill by all four parties in the House. Outstanding there could always be other issues that were on the table that others might have brought forth. It was narrowed down to the ones that were acceptable to all. The proponents, through legislative counsel and the department, were consulted on six amendments that were brought forward at committee. There certainly could have been others but there was no consensus on those that we got around. It was found that the major impediments in the past had been the optionality and the non-derogation clause. Substantively, senator, you would find

that all of the proponents of the bill who are on side with the proposed legislation. Some of the First Nations that are off side from both Ontario and Québec do so for reasons other than the bill such as the overriding section 35 concerns.

Mr. Scott: If I may, invariably after three different exercises, the discussion would have progressed such that the dialogue would have tended toward those who had problems with the bill beyond a certain point and been somewhat defensive. It is probably best to let those with objections to express them. I would not want to suggest that it does not exist. The Parliamentary Secretary is right in saying that many of the problems have been satisfactorily dealt with, but not all of them have been. It is probably better for those to make their case to the committee.

The Chairman: The minister and Ms. Barnes raise the issue of non-derogation clause of Bill C-20. I want to commend you for having a non-derogation clause, particularly one that has been used from the 1980s to the 1990s. As you may know, some senators dealt with this issue a number of years ago. We recognize that after 1996, there was a slightly different version of the non-derogation clause applied to bills. We were concerned that this might result in a watering down or diminishing of the rights of Aboriginals so we pressed the then Minister of Justice to reintroduce the original non-derogation clause used in statutes up to 1996. I am glad that the original version of the non-derogation clause is included in Bill C-20 and I recommend that that continue. We like this version of the non-derogation clause that is the standard wording. If you have a hand in any future legislation, please be mindful of using this version of the non-derogation clause to avoid concerns.

That is a comment, and thank you for using that good version in Bill C-20.

Mr. Scott: Thank you for the leadership.

Senator Pearson: That is an interesting bill and a welcome one for us to discuss. I am interested in the statistical institute and how that will work out. I was reading the numbers of things that would be encompassed in that. It seems to me this project has been evolving for a long time. One always talked about the need for those kinds of statistics. I recognize that here it is being tied into prosperity, in a sense, and I do not want to over emphasize my questions. I am looking at, of course, questions around education and so on.

How it has been envisaged that this institute will evolve, and how it will work in relation to Statistics Canada?

Mr. Scott: The general comment is that it will be more comprehensive. It will be driven by the community itself in terms of the particular perspective that the community would bring to the gathering of data. That is a critically important element of it. It does enhance our capacity to do good public policy. I say that within the caveat of the protections the bill carries with the information.

Generally, for purposes of this legislation, its principal purpose is to offer the evidence that is necessary to create the confidence that is part of the package in terms of enabling communities to have access to tools that are available to municipalities and other public government and have been for a long time.

Ms. Barnes: First Nations Statistical Institute will be established as a complement to statistical work currently being undertaken by Statistics Canada and other departments. The institute itself has several functions. Firstly, with access to data held by federal departments, agencies and other organizations, the institute can build on this existing data to develop a complete, accurate and relevant picture of First Nations across Canada.

In addition, it can identify where the gaps in the data will occur and take steps to jointly undertake studies to collect the data.

Secondly, the institute would assist the First Nation governments themselves in building the capacity to understand and use the statistical information in their decision making, delivery of services and negotiations. This would identify information requirements of First Nations, ensure that the information is readily available to them and compile the necessary statistical information to support not only the bond regime established by the bill but also other decisions made to invest in First Nations or in developments on First Nations lands.

The statistical institute mandate is dealt with in section 104 of the bill. It is a co-operative work with Statistics Canada to ensure that the national statistical system meets the needs of First Nations in Canada and builds on statistical capacity, and it goes into that. There is a close relationship with Statistics Canada, and the Chief Statistician of Canada is a necessary member of that particular board.

This will be useful for First Nations themselves and we are quite confident that all of the other issues that have been raised around the institute have been canvassed and looked at, including the

privacy issues. Because this is a Crown corporation, there is a distance from the government and it still has the same protections.

Senator Pearson: Will it complement Statistics Canada data, so that it will set up a long-term relationship that will be fruitful for both sides?

Ms. Barnes: Through agreement with individual First Nations, those agreements can be negotiated so that there will be access.

Senator Pearson: It is a mechanism for beginning to develop a body of data that does not exist yet.

Ms. Barnes: Yes. No individual First Nation person could be compelled. There is no enforcement, just as right now you and I would give voluntarily information. We are hopeful that this ability and this institute will be able to better serve First Nations communities across Canada.

Mr. Scott: It is a very good example of the kind of model of complementary institutions that I see as the future on many fronts. It carries with it all the important information that is available to Statistics Canada now. It carries with it the recognition of the specific perspective of the community, it is complementary, and it adds value to what Statistics Canada does in these communities across Canada.

The Chairman: Having reviewed the bill, I recognize it to be an intricate regime that would be in place on reserve lands to raise tax for infrastructure.

In Canada, this would not be the only system of monies available for the infrastructure on reserve lands. I take it the system being set up here is most suitable for reserves or areas that are close to urban centres where businesses are interested in being established on reserve lands. Hundreds of other reserves throughout our country would not likely be affected. Those reserves still get money from the federal government for infrastructure. Would you be able to comment on that, please?

Mr. Scott: Certainly. I would reassure everyone that this is in addition to the various programs and investments that are currently available. It simply adds another avenue for those communities that choose it. It has been available to municipalities in Canada for a long time and was a manifestation of the desire of many communities to take a leadership position in these kinds of projects that is not so dependent on the reference in the quote to “people coming cap in hand.”

I do not believe that that is what is happening in the context of those who depend on the Government of Canada, but the point is many communities would wish to do this but have not had the opportunity because they have not had these institutions that have been available to the rest of the country for a long time.

Senator Watt: What impact, if any, will this piece of legislation have on the Indian Act? Will there be a requirement to make a specific amendment to the Indian Act in order for this to be validated, or has that already taken place? It states that the Indian taxation board was established 1989. I would imagine this bill is an extension of the fact that it was dealt with in 1989.

Mr. Scott: The general answer is it will not, but I will let the counsel perhaps respond in more detail.

Mr. Paul Salembier, General Counsel, Legislative Initiatives, Legal Services, Indian and Northern Affairs Canada: The bill does not make amendments to the Indian Act but for First Nations that come under this bill, certain portions of the Indian Act that deal with taxation will no longer apply to them. They will have moved out of the regime of the Indian Act, which is focused on section 83. They will move out of that regime and into the new regime under Bill C-20, but there is no actual amendment to the Indian Act besides inconsequential amendments to make cross-references to this act.

Senator Watt: If the communities choose not to opt in, what happens if there are technical changes? Does that not also apply?

Mr. Scott: No, the technical changes that are spoken to here are more administrative in the context of referencing.

Senator Watt: Could you explain to me what that is?

Mr. Salembier: First Nations that choose not to go under Bill C-20 will continue as they do now and can continue, if they choose, to exercise taxation powers using section 83 of the Indian Act. For them, there will be absolutely no change.

Senator Watt: We have all been around the business area, and the proponent of this bill is very much aware of that. In regard to the business side, sometimes it goes well, but sometimes it does not go well, depending on the nature of the market and so forth.

What would happen in the case of a bankruptcy in the communities, and a third party takes over? Does Indian Affairs step in to bail them out? What kind of a safety mechanism do you see as a minister?

Mr. Scott: I will answer generally, but I will call upon a more technical response. The financial management entity, which is contained within this, has a general responsibility. It is important to distinguish between third party management in the context of how it exists in First Nations and what we are talking about here. The third party is just the same word, but it is not the same concept in the strictest terms. Ms. Kustra can explain it more clearly, but the reality is that the first line of responsibility after the community is the financial management entity.

Ms. Brenda Kustra, Director General, Lands and Trust Services, Governance Directorate, Indian and Northern Affairs Canada: Specifically, the financial management board will have the authority under the act to act as a third party manager only with respect to the local revenue account, which is only that account used to deposit the tax revenues.

All the other revenue from the First Nation, such as the revenue that it would receive from the Department of Indian Affairs, is held in separate accounts, so it would not be impacted by this specific bill. If a First Nation defaults in its repayment schedule to the borrowing pool, that affects the pool at large and the financial management board would be able to step in and work with the First Nations to develop an appropriate remedial action plan for the repayment of the outstanding amount.

Senator Watt: If the action plan is not well suited to saving the companies, what happens?

Mr. Salembier: There are failsafe mechanisms within the bill, one of which is called a debt reserve fund. If a situation arises where a First Nation is unable to make its payments, there is a fund already established under the bill that will make the payments on behalf of that First Nation. If for some reason the First Nation continues to be unable to make its payments, the bill also has a mechanism whereby all other members of the borrowing pool, in other words, all members who are borrowing under any bond issue, will be called upon to make up those payments on behalf of that First Nation. The bill has a couple of mechanisms to ensure that the bond itself will not be at risk.

Senator Watt: In other words, if the community gets into this predicament, it would have to get consent from another community in order to be able to rectify the matter?

Mr. Salembier: They do not technically require consent from the other communities, because when you become a borrowing member you basically contract into the system whereby you will share the obligations of all members of the pool. By taking advantage of borrowing from the First Nations financing authority, you also take the obligation to assist any other First Nations if they run into problems. You do not require consent. The First Nations finance authority has its own internal mechanism to assess extra charges against other First Nations in order to maintain the integrity of the bond issue.

Senator Watt: If they fully exhausted their means to find a solution to the problem, would the Government of Canada step in to bail them out? If not, what would happen?

Mr. Scott: The safeguards created in a shared pool of funds will allow people to invest in the things that would gather the money in the first instance. In other words, in order for this to work it is not necessary for us to guarantee it. That is the bottom line. The reality is that the measure against which you have to create the program is the willingness of people to invest without a guarantee by the Department of Indian Affairs.

Ms. Barnes: Senator, there are many checks and balances in this act. We were very careful not to take anything away when the bill went through the House committee, because we want to ensure a good credit rating when the first bond issue comes out. There have been preliminary discussions with both Standard & Poor's and Moody's. They anticipate, based on the data currently available, that the first bond issue will get an A credit rating, which is very good.

To reiterate, under the act, no First Nation can use land as collateral. The security offered to the bond market is the revenue flow from the real property tax base, which is a separate fund. One of the big differences between the second incarnation of this bill and Bill C-20 is the number of First Nations that are interested, those being ones that have economic bases on reserve. From about 30 First Nations originally interested we now anticipate that about 100 will participate if this bill becomes law. That is a substantial increase between the two incarnations of this bill and I think it is due to some of the good recommendations put forward by this body and acceded to in the House. It is now in a much more complete and acceptable form.

We are convinced, and obviously so are the independent bodies like Standard & Poor's and Moody's. They do not give an A credit rating lightly. That is a very good credit rating, and it is

obviously not guaranteed until the first bond issue is put out for pickup, but the checks and balances are very prudent in this bill.

Senator Watt: Will this be attractive to non-native people who have money and would like to make an investment? Can this instrument be used to attract investment into the community?

Ms. Barnes: The bond is exactly that. Anyone can purchase it.

Senator Watt: I am concerned about certainty and safety mechanisms. Does the bill contain a mechanism to protect First Nations from large corporations that might invest in the community?

Ms. Kustra: There are many uncertainties in the Indian Act right now with respect to attracting private investment, so the kinds of regimes that will be put in place through this bill will provide the kind of certainty and checks and balances that many private investors are looking for in order to invest substantial sums in First Nations lands and in economic joint ventures with First Nations.

Ms. Barnes: One of the financial benefits to a participating first nation who is part of the capital pool is at this point their cost of borrowing for their own things may decrease by up to 30 to 50 per cent. Some opposition have gone after those figures saying they are too generous, but they are being said to us.

Senator Rompkey: I wanted to go back to the chairman's questions about funds that were available to First Nations. Perhaps most people here know the answer, but what other funds are still available apart from what is contained in the legislation? I recall back in the 1980s, for example, we started the aboriginal economic development fund or something that was called something like that. Is that still there? What other mechanisms, apart from those contained here, are available to First Nations?

Mr. Scott: It is only 10 to 10. The reality is that there is a large number of programs. My friend, the president of the Treasury Board, has identified some 300 programs that exist in Canada that would speak to this specifically, but not all of them having to do with infrastructure, of course. The point I am making is that there are programs in Industry Canada, in Infrastructure Canada and in Indian and Northern Affairs. None of those programs are in any way affected by this.

Senator Rompkey: I just meant within Indian and Northern Affairs.

Mr. Scott: We do infrastructure in First Nations. We do a great deal of these kinds of projects directly, and this option would be in addition to that. In a fashion, to use an analogy, a municipality has received grants from provinces, but in addition to that, they also are able as a municipality to borrow, at very good rates, based on relatively the same kind of instrumentation that is being built in this legislation. It simply makes available to the community another option that, to this point, has not been available and in no way diminishes the options that otherwise would be available.

Senator Stratton: I would like to ask follow-up questions with respect to three issues: One is privacy, the second would be opting in and opting out, and the third would be transparency.

As I understand it, a statistical institute is being formed. How do we protect the privacy of individuals where statistical data is obtained? How do we assure them of privacy, particularly with respect to today's concerns about privacy?

Mr. Scott: I am sure we will add value here to my answers, but it is important that the information that would be available comes from two sources. One source would be that information that is currently available and currently used by the Government of Canada to do public policy planning, and that information is already available. Some one can probably refer to the specific sections, but the privacy provisions within this legislation are more rigorous than would be the case absent this legislation for that information.

On the question of information that is gathered by the statistical institute specific to its own purposes, first, that is optional. If a community or individual does not want to participate in that exercise, they have the right not to. When gathered, that information is protected by the privacy provisions of this bill, which are probably meeting a standard that we have today that might have been the standard when other pieces of legislation some time ago were brought forward that met a standard of a different time. I would say that the level of protection is greater than would exist in most information that would be available now.

Ms. Barnes: The minister is absolutely correct there, senator. The statistical institute as a Crown corporation would be subject to the strict requirements of both the Access to Information Act and the Privacy Act. In the bill itself, under consequential amendments, the Access to Information Act is in clause 147, and the Privacy Act is in clause 152 of the bill, so we are adding the financial management boards, the statistical institute and the First Nations tax commission. They are adding

those into that, so you can see it directly into your own act. That would be pages 61 and 63 of the English version of the bill.

Senator Stratton: The second question was about opting in and opting out. There are two aspects to this I would like to question. One is the statistical institute. Is there a choice of opting in and opting out of that, and in the fiscal institute, is there a choice of opting in and opting out? What is the process for each of those? Is the statistical mandatory? Is the fiscal optional?

Mr. Scott: They are both optional. All elements of the legislation are optional.

Senator Stratton: Including opting out?

Mr. Scott: You can get out once you have divested yourself of your responsibilities when you are in. You have to absolve yourself of those responsibilities before opting out. If you have opted in and not taken on any responsibilities, you could opt out, so I guess that speaks to the question.

Senator Stratton: It is a band resolution to opt in, as I understand it.

Mr. Scott: That is correct.

Senator Stratton: But it is an Order in Council to opt out or to get out, in both instances, fiscal and statistical?

Mr. Salembier: Just to clarify, to opt in, there is a band council resolution requesting it, followed by an Order in Council. To opt out, it is the same mechanism, a band council resolution and an Order in Council. The one caveat is that if the first nation has borrowed money from the financing authority, then they have to pay back the money before they can opt out.

On the statistical institute, the statistical portion is a law of general application. Therefore, there is no strict opting in or opting out of the statistical institute. However, if the statistical institute is gathering information directly from first nation communities, they cannot compel anyone to provide information that the person does not want to provide. Even if they do provide the information, they can direct that that information shall not be shared, so there are protections there.

Ms. Barnes: It is a way in which you talk about the statistical institute, because technically, there is not an opting in into the statistical institute. How you speak about it can affect what you think about it, so in some senses some people would say that that is not optional. I am saying I could argue both sides of that. In actual fact, there is no teeth to force any individual, but there is a specific mechanism in the other three, so in contrast to all the others, there is nothing forcing First Nations into the regime on the first three. One of the financial benefits of the bill that not enough people talk about is that you do not have to be in the capital pool to take advantage of the business advice that is there in one of the other institutes that is fiscal. That is one of the benefits to those non-participating in the capital pool that may not be ready to utilize this infrastructure that is there now but could in due course be able to get involved and get some assistance, so I would like to stress that point.

Senator Stratton: I appreciate that. The last question is transparency. There is a lot of talk about transparency on the part of the Auditor General with respect to arm's length corporations formed by the government -- the foundations, I believe they are called. How do we ensure both the community and Canadians as a whole that we handle or manage transparency so that this is as transparent as possible?

Mr. Scott: If one goes back to the rationale behind this, this has to do with confidence. To some extent, the essence of that confidence is transparency, so consequently, to some extent, it is driven to transparency by virtue of its objective. You are not going to get people to invest in this if they do not believe that all of the checks and balances are in place that would be necessary.

I think that is probably the most significant departure in the context of how we are going about doing the business of developing communities. The legislation certainly, in the same way, is necessary to put a pretty rigorous series of backstops in place so that people will make their investment and realize that it is a safe one, the same would apply. It is audited.

Senator Stratton: There is an independent auditing process?

Mr. Scott: That would also, senator, be necessary in order to satisfy the potential investor.

Senator Stratton: I appreciate that. Just for the record, I think it is important to state that. By stating that, you build confidence in doing so.

Mr. Scott: Thank you for the opportunity to state that.

The Chairman: With that, I think that is all the time we have. Thank you very much, minister and parliamentary secretary and officials, for your attendance.

Mr. Scott: Thank you for the attention of the committee, and also thank you for your accommodation in other recent legislation. We are very appreciative of the committee's sensitivity and good work.

Senator Stratton: Minister, you owe us on that last one.

The Chairman: Welcome to our Senate committee. You can proceed, if you wish. Perhaps you could introduce your delegation.

Mr. Jules: To my right are Deanna Hamilton and Chief Tom Bressette, Harold Calla and Chief Strater Crowfoot.

The Chairman: Proceed, please.

Mr. Jules: Thank you for this opportunity to speak to the Senate about the First Nations Fiscal and Statistical Management Act. It is a privilege to lead the committed team that has created this legislation. The legislation before you is a result of the 1988 Kamloops amendment to the Indian Act. I would like to recognize the role of Senator Len Marchand in that amendment.

The Kamloops amendment has enabled over a hundred First Nation property tax systems. We can do much better. The First Nations Fiscal and Statistical Management Act is an important step forward. It has all-party support in the House of Commons. With this legislation we are building an economic solution instead of just talking about social problems. Our issue is simple in theory. Our social problems stem from our poor economies. Our poor economies result from the lack of private investment. Private investment accounts for 80 per cent of all investment in this country. We are receiving only a tiny fraction of private investment. That, in a nutshell, is the root of our disadvantage. If we correct this problem, all other initiatives will become more effective. If we do not, then social problems continue and we will have lost yet another generation.

Why do we receive such a tiny share of private investment? There are a lot of theories. The nature of property rights, poor locations of many First Nations, mistrust of First Nation governments. While there is a little bit of truth in each of these, if I was asked to express the most fundamental reason, I would say it is because the decision-making is not in the right hands. Central planning does not work. It did not work for Eastern Europe, and it is not working in First Nations country. This legislation begins to break down the wall preventing First Nations' economic growth. It begins the process of replacing DIAND with First Nations institutions and legislation. There are investors all over the country who see opportunities in First Nation countries. There are First Nation leaders who want to respond to these opportunities.

There are two keys to making these deals happen. First, investors need certainty over their property rights and taxes and services. Second, First Nation leaders require the authority they need to move at the speed of business. A lot of people think transferring significant authority is impossible. They say First Nation governments are too small to be viable. They say it is too complex to transfer substantial powers over to 600 First Nation governments. They say that all these governments will create higher administration costs and threaten the Canadian economic union.

These institutions answer all those questions. These institutions help us exercise our powers in a way that reduces bureaucracy. They allow us to move decisions to the people who best see their opportunities. With this legislation we are building an institutional framework for First Nation government. This framework will allow First Nations to assume powers as they develop capacity. They will allow us to realize administrative economies of scale. They will build infrastructure. They will create certainty required by investors. They will support First Nation governments that work. Most importantly, this framework has been developed by the First Nations who participate in it. This is our legislation. We are not asking for transformative change, we are doing it.

Harold Calla, Chairman of Advisory Panel, First Nations Financial Management Board: Good morning, and thank you for being here. I want to start by saying, as a Canadian, I acknowledge the Senate in its current form. This is about the third or fourth time I have had the opportunity to be here, and I am always impressed with the level of debate and the content of the work, and you provide a valuable service to Canada and, as a Canadian, I applaud it and do not look for it to be changed.

As Mr. Jules has said, we are here today to share the vision and the work of like-minded First Nations who are seeking to put in place the tools they need to support the development of economic and business opportunities in their communities. We have to look to the future. I know that there are some First Nations who do not have the same kind of opportunities today, but this must be viewed as one piece in a part of a lot of work that is yet to be done.

We have examined the current problems and have constructed through this legislation viable options that respond to many of our challenges. As Mr. Jules has said and as you are aware, there is

about one in six First Nations in Canada that is now collecting property taxes -- a far cry from the 14 that were talked about at the time the Kamloops amendment was put forward. While it has made a significant difference in our community, the full benefits of property taxation that are available to other governments delivering local services have eluded First Nations.

Bill C-20 bridges those gaps and levels the playing field. This work builds on the initiative of the Kamloops amendment, the Land Management Act, and there will be a synergy created and it will be a critical piece in the move from dependency to economic self-reliance. Enabling initiatives such as this one recognize the diversity among First Nations and allows those ready to advance their communities in ways that responds to their reality the opportunity to do so.

We have looked at the reasons for poor economic and business development results in our communities and know that this bill will address the most significant issue, which is the lack of infrastructure. You cannot compete in economic and business development if your land is without infrastructure.

The concepts behind this legislation should not be new to any of us. To support economic and business development, we need stable, predictable and viable environments that will attract private sector investment. For those First Nations who opt in by asking to be scheduled, the legislation responds to the private sector investment needs and makes it easier for them to consider investing in First Nation lands.

The concept of pooled borrowing is not new in this country and neither is the concept of using a property tax base and debt to finance infrastructure. The institutions created in this legislation will allow this to happen for First Nations who opt in. It will be less costly and timelier than the status quo.

Initially, those First Nations with property tax revenue will be able to utilize the legislation to access long-term debt for infrastructure through a pooled borrowing using the property tax base as leverage and not their land. Under the First Nations Fiscal and Statistical Management Act land is not being put up as collateral for any loan secured under the legislation, therefore can never be lost through the legislation.

Under the legislation, First Nations agree to guarantee each other's debt in a joint and several liability. They use the First Nations Finance Authority as the vehicle to administer this. Each First Nation in effect pledges their property tax base and the revenue that can be generated from that base as the source of debt repayment to the pool. It is the finance authority on the strength of the combined property tax base of all First Nations that have opted in who secures the bond credit rating and issues the debt. The First Nation borrows from the finance authority and repays the finance authority. The investor and the finance authority bonds never deal directly with the First Nation.

To make the system work, there needs to be a lot of trust that is reinforced with a strong oversight role that ensures the joint and several liability is the system's last resort solution to any problems with the pooled taxing and borrowing regimes. It is this independent role of the financial management board that is a keystone to the success. It becomes the overseer and as such provides a service to the First Nation, the finance authority and the tax commission and provides the investor with the confidence they need. They want to know they will get paid their interest on their bonds and, when the time comes, their principal.

The mechanics of the legislation provide for the financial management board to establish standards for financial management law. The law sets out the regime to manage the local revenue account. The financial management board will also certify that a financial management law passed by a First Nation has met the standard. The financial management board will certify that a First Nation has the required financial law in place for the local revenue account at the time of borrowing.

Let us be clear that this legislation only speaks to the revenues defined as local revenues under the act and does not include transfer funding or the First Nations own source revenue. These funds are not subject to this legislation. The standards the financial management board will develop provide for the segregation of transactions and records for the local revenue and expenditures from the First Nation's other sources of revenue and expenditures. This is required for periodic compliance verification with the laws passed under the bill, and in exceptional circumstances where intervention as contemplated in the act is necessary the financial management board can more easily undertake its responsibilities.

The intervention for provided under the act is designed to respond to First Nation and investor concerns about debt repayment. First Nations want to feel confident they will not be called upon to pay someone else's debt and investors want to make sure they will be paid regardless.

The financial management board will also be positioned to support any First Nation who asks for help in developing financial management capacity by sharing best practices, the development of standards in cooperation with the Aboriginal Financial Officers Association, and provide a life-long living education opportunity in the field of financial management.

This bill is a building block that supports the aspirations of self-reliant first nation governments. The issues considered in this bill are issues that must be dealt with if there is to be any hope for transformative change. This is not a request for a special right or subsidy. It is a request to move outside the box and in doing so creating economic development opportunity that will benefit all Canadians.

This bill should also be viewed as a living document. It will be reviewed in time and should be amended to respond to the needs of First Nation communities at the time.

Ms. Deanna Hamilton, President, First Nations Finance Authority: I am a member of Westbank First Nation, from south central B.C. and we are part of the Okanagan Nation. I am a founding member and CEO, President of the First Nations Finance Authority, the FNFA.

Across Canada First Nations finds themselves rebuilding our governments and our communities, as well as gradually moving away from the paternalistic governance under the Indian Act to true self-government. It is not easy. It takes dedication and hard work. It was not all that many months ago that I sat in this committee listening to you debate my community's self-government legislation, the Westbank First Nations Self-government Act. It was a proud day then and it is a proud day today.

While developing our self-government agreement and constitution, we came to understand that while communities must chart their own path, communities are not islands. There is a need for national, regional, First Nation institutions of governance to support local self-government. The FNFA is an example of what I am talking about. I will explain what I mean by telling you a little about FNFA.

Shortly after taking over property tax in 1990, Westbank began to explore ways to deliver our existing tax regime to build infrastructure that was needed to upgrade the water system, to support economic development and to generally improve the quality of life in our communities.

Local governments typically borrow for infrastructure over long periods of time, spreading the cost and the tax burden between current and future taxpayers to more appropriately match the life of the infrastructure being built. For instance, the cost of a water system might be spread over 30 years. As we explore our options for long-term public-debt financing at Westbank we watch the adjacent non-native community of Kelowna build its infrastructure more efficiently and more effectively than we could. They could borrow with other local governments in B.C. more cheaply and over longer periods of time than we could.

We discovered very quickly that, as First Nations, we did not have the same tools as our neighbours did. We learned that there were legislative barriers to public financing by First Nations. We realized that if we wanted affordable long-term public-debt financing based on property taxes we needed a new regulatory framework to make it work. We also realized that for maximum benefit we could not do it alone.

In 1992 and 1993, Westbank hosted two national conferences to consider the options for First Nations public-debt financing. A number of models were reviewed, both from within Canada and from abroad. The model chosen was the municipal finance authority of B.C., known as the MFA. All local governments in B.C. pooled their borrowing requirements through the MFA, which issues bonds to raise the money. The borrowing scheme is established through provincial legislation.

As First Nations we like this model, not because we equate our governments to municipalities but because the model favoured small governments working together for mutual economic benefit. We realized that collectively we would be stronger. To get the public-financing ball rolling FNFA Inc. was incorporated in 1995. Today the shareholders of the interim corporation, which will be superseded by the statutory FNFA are: Millbrook and Nova Scotia, St. Mary's, Tzeachten, Songhees and Westbank First Nation in B.C. To create the borrowing schemes the directors of the FNFA ask Canada to pass legislation. This is now part of Bill C-20.

The legislation is well thought out and establishes an appropriate regulatory framework that will provide comfort to First Nations governments that borrow together that are, for all intents and purposes, joint and severally liable for each other's debt as well as providing comfort to the purchasers of the bonds that they are good investments.

While the FNFA is modeled on the MFA there are, of course, differences in the legislative framework, given that the First Nations are not municipalities and have inherent law-making authority. Bill C-20 has been drafted accordingly. The four institutions created under the bill will

work together to make the system work. First Nations that opt to participate in the FNFA borrowing process will first be certified by the financial management board, and then they will pass a borrowing law that will be approved by the tax commission. The FNFA will then match all the borrowing laws and issue bonds in amounts sufficient to meet the requirements of the individual borrowing laws.

To help investors make informed decisions, they will have access to information on borrowing members through reports published by the statistics institute. FNFA bonds will not be secured with hard assets. No land is mortgaged. Rather, it is the integrity of the property-tax system that supports the credit. The financial management board and the tax commission will ensure the integrity of the property tax and financial management systems that stand behind the FNFA bonds. Counsellor Calla and Chief Crowfoot will talk to these points.

From our discussions with Moody's Investment Services, Standard & Poor's, as well as our consultants RBC Dominion Securities, the FNFA and Canada are satisfied that the structure proposed in Bill C-20 will support an investment-grade credit rating, probably a single A. This will mean that pension funds and trust funds will be able to buy our bonds, and First Nations will pay less interest. When the MFA was first rated it too received a single A. It now has an enviable triple A. This is something that we will aspire to. It is very significant that the FNFA will be the first Aboriginal government or institution in the world to be rated by an international credit-rating agency. We should not lose sight of this fact.

As we grow it is our vision that Canadians will become as accustomed to buying First Nation bonds as they are to buying federal, provincial and municipal bonds. Also there has been significant interest internationally, where investors see our bonds as being ethical. We believe that demand will exceed supply.

Before I conclude I must caution senators that Bill C-20 cannot be used by future governments as a substitute for Canada's collective responsibility to First Nations, nor as a substitute for federal infrastructure commitments. There will be a continued need for federal assistance to First Nations to support our infrastructure requirements, particularly in communities where basic infrastructure is needed to save lives, where water is unsafe and there are no property taxes.

In closing, we should all celebrate this historic moment. A great many people have been involved in this initiative. Without partnerships, progress could never have been made. The FNFA is an excellent example of the power of working together for mutual benefit. Through the FNFA its members will have an interlinked economy more powerful and viable than the individual communities on their own. Those of us involved in this innovative financing initiative sincerely hope that our example of creating our own solutions to a specific problem we face will demonstrate that there are steps we can take to begin to rebuild our economies and improving our lives. Thank you for listening.

Mr Bressette: Thank you. Good morning, senators. I am Chief Tom Bressette; I am the chairperson of the advisory panel for the First Nations Statistical Institute. I would like to thank the committee for inviting me to speak before you today. I am a man who wears many hats. I am a chief of the Chippewas of Kettle and Stony Point First Nation, which is located in Southwestern Ontario. I am also a board member of the Union of Ontario Indians, which covers roughly 42 First Nations in the Province of Ontario, not to mention the other committees, tribal council and initiatives I am involved with.

Mainly in Ontario I have been involved in First Nation governments for almost 20 years now. I believe strongly that economic development is key in improving the lives of First Nations people and the socioeconomic conditions in our communities.

Our communities need support for self-government to improve infrastructure and attract development and investment. As my colleagues have and will point out, it is much harder to do business in First Nation communities. I am here to speak on one of the causes of this situation, which is a lack of information. We lack information to support economic development and promote investment. Potential investors and business partners expect to see specific community information readily available. Information must be accurate, clear and comparable to other information sources.

A community's ability to market itself is compromised by not having the specific data. The First Nations Statistics Institute will begin to fill these gaps. The institute will be an evolving centre of statistical expertise for First Nation and other stakeholders and will provide support services that will produce a higher quality of information and enable greater usage of First Nations statistics for all users.

Its function will include the following: Statistical information development, statistical training and education, data collection methods, analysis and interpretation, advisory services to First Nation

and federal departments, specialized services to fiscal institutes, the development of statistical standards, including performance-indicator development, data research and information and management services. In short, it will be dedicated to improving the quality of First Nations information.

Improved data on First Nations will benefit First Nations. It will benefit policy-makers and researchers in all governments. It will benefit the public and potential investor on First Nation lands. First Nations Statistics Institute will support the other institutions in Bill C-20. It will work with First Nations and the tax commission to develop statistics that support the First Nation property tax system. The First Nation statistics institute will work with the finance authority and First Nations to provide reliable and timely information to support a strong credit rating. The institute will work with First Nations and other institutions to market opportunities to potential investors. The institute will help the financial management board and First Nations determine what types of investment they are best able to attract. The institute will work with First Nations to build understanding and increase capacity in communities to utilize statistics.

The First Nations statistical institute will help coordinate the collection of First Nations administrative data. In 2002, the Auditor General identified the data and reporting requirements of First Nations as a significant administrative burden. The quality of First Nations statistics available now is poor. The statistical institute will work with Statistics Canada and First Nations to improve the quality, relevance and timeliness of statistical information.

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

The First Nations statistical institute will have a role to play. It will provide the necessary information for First Nations to establish effective financial management systems. It will be providing information to support the implementation of self-government. It will be providing information that is needed to facilitate infrastructure financing and support investment. It will be working with Statistics Canada to improve First Nations statistics.

In short, it is vital infrastructure for First Nations and all governments. I would like to close by thanking all senators for their support of this legislation. The process to bring this legislation through Parliament has been at times taxing -- no pun intended.

It is with great satisfaction that I am here today to witness the culmination of our efforts and your subsequent support.

Mr. Strater Crowfoot, Chairman, Indian Taxation Advisory Board: Good morning. I am Head Chief of the Blackfoot Nation, or Siksika Nation, in Alberta. We are part of Treaty 7, the Blackfoot confederacy.

I am here because of a vision. My great-great-grandfather, the first chief of the Crowfoot, signed Treaty 7 in 1877. There was a program on television last week about him and the important role he played in helping form Canada in a peaceful way. I pay tribute to him for his vision of bringing his people to be part of Canada. I am here to carry on that vision. I take on this work to build a future for our people so that we can become part of Canada. I am speaking for our ancestors who had a vision to ensure that all of our people become part of Canada, share in its resources and be full participants in the Canadian economy. We all know our sad history, our lack of involvement and our precarious situation.

Last night I was with my first grandson in the United States for three hours, then I had to catch the red eye to come here. I did not want to, but I felt it was important to be present here to support my colleagues and talk about this very important initiative.

I am also the Chairman of the Indian Taxation Advisory Board. I have been involved with the Taxation Advisory Board since 1988 with Chief Manny Jules, among others.

This institution is different from other institutions in that we have been operating since 1988 as a board. We have evolved to the point that we share this vision with these other institutions that will help bring a change in how we deal with Canada. Over the past 15 years, ITAB has been involved in supporting First Nations by passing over 1,000 taxation bylaws. To date, we have raised over \$300 million through property taxation to provide local services for our people.

I am here to support this bill, and the First Nations tax commission in particular. There is an expectation in this country that First Nation issues are always expressed by lawyers and politicians, and we often talk in legal language. I am not a lawyer. I have a master's degree in business, specializing in finance and cost accounting. Today, I want to talk business, not law or politics. Let us get right down to business.

First Nations need this bill passed now. The cost of doing nothing is way too high. Support for independent First Nation institutions is a test to both the government's commitment to self-government and improving First Nations' economies and lives. We need real independent First Nation institutions like the tax commission so that we can let the market work on First Nation lands.

These First Nation institutions will give participating First Nations a framework that supports investment from the bottom up. First Nation ownership of their institutions of governance will create a culture of cooperation in our communities. The independent institutions give us the framework and expertise necessary to implement our government powers.

This institutional framework will free up resources for both the federal government and First Nations. It is a model for replacing DIAND with First Nation institutions. Some are ready for this and some are not. I have been involved in politics for a long time and I have been involved in many self-government initiatives with the Land Management Act, Bill C-115. Soon we will be dealing with the First Nations oil and gas management bill.

As a leader, I am caught in a fiduciary tug of war. I have, on one hand, First Nations who do not want to change, who want that fiduciary obligation in place forever so that they can sit back and say that Canada owes them a living. We are trying to change that. On the other hand, we have some bureaucrats and politicians who do not want to change it either. They do not trust us and think we are incapable. We are trying to push the government out and pull our people in. This fiduciary tug of war is taking a toll on many of us. We are criticized for taking these steps.

I was involved in the Land Management Act in the early 1990s. There were 14 of us pushing it through. The ones who were most opposed are now lined up wanting to be part of the process.

This bill has been more than 10 years in the making, and it has been through the consultation wringer. We rolled out the consultation draft in 2002. A copy of this was sent to every First Nation in the country, not once but three times, along with additional information. Meetings were held with interested First Nations and other stakeholders across the country. We established a toll-free number and five Web sites to field inquiries. We published a newsletter. We sent an information booklet to all First Nations across the country. Letters were sent from the then national chief, Matthew Coon Come, to every First Nation in the country informing them of the initiative and inviting them to a national assembly to discuss it. Since that time, it has been discussed at the AFN no less than six times.


Since this bill was first introduced as Bill C-19, we have been invited to countless community meetings and have attended them all. We have mailed more than 10,000 packages of information that include a current copy of the legislation, updated materials, background information and a history of media reaction.

We are strong advocates of this legislation because these institutions will help correct the most fundamental cause of First Nation poverty, as was pointed out by a Harvard study on native American development.

Under the existing system, it is roughly 10 times more difficult for a First Nation to complete a business deal than it is for any other sector. We are at the mercy of the bureaucrats. The system is so hard to get through that in some cases it takes years to get a development.

Before Bill C-115 was passed, I was working on my reserve in setting up a 75,000 square foot mall. That took us a long time after the bill was passed and cost us additional \$500,000 in lost opportunity and interest costs because the process was not ready.

We can only finance one-third as much infrastructure as other jurisdictions. Each dollar of infrastructure improvement attracts 30 per cent of business investments, as it does elsewhere. Is it any wonder that we have remained poor?

These disadvantages are costing Canada \$3.5 billion  ry year. They are causing economic losses of \$5 billion. Over the next 15 years, if nothing changes, First Nations poverty will cost this country about a \$160 billion.

Canada cannot afford to do this any more. First Nations are the fastest growing component of the Canadian workforce. If you do not let these institutions do their job, tens of thousands of future

workers will grow up without exposure to business or positive work experiences. This legislation gives us back the dignity of our own economy.

Let me say a few words about the effectiveness of the First Nations institutions. When the advisory board was first created, people predicted it would never be taken up by more than 20 First Nations. Today, more than 100 First Nations use it, and this number is growing every day. These people did not understand that it took a First Nation institution to harness the power of a First Nation initiative.

This legislation allows us to do even more. First, we will make improvements to the terms under which First Nations can use property tax to finance infrastructure. Many First Nations will be able to develop business infrastructure for the first time. With your support, we will improve the effectiveness of investments, training and infrastructure. We will ensure that investments and infrastructure are not stove piped at the cost of efficiency. We will ensure that investments in training and infrastructure are coordinated. We will ensure that investments in business and infrastructure are based on minimizing real economic potential or maximizing it.

Second, we will work with First Nations to help them attract more business investment. First Nations are losing business opportunities because decisions take too long. First Nations can remove some of the worst bottlenecks from an overloaded bureaucracy and speed up these decisions. This legislation ensures that the authority of elected First Nations governance is respected. With your support, we want to create a mechanism to transfer our knowledge about doing business on First Nation lands across the country. This would be the most effective technology transfer agency in the country because it would put the most under employed resource in the country to work.

Our preliminary assessment is that in the first five years of full operation, these institutions will support construction of about \$80 million in new business infrastructure. It will help First Nations attract \$218 million in new private investment and create almost 3,000 jobs on reserve. In 10 years, we estimate we will support an additional \$329 million in infrastructure, \$733 million in new investment and over 10,000 new jobs. Independent First Nation institutions will be one of the best public investments Canada has ever made.

The Chairman: Thank you for your thoughtful, informed presentations.

Senator Stratton: I have served on the Aboriginal committee for quite a while, although not now. It is a pleasant surprise to see such enthusiastic support. Mind you, it is your own initiative, so I would expect that in the positive way that I did not hear from you anything about where you felt you still had problems, and that is the big issue that concerns me.

My question is to Mr. Calla. You talked about the bill being a living document. As I understand it, there is neither a three-year review nor a five-year review. If you call this a living document, would you not expect there to be a review after three or five years? If there are any significant changes that you would like have take place in the future, how would you expect those to take place?

Mr. Calla: The question is a good one because the legislation does call for a review by the seventh year. It could happen before that. We are already beginning to look at the means by which this bill would be reviewed now. When I talk of it being a living document, we would expect that as other opportunities arise through the regulatory authorities that some of these institutions have, we will come back to you to ensure that the scope is expanded to capture the needs of First Nations as they want to come on board.

Senator Stratton: Did you carry out a feasibility study for this, and if so, could you have it filed with us?

Mr. Calla: I am not aware that we have undertaken a feasibility study as a group. Our Squamish First Nation community is located from downtown Vancouver to north of Whistler. We had leased land for 60 years in the heart of downtown Vancouver, and that has required us to deal with issues of land management, taxation and infrastructure for a long period of time.


I will capture it in one theme. In 1964, the Squamish Nation at that time was able to secure through the department a land lease that created the Park Royal South Shopping Centre. I do not know how they did it in those days. My hands are up to them because it must have been an insurmountable task.

In 2006, the Squamish Nation will open up a shopping centre at the north end of the second narrows bridge, and we will own it. We were only a landlord in 1964. That is what the power of this legislation will do. When you look at feasibility, the abilities to put the infrastructure in the ground to finance it, something that is not available, you will hear from witnesses that I understand are coming about the issues of financing. That is the key. If we can get infrastructure in the ground in an affordable way, we will create economic development opportunity and not just be a bystander leasing

the land. We have full participation and employment provisions. That is what this is. From my perspective, that is the feasibility.

We were able to do it in Squamish for one project, the Real Canadian Superstore, on that land because we had on-source revenue and were able to go to the bank and borrow one million dollars for the infrastructure. Many First Nations are not in that position, and this will provide them with that opportunity. The business case is made just on that example in my view, senator.



Senator Stratton: Believe me, I am an enthusiastic supporter because it gives you independence, which is the most critical issue facing all of us. Thank you for your attendance here, and I wish you well.

The Chairman: While reading the bill, I saw that while this is a general attempt to move away from government to become independent as First Nations in our country, there is still a fair amount of federal government control in the sense that the boards, the people on the tax commission, the financial management board, our Governor-in-Council appointments and the only body that has First Nations representation is the financial authority board, which is where the First Nations appoint the directors. In your vision of this whole regime, do you foresee where First Nations will  control all aspects of the regime that is being established?

Mr. Calla: The question speaks to the partnership that has existed between Canada, the department, the proponents up until this point and the living example of the Indian Taxation Advisory Board that has been in existence since 1988. There is a need to ensure that Canada has the appropriate mechanisms for its own oversight over these because they are institutions that will be funded by taxpayers' dollars. We are in a cooperative partnership. We have accepted and put great measure on the assurances provided by the various ministers and the department, throughout this piece of work, that from the beginning these institutions will have members from the First Nations in the majority and the chairs will be First Nations people. We are working in an environment where this is, fundamentally, a new approach to how to construct a new relationship between Canada and First Nations. There must be trust on both sides.

Our trust is that Canada will honour its obligations it has made to us, and we have no reason to believe that it will not, regardless of who sits in the seats of power. We accept the responsibility of proving that we are capable of developing competent, reliable institutions. The time will come for a review to look at other mechanisms but this is an acceptable environment for us to work in today.

The Chairman: Many of us here can see the merits of setting up such a regime. Can you say something about the process in Canada of which you are highly supportive. You see the merits of the process and you have had experience in business and understand the advantage of setting up such a regime. Why would other First Nations not be as supportive as you are? We know that some First Nations are opposed to this. We will have an opportunity to hear them later in our deliberations on the bill. Can you comment on that, please?

Mr. Calla: Over the last several days, I have had the opportunity to be in the presence of some of our strongest opponents at the National Aboriginal Financial Officers Association here and in Toronto last week and when speaking at the dinner of the Canadian Council for Aboriginal Business. A philosophical divide was referred to by a number of people: It is section 35 or nothing. Anything that you do that would be seen as an interim measure is seen as taking the government's attention away from dealing with section 35 rights. There is a growing number of First Nations, as demonstrated by the 100 First  Nations and property tax, that are not prepared to sit and watch opportunity pass us by because  they want someone named the Department of Indian Affairs and Northern Development, which has the fiduciary duty, to bend down and pick up the \$100-bills flowing past us in the river. We will not do that any more and our communities do not allow it. We support the notion that section 35 rights must eventually be dealt with; and we would welcome the opportunity. To open up that door requires much more cooperation than the five of us sitting at this table. It involves all areas of government and the provinces. We cannot be and will not be held hostage by those opportunities. You have to go back, as Mr. Crowfoot said, and look at the fact that under the Kamloops amendment in C-115, 10 to 20 First Nations would benefit from this across the country. There are now more than 100 First Nations in each.

More work will come forward in legislative change and our challenge will be to ensure that the resources and the opportunities are provided to First Nations so that they can be like the five First Nations represented at this table. That is our challenge. Where the opposition comes from, senator, is those First Nations that do not see that change is coming. How do they reach the point of resource revenue sharing and not wholly dependent on the generosity of the parliamentary appropriation process to fund economic development and deal with issues around competitive equity. That is the reason -- the fear of change that treaty obligations and Aboriginal rights would be trampled upon. We

do not see that and it has not been a part of our experience in Squamish. In fact, our contributions from Canada have increased because we are more organized and we are better managers. We see a synergy in that cooperation with government as these initiatives go forward. Others do not see that opportunity. We all need to do more work to ensure that they reach the same point as we have reached.

Mr. Crowfoot: Following up on the subject of opposition, why do we have four parties in government? There is opposition in all things, likewise on our side. I have 6,000 plus members in my tribe and they are opposed to anything I do. I am damned if I do and damned if I do not, and so I will do. I will not sit back and do nothing because it costs too much. At the age of 32, I was the youngest head chief that the Blackfoot have ever had. Years before, I sat working with my tribe in economic development and managing their resort. I hear people talking about, when we get self-government; some day. I was elected head chief at 32 and I told them that if they wanted self-government, we should talk about it. I spent six years talking about self-government. We had 600 meetings in consultation throughout my community, in Calgary, and in other places. We talked about it and, you know what? They are afraid. They do not want self-government and they are not ready for it. I told them that it would happen one way or another and, sure enough, Bill C-7 arrived, just as I thought, back in the early 1990s. We do it for ourselves or government, in some way, will do it for us. That is the mentality of the Indian agent -- they will take care of you. This initiative is our vision and our goal. We know what we want, so get out of the way. No offence, but we need to get moving on this because it is costing us too much money -- \$95,000 per day.

The Chairman: From my own experience in dealing with government in the North, I think that self-government is sometimes romanticized and that it epitomizes a desirable thing. However, the reality is that it requires a tremendous amount of hard work. However, in the long run, it is desirable and necessary.

Senator Watt: Mr. Calla, following the same line as the question I asked the minister, what is your view on the guarantee?

Mr. Calla: Thank you, senator, for the question. I was a bit worried that there was an intimation that if something were to fail in the community, that that business would be supported by this proposed legislation. This is not about the business activity in a first nation community, which stands on its own, success or failure. However, the infrastructure that is required to create business opportunity would be financed through the First Nations Finance Authority by First Nations, like ours, coming forward and prepared to be part of a pool. In so doing, we will bring the strength of the larger First Nations to that pool to provide first nation communities with the opportunity to obtain financing they could not find otherwise.

The guarantee is a pledge. I have often said that I expect, when we do our first pledge in Squamish, we will do it in our Long House in a traditional way. We will call witnesses and tell people that this is what we are committing ourselves to and that the expectation of all is that we will honour our obligation. Part of the responsibility, in our traditional sense, of the witnesses that we call upon is to remind our community of the responsibilities that we agreed to accept. In that sense, the First Nations Financial Management Board is the witness, senator. It will ensure that ensure everyone fulfills their responsibilities.

These tools that we have developed will meet the test that I had to put for myself to go back to my council and to my community and say that this is a good thing. There has never been a failure in British Columbia in the 40 years that the municipal finance authority in British Columbia under this model has existed.

There have been some challenges, but it has always been worked out. In this case the financial management board became involved in looking at a cooperative solution with the community, and that is what will happen here.

So the joint and several liability provides the strength and the mechanisms between the tax commission and the finance authority, and the financial management board provides the confidence that First Nations will need that the joint and several liability will never have to be called upon because the solution will reside in the collective tax base of all First Nations who opt into the pool, and the strength of all of those First Nations.

Senator Watt: I believe there is a provision in the Indian Act that the third parties or the investor cannot come in and take control. If a business does not go through, that would kick in. Is that your opinion?

Mr. Calla: Yes. Again, there is no relationship between the investor and the band. It is between the investor and the finance authority, and the finance authority and the band. It is only the

property-tax revenue that the financial management board can step in and manage under third-party management to repay the debt. It is only that.

Senator Léger: I would like to first begin by saying, Mr. Calla, if I understood you correctly, you opened by saying how you appreciated the Senate committee. I would like to say the same to you. I feel the witnesses we have here are extraordinary. I would like to second what Mr. Crowfoot has said, that you are forming Canada in a peaceful way. I think you are predecessors of everything that is coming in, the differences, globalization, et cetera.

Ms. Hamilton, this intrigued me, although I think much of the discussion that followed fleshed it out. The finance authority, the members, you had one from Nova Scotia and then four from B.C. That is interesting because I know you were saying the opponents and so on were there, but there is some connection.

Ms. Hamilton: Yes. I would say that we started mainly in B.C. because basically that is sort of where taxation started, so you had the property-tax base to be able to look at ways to be able to leverage. It literally started from the hip pocket of the surveyor of taxes at Westbank, and that was myself, to be able to start looking at why does this not work, what shall we do to ensure that we can afford to have the same kind of tools of government that other governments around us had. We did not have any money to do this, so as a result you sort of pooled the people that were there after we had the two national conferences and everybody realized it was a national problem. We said how are we able to look at this when we do not have funding? Basically Westbank was asked by that group to do that.

As property taxation started to spread, other communities who were in taxation would come to the tax administrators' meetings in British Columbia and, as a result, we started to be able to meet people from other parts of the country. Hence, we do have a member from Nova Scotia, and there are other provinces now represented. We do have the opportunity, in the First Nations plans authority, to have between five and 11 directors as time goes by, and I would assume that they would cover Canada.

Senator Léger: Already you were saying from four or five you are up to a hundred, and then Mr. Bressette was saying from Ontario, from Calgary, Mr. Crowfoot. So that was my main issue especially, I wanted to thank you.

Mr. Bressette: Thank you. Back in 1972 our community at the Kettle and Stony Point instituted a tax process, so we are not unfamiliar with the taxation business of taxing our lands. This initiative came along, and immediately it was of interest to us because we did not have the ability within Ontario, because in Ontario there is a strong objection to taxes from the First Nations groups. Our people got into this because the local municipality was taxing people living on our land in 1972, so we were not even getting the benefit. The federal government was not overseeing whether other groups were collecting property taxes on reserve lands which, in my mind, were breaking the law at that time, but it was allowed to happen. So we got involved with this and supported it, and I think this is happening in other parts of this country. This same thing that is happening to us is undoubtedly going on in other communities, if a local municipality imposes taxes. Those people who live on First Nations lands are utilizing services that the rate-payers pay for, because they are in no-man's land for taxes. Automatically they have to try to get compensation for the service they provide, so ultimately I think that is how that came to be, but it has happened. Our chief at that time said, "I cannot sit back and allow this to happen." Why should they be taking taxation off our land? They were claiming services that we were providing at the time. It was a question of moving ahead and dealing with this or watching someone else become rich off of our land. The whole question in Ontario, where you have a lot of opposition to this bill, is primarily because the people in Ontario believe there are negotiations around the treaties. I spoke about revenue-sharing of all the resources that we agreed to share. We did not collectively give it all away and say, here, you can have everything, we only want what we have on this little patch of reserve land that you recognize.

Our people and our elders have often told us our lands are bigger than where we are. We agreed to share. I think the witnesses you probably will hear in opposition to this, are saying that portion has not been met. The resource revenue-sharing has not been dealt with and we are not getting what we should be getting off of our own traditional lands.

When you talk about remote northern areas, how this does not fit and suit them, in my mind, it does. If they find diamonds in a particular reserve, there is ability to tax now, whereas there was not one before. The federal and provincial governments will assume that, but it will allow that question of resource revenue-sharing to be answered in a form that is acceptable to everyone because then people know the formula base and how they will deal with that. This goes a long way to dealing with some of the very strong questions that are being asked. I know you asked the question, why do some

people not support it? That is the very reason they do not support it. It is because those untapped resources, they do not know what they are or what impact it will have.

When you ask those questions, you get the answers that do not sound very good, but they are things that other people think about there, and all we are trying to do is create a system and a structure so self-government can happen. Without institutions, how will you ever be able to govern yourselves if people do not know how a governing structure will work?

We are trying to fill a gap, I think, and it is a big gap, but it is a starting point. We hope it will take off and gain the support of the people in government, because we need to collectively work together.

Mr. Crowfoot: I want to be clear about this idea of taxation. If you take away the legislation, take away Canada, we are a young country. Before there was contact with the Europeans, First Nations, amongst themselves, paid tribute. My first nation, The Blackfoot Confederacy, a lot of Western Canada, into Idaho, Montana, North Dakota, South Dakota, that was our territory. As First Nations, we crossed through, they paid tribute to us in the form of taxation. If we want to go into B.C. for salmon, we trade, we pay tribute to be in that person's territory. This idea of taxation is not new to our people. It has existed for thousands of years. People who oppose it now do not understand the history. I cannot tell a Mohawk he cannot ask for tribute if somebody is going to go through your territory, it is their business. It is the same situation across the country. Taxation is not new. You are paying tribute for occupying or using someone's territory. If they oppose it, they do not understand their history.

The Chairman: With that, we have to close. Thank you very much. You have been a blue-ribbon panel.

I want to also thank the public, the people who have been here to observe the proceedings this morning. Thank you. You make our work as a Senate seem interesting and worthwhile, so thank you very much.

The committee adjourned.

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DM February 23, 2005

THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES

EVIDENCE

OTTAWA, Wednesday, February 23, 2005

The Standing Senate Committee on Aboriginal Peoples, to which was referred Bill C-20, to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other acts, met this day at 6:15 p.m. to give consideration to the bill.

Senator Nick G. Sibbeston (*Chairman*) in the chair.

The Chairman: This meeting of the Standing Senate Committee on Aboriginal Peoples is dealing with Bill C-20, the First Nations Fiscal and Statistical Management Act. We have before us James Craven, former executive director of Municipal Finance Authority of British Columbia. Welcome, and you may proceed with your presentation.

Mr. James R. Craven, Former Executive Director, Municipal Finance Authority of British Columbia: Good evening, senators. Thank you for inviting me here tonight to share my views with you on Bill C-20. It is my opinion that this bill has the potential to change the financial landscape for First Nations of Canada forever.

The First Nations Fiscal and Statistical Management Act creates a finance authority which will allow qualified First Nations to pool credit and achieve better investment returns. To become a borrowing member, First Nations must meet tests of good financial management and transparent governance. The authority will then obtain a credit rating from a bond rating agency and issue bonds on the joint credit based on property tax revenues of the participating First Nations.

Capital funds raised through the issues are then parcelled back to the participants to build much needed infrastructure — water, sewer, roads — thus adding value to undeveloped lands, and rising assessments, much needed development and prosperity will surely follow this ability to service the lands.

Value for money will improve greatly once long-term borrowing is a reality. As an aside, I can tell you in talking to Deanna Hamilton that West Bank financed a water system over a necessary three or four years rather than 20-year period. It is absolutely impossible to have a certain standard of infrastructure when you are confined to a financing period of that short a time. For the first time, I believe, comprehensive plans which build for the future and not for the past can be financed over 20 and 25 year terms at low-cost borrowing rates. Again, as an aside, a water system lasts for close to 100 years now, and a sewer system for about 75. There is no need to have to finance it for less time than 25 years.

For the first time, First Nations in Canada could then service their lands in a comprehensive fashion rather than in a series of small projects undertaken as grants and finances permit. This gives you superior economies of scale, better value for money spent, and better long-term land use will be the inevitable result.

Bill C-20 is the result of many people in the Aboriginal community working out solutions together. In the early 1990s, leadership came from Deanna Hamilton and Tim Raybould of Westbank First Nations.

This was not a borrowing agency, it was an investment agency. It was created in partnership with the municipal finance authority of British Columbia. There was support from 1992 till this day, from the chairs of that finance authority, Dan Cumming, the late Len Traboulay, and Frank Leonard. I played a role in working out the original concept and training as well as creating the investment pool for First Nations while I was executive director. I can tell you the present executive director, Steve Berna, is continuing this tradition. We are proud of this joint project.

In the early days, we were assisted by clever bankers and credit rating agency personnel in our visits from Wall Street to Bay Street, and as support for the idea came from more voices, by the turn of the century many Aboriginal people had taken complete ownership of the concept, assisted by a number of intelligent and patient people in Parliament and out of the federal civil service. Over the last few years, the move from the concept to legislation has left me far behind, and the development of this legislation has come about through the ongoing efforts of others who have taken an idea and, through countless hours, been responsible for what you have before you. By this time, the original

group had been joined by such people as Harold Calla, Manny Jules, Chief Crowfoot and many others who pushed this work through to its conclusion. They are the ones who put the meat on the bones and worked out the problems and obtained the agreement of First Nation communities. Essentially what has been created here is not just a finance authority but also the role that was played in the province of British Columbia as an inspector of municipalities and as a financial standard setting and so on, and that has all been created in this legislation. It is much more complicated than I had originally envisaged.

Although I still consult to FNFA from time to time, I must state that my role has been minimal by comparison to these people in the last two years. I also would like to pay homage to my two old cronies, Ken MacLeod and John Taylor, both former deputy ministers who had a part to play in these outworkings.

I think this bill will improve relationships and partnerships between First Nations and local governments by providing an effective mechanism for First Nations to access the domestic and the international bond markets with ease, economy and efficiency. It is fundamental that the bill recognizes and clearly sets out the jurisdictions of First Nations over property taxation and financial management.

This bill demonstrates to financial markets that the power to make financial decisions rests with First Nations communities rather than with Ottawa. The new institutions are not a substitute for Ottawa's past role as a decision-maker but rather the institutions will provide technical advice to First Nations, build capacity, as well as providing the appropriate regulatory support to safeguard the system. The system that has been established through Bill C-20 has the added advantage of being based on an actual living breathing model that works, the Municipal Finance Authority of British Columbia.

As earlier mentioned, we have been around for 35 years. In 1971, we began to finance water, sewer and other capital needs of cities and regions in B.C. Our credit rating has increased from a single A to a triple A, and we likewise changed the financial landscape for municipalities. I remember when it was impossible to sell bonds as an accountant for a municipality in the late 1960s. I remember where many children were catching hepatitis, and you could not get money to build a sewer system, and the same kind of breakthrough occurred when we had the finance authority and we could build on each other's strengths.

Right now, there are only six triple A-rated cities in Canada. The authority, BCMFA umbrella provides a triple A to more than 200 municipalities in British Columbia. That is the value of a partnership. Through the authority's pooling umbrella, all cities and regions do their transactions together, and a tiny village of 500 people like Telkwa or Pouce Coupe in northern B.C. will receive a lending rate actually lower than cities the size of Toronto because that the joint strength. Because of that umbrella and the economies of scale it provides, large government reserves and accumulated surpluses in local governments in B.C. are now one and a half times larger than what they owe to the bank.

The bill also creates a portal to allow First Nations to maximize all other financial services. A simple way to put it is it is the big box approach to financial services. We have used this at BCMFA. We do public-private partnerships. We have a minimal staff of five people. We make money with financial products like investments for our municipalities, and the banks love it because we, in effect, rationalize the province. They do not have to visit 200 municipalities; they just visit us. We get very good pricing.

I served that authority for 18 years, from 1984 to 2001, and I have watched it grow. I have observed that cooperation works and does not necessarily stand in the way of individuality. A diversified portfolio of lenders such as we have in B.C. is safer than any other. If the North is in good shape in oil and gas, it tends to counterbalance softwood lumber problems on the coast. There is nothing wrong with getting a large number of people to borrow together.

B.C. municipalities are not perfect and do not always agree, but when B.C. mayors and councillors gather around the board table of the authority to borrow half a billion dollars over a ten-year period, they put their differences aside.

Just for the interest of the committee, I checked today what we could launch an issue for. A ten years fixed term today would be 4.75 per cent. That is a triple A credit rate. If you look at what a single A credit would be, which is what we have been told by the bond rating agencies the FNFA would be, it would be only one tenth of a per cent higher than that. We are talking real important things here when you are multiplying that by millions and millions of dollars over 20 years.

We have had a lot of harmony in this project and our relationships with First Nation communities from coast to coast, and we have evidence of working together. Since the mid-1990s, the BCMFA has offered their investment pool to First Nations across Canada, and 45 have been investing their money with us. This process was the forerunner of the outworking of this bill and will still be operative until this bill is finally passed.

The FNFA investment pool was formed through a partnership with Phillips, Hager & North. To give you another example, talking about portal and big-box thinking, if you had Phillips, Hager & North look after your RRSP for \$500,000, they would charge you 100 basis points, which is 1 per cent. If you had them looking after our portfolio, it costs you one-twentieth of one per cent, so it is an enormous difference, and it reflects on what the municipalities net out of the earnings.

This joint venture between FNFA and the authority since 1995 has merged the monies of both and we have had good liquidity and good earnings. We are right now at a combined size of \$1.5 billion that we look after that the banks used to look after. The banks still provide good service. They are very competitive, but they also sometimes get beaten out by the fact that when we work together, we have very good rate structure. We have also consulted to a number of different provinces regarding municipal financing, built an investment pool in Ontario and Manitoba, and we addressed local government groups around the world in Indonesia, South Korea, Brazil and three times in Washington D.C. at the World Bank.

The time with you tonight is short, and if I am to act as a resource to you in the best way possible, I should leave ample time for questions and not go on at any more length. It occurred to me that if I were in your shoes, I might have some of these kinds of questions, and I will be happy to answer any of them, and more, that you come up with. I might be interested in who would buy these bonds, what credit rating might they carry, what might their interest rate be, how might the concept expand and be of assistance to more than a smaller number of large bands, what other services and financial products might be available, and how much individuality can a partner expect in the borrowing. I am prepared to answer any questions, and I very much appreciate being asked here to talk to something that has been part of my life since 1992.

Senator Stratton: Welcome. That was quite a presentation, although I think it is a little presumptuous of you to assume that we all have \$500,000 in RRSPs.

Mr. Craven: I know I do not.

Senator Stratton: It is intriguing because when you look at what you are describing and you look at the bill that we are examining, you ask "Why was this not done years ago?" That is the tragedy of all of this. When you see the opportunity today for the First Nations and the opportunities for their future, it is quite incredible. You cannot but be enthusiastic in this, the only question I have is how do you roll this out across the country?

Mr. Craven: Responding to that question, municipalities do not do it across Canada. There are many that instead of paying one fee to the credit rating agency that cover a whole province for \$50,000 dollars a year, they might spend that in 17 different cities. They might all go individually to Wall Street and Bay Street to get their credit rated. They might all pay a lawyer individually to do a small issue, and it costs the same amount of money. It is not just saving it by half, it is like saving it by 20 or 30 times and that really impacts on the net borrowing rate.

Senator Stratton: I can appreciate that, I know Winnipeg, my home town does exactly as you have suggested. I would be intrigued, because I would expect if this model starts to work, how do you ensure or what is the future for this? It would appear that it is going to work very well. My interest now is okay, that is really exciting, but also the future is tremendously exciting if we can expand and roll this.

Mr. Craven: I have been like a broken record since I started in 1984 because I could not understand it any more than you could. I think a lot of it is turf. I think a lot of it is "Mother, I would rather do it myself", and I think somebody at the political level needs realize that, and have some stern talks with their folks.

Senator Watt: Maybe I could have a crack at it. The Municipal Financial Authorities of British Columbia, has that been involved in designing the legislation?

Mr. Craven: We have had a conversation on a regular basis, right from the very beginning. Many of the terms that are used like debt reserve fund and many of the other niceties of the credit have been based on the model of the Triple A Municipal Finance Authority. In addition, the board of directors funded out of our budget, the monies to take the show on the road, the First Nations Finance Authority fledging idea to Moodies and Standard and Poors and Canadian Bond Rating Service on two or three separate occasions in the late 1990s. We picked up a lot of information on that.

We had an analysis of the concept of the FNFA done by the banker who was the lead manager in our financial syndicate, and that happened to be Larry Blaine out of RBC Dominion Securities. He did an analysis of it informally and then later, I believe the federal government paid him to do an analysis for them formally. The credit rating agencies are well aware of this concept. Since I retired I have been consulting to the municipal finance authority and I have also been keeping in touch with the credit rating agencies because they are interested in how it is, when it is going to happen. We were all disappointed a year ago, not the least of which the people who were in Ottawa for 24 days at a time. That did not happen to me. Yes, we have had a really close relationship, and as a matter of fact I have known just about everyone associated with it for many years.

Senator Watt: Are you planning to have an ongoing role if the authorities planning to have an ongoing role?

Mr. Craven: I presently am retained by FNFA as an advisor. My great delight to be a paid or unpaid advisor to FNFA until I turn up my boots. I was a somewhat unpaid advisor since 1992 and until I retired I think I got some hamburgers out of it, but that is about the most I got out of it.

Senator Watt: To your knowledge, do you see any shortcomings in this piece of legislation that the First Nations should know?

Mr. Craven: No, it has gone further than what I anticipated. I had a concept in my mind but I did not know how it would work without the involvement of some sort of ministry of municipal affairs role. Of course, there is not one for the whole of Canada. What these people have done, through the various institutions is they have fashioned those things out of legislation, and I think it is air tight. I am thrilled.

Senator Stratton: There is a review provision, seven years down, so it is not as though this is shot off and even, though you say it is perfect, there is an opportunity.

Mr. Craven: There is bound to be things we learn in the next three years. There are bound to be times when we have the 3:00 a.m. wakeup calls and wonder why we thought of the idea.

Senator Watt: Can it be reviewed before seven years if need be?

Mr. Craven: I imagine any good manager would review it every day, because this will require you to be right on top of it. I will give you an example. Tumbler Ridge, you may not know where that is, but that is in northern British Columbia, and there was \$40 million borrowed through the Municipal Finance Authority in 1982 to build the town of Tumbler Ridge. It became very apparent, very early on, that the town was going to be a ghost town because the town was built on the basis of the world price of coal that was not valid. We went in, and that is what you can do when you get statistics and reliable information. We went in immediately, the coal was going to be there for another 15 years, that was not a problem, but we already started talking to them in 1985 or 1986 saying, "We are worried about this. The province has put us in a terrible position." It was financed at 17 per cent, \$40 million, for four years, and then we rolled it over at 12, rolled it over at seven, rolled it over at 5 per cent. We got Tumbler Ridge talked into paying double payments on their debt. The day the mine did close, they were debt free.

That is the kind of thing you can do with this instrument. It is not just borrowing money; it is having a scope that is reliable on the financial affairs of all the partners. Before they run into trouble, you are doing something about it. I think it is very healthy and it encourages transparency, democracy and people running for the right reason.

The Chairman: I have had the pleasure of going to Westbank and seeing Mrs. Hamilton and Tim in their office before Christmas. It is a nondescript, little office. You stated that there is not a nationwide municipal authority. It seems to be broken down. Recognizing how the federal government has planned all of this process, do you consider that it would work nationally?

Mr. Craven: Yes.

The Chairman: That native people, Aboriginal people in the east coast and the east would somehow be able to be attracted to work with the scheme that is being proposed in the bill?

Mr. Craven: I think that financing millions of dollars at 4.75 per cent fixed for ten years will attract someone from Yugoslavia. The other really good part about this is that it is owned and operated by the participants.

I cannot think of a better way to screen people who wish to borrow money than to have the screening done by the people who would have to help pick up the tab if there was a default. That is an extremely powerful credit mechanism and it has worked very well for us. The fact that we are our own guarantee is compelling, and it also attracts people because they no longer feel there is some kind of hierarchical process that needs to be gone through.

It will also help financial situations because there will be a degree of certification with reliable data, reliability audits, reliable financial practices. I believe everyone, when they understand the simplicity of the idea, will join wherever they are. I would not be surprised if there were further derivatives of this idea. What we really need to do now though is about four or five good bond issues at competitive prices, narrow the spread down to the point where we are right on the heels of the City of London, which has a triple A credit in Ontario, and demonstrate to the world what can be done.

We should look at this idea from the Europeans. I have many friends in the European investment banking business and I have taken them sea kayaking for weeks at a time on the West Coast. They are very excited about the First Aboriginal Credit and there is great demand out of places like Germany, the Netherlands and France for ethical investments that are sound and is something that adds to the greater community. You will see a lot of activity once we do a few issues. The pioneers have to prove it out.

Senator Léger: We are pleading for Bill C-20 presently, you are here for that, but you are all doing it already. Is that right?

Mr. Craven: We are demonstrating it can be done in British Columbia, and if we were not extremely patient men and women we would not be in this business to start with.

Senator Léger: You are living it already and we have to find what is wrong in it. They have a hard time to say what is wrong.

The Chairman: I have a question to do with whether all the bodies that have been created are really all necessary. What is there in B.C. in your experience that is analogous to each of the bodies: The financial tax commission, the financial management board and then of course the financial authority? When you look at the legislation, particularly the tax commission and the management boards, they are really creations of the federal government as Governor in Council appointments. These are high level appointments. You give the impression these are important functional bodies, and in reality what is there in B.C., what do you think made the federal government believe you had to go to this extent in order to have a regime that is successful?

Mr. Craven: I must admit partly our advice. We said any credit that you expect an investment banker to sell to his clients has to have certain characteristics. There were a great number of unknowns related to the quality of the eligibility of a person to borrow money in different First Nations. This standardizes and this makes clear to an investment banker and his customers and to the credit rating agencies that there are certain controls here, and that everything that everyone threw up in the air as being a problem about First Nations' credit has been dealt with. The good news is that it is not being imposed by a hierarchical third or fourth level of government; it is a creation of the people who are doing the borrowing.

That is far healthier. That is why the Municipal Finance Authority worked so well; it is completely disconnected from the province. We have not one provincial member on our board. We make our own decisions, we go to market when we want to, and we decide whether we are going to use swaps or derivatives when we want to. If we want to go to Europe, we do that too, and we live or die by the sword.

That particular attention to detail, when it is your responsibility, not the federal or provincial government, it sharpens the wits. We used to have a levy to pay for our operation that we used to send out on a tax notice. We are completely off the tax notice now; instead we have a \$600,000 dividend. We are making money with the concept that was created originally to save us money. We are making money with it, partly because our benefits returned to us. That is superior to having police in the offing.

The Chairman: In reviewing the bill and going through all the details of it I noticed that for the tax commission and the financial management board, these require Governor in Council appointments. You therefore get the general impression that, because these are decisions made by the minister in cabinet, all the appointments to the boards are going to be decision appointments from the very highest level of the federal government. You get the impression that the tax commission and the management board are very important, but really, in the scheme of things, the financial management authority is the body that likely has the most power and most significant role in the entire scheme. Yet the appointments of the boards are not going to be Governor in Council appointments, they are going to be appointments made by the borrowing members. It gives you the impression of, "why not?" If this body is so important, why was the Governor in Council not also involved in appointing these persons to the board? Would you like to comment on that?

Mr. Craven: I do not have a lot of information on how the legislation developed. I can tell you that it has been addressed.

The Chairman: Now we will know what you must say.

Mr. Craven: I think Deanna is concerned that I have misunderstood the question.

The Chairman: Basically the question is, here we are, the government is setting up this scheme of taxation and monies, and they have all these big bodies that are created by the federal government and appointments. In the end it comes down to the financial management authority, and I have seen you in your office, it is just a few people in your office, and you are going to be the people that are going to be ultimately driving the thing and making it all work. Your board is chosen by the contributing members. Do you just want to say something about how that scheme works, and will work?

Ms. Hamilton: I think that basically what it is, it is the same as the Municipal Finance Authority of B.C. in that the people who have their neck on the line for the borrowing, jointly and severally, are the people who take the control and who are then able to make the decisions to make sure that this thing is properly balanced and that the bonds that are going to be issued are good-quality bonds. It is really important that it be the people who have that authority to do that. If you put in Governor in Council, for instance, you would have somebody who is arm's length from trying to govern, just like it is now, for First Nations communities. You are governed out of Ottawa at arm's length and they do not know what it takes to implement this on the ground and to do the checks and balances to make it work.

The Chairman: Do you have confidence in yourself, in your board of directors, that you could eventually get First Nations involved and contributing members from the whole of our big country?

Ms. Hamilton: Yes, I do. As Mr. Craven says, the advantages are so great that they definitely will be able to come in to be able to take advantage of this. The good news in all of this is that other lending institutions do not want to put in infrastructure. It is difficult for a bank or a third party to come in and take out the pipes in the ground and have a value on it. By putting in the infrastructure, communities can then attract economic development, et cetera, and then the banks and the other lending institutions come along and they put what is on top of the ground, so it makes for a very good partnership.

Mr. Craven: As an emphasis to that, there are 45 First Nations who have voluntarily joined our investment pool, and they come from all across Canada. They basically sent us their money to invest. That is an astounding phenomenon, sending money to a group in British Columbia to invest. They get good returns, and we celebrate all of our success. The link between easy access to the bond market and long-term capital financing and low cost is really profound.

There is something else, and that is that if you are scrimping and borrowing for short periods of time on a sewer and water system, you are actually not making very good use of your money either. Engineers love to do a comprehensive system so the pipe is sized the right way so you do not have to lay parallel pipes when the system gets bigger. Therefore you can loop it so if the main breaks over here, it is open over there, and all those things. You need long-term financing over 25 years to accomplish those ends.

The value of the land goes up because the servicing is there. Hence the assessment goes up. Hence the tax collections go up. Hence the attractiveness of the place for other developers goes up. Before sewer and water went in in British Columbia, before the BCMFA, there was big town, Vancouver and Victoria, and there were the little tiny villages out there. Now there is little difference in Northern British Columbia and Southern British Columbia. The same services are there, the same hospitals, and it is all because of water and sewer. A lot of it is because the value of the land has risen because of the servicing

The Chairman: Thank you very much, Mr. Craven.

Good evening, Mr. Jamieson, welcome to our committee. Would you like to just begin by just identifying who you work for and what do you and how you are in any way associated or could possibly have an effect on the bill?

Mr. Jamieson: Thank you, Mr. Chairman, and members of the committee. It is once again a great pleasure to have an opportunity to meet with you and share a dialogue on this very important piece of legislation.

Mr. Chairman, I am Ronald Jamieson, I am the Senior Vice President of Aboriginal Banking for BMO Financial Group. I have national responsibility for our entire relationship with Aboriginal people. I am going to talk about that a bit, and the importance of that to us.

I also am Mohawk and I live, still, on the Six Nations Reserve in Southern Ontario and commute back and forth to Toronto when there is very little snow, otherwise I work from home. Once again, it is a great pleasure to be here.

BMO Financial Group was the first bank that was off the mark in setting up relationships with Aboriginal people and communities in Canada. It has allowed me to visit and be on over 400 reserves in this country. I have a great deal of experience in lending to Aboriginal people, corporate entities and communities directly. I want to share with you what has happened, just for a few minutes, because I think it bears on the discussion that is before you.

In the past, almost 13 years now, we have gone from a relatively minor relationship with Aboriginal communities as an institution, to one today that is \$1.4 billion. That is our relationship on a coast-to-coast basis. Even on the scale of any of the major banks, that is a big number. I can tell you that we have done all sorts of financing as part of that portfolio. I am directly responsible for it and its activity and its growth, and policing the repayment of the loans. In fact, in just solidifying our ongoing relationship — and we prefer to call it a partnership — with Aboriginal communities. Be that opening branches, be that intake of Aboriginal people into the bank in various capacities.

I take that as a personal responsibility, even though hiring is not something I do on a day-to-day basis. I can tell you that the Bank of Montreal has an enviable track record as an institution on the entire North American continent for its portfolio and the quality of its credit. It is very important to BMO Financial that we maintain that.

I can also tell you that within the Aboriginal portfolio with BMO Financial Group our credit losses — and all lending institutions have losses — are less than half in Aboriginal banking than they are in any other line of business. It is a stellar track record. People said to me many years ago, “Why do you want to do business with Aboriginal communities because there is no security? In fact, they are not going to pay you, and what will you do about it?” That just does not hold water at all. We have over the past 13 years proven that to a great many people.

I had the great pleasure a number of years ago — and hopefully Mr. Craven will remember this — of speaking to the Municipal Authority of British Columbia. That is back when he was still there.

Mr. Craven: That was when I was young.

Mr. Jamieson: I am only 28 myself.

Mr. Craven: I almost lost my job. They wanted to hire you instead of me.

Mr. Jamieson: I look older because I have travelled a great deal.

Coming back to the discussion, it has been an invaluable lesson for me, both personally and from a business point of view, in building this business and building this relationship. How else would a Mohawk from southern Ontario get to go to 400 reserves and see and experience some of the things that I have been able to?

Our housing program is one of our most important programs. Our housing program lends money directly to individuals who live on reserves, with no INAC involvement, no CMHC involvement and no other outside involvement.

We lend the money directly. We have done that on more than 20 reserves now and there is much more work to be done. Not only have we never had a foreclosure, we even have very few arrears in that portfolio. My brethren in BMO Financial in the mortgage portfolio would only wish to have that track record. It is truly stellar.

You might think that my coming to you in support of this very important legislation would seem to be putting myself out of work. Really, it will not. Banks are fully secured lenders, typically. Our terms are typically short term. In fact, we do not like to go much beyond five years. There are instances in Canada with very important customers where we have gone beyond 10, and even as high as 15 years, but we do not like it; and because we do not like it, we charge a premium for it.

What Mr. Craven was saying earlier about the preferred rates of a massive borrowing are right on. I could not say it better than Mr. Craven has said it, so I will not attempt to. He has really nailed it. We see First Nations coming to us ad infinitum in the future. For the large-scale financings, the tens of millions of dollars, if banks did it they would then turn around and syndicate to diversify their risk among other banks. That is how we operate. Typically, we syndicate anything over \$50 million among other banks. However, for the very large borrowings, this legislation would provide First Nations communities with a real opportunity to put the infrastructure in place that would then attract commercial opportunities and economic development opportunities to those communities. They

could then come to us and borrow some money to put the things that go on the ground, as opposed to under the ground.

Let me put before you a very real example of how this authority would benefit. There has been much talk about the Mackenzie Valley pipeline. It is a multi-billion dollar opportunity. I believe sooner or later it will happen. No Canadian bank — in fact, all the major banks in Canada together — can finance that. That absolutely requires a bond financing. In fact, all the banks in North America would be required to syndicate that amount of money. The very large U.S. banks, such as Citibank and Bank of America, could not do it either. They would be going also to the bond market. That is what this legislation contemplates.

Let me point out several minor concerns I have, although not with the legislation itself. For the record, I am strongly in support of this bill. However, it must be optional for First Nations people to join or not join. I have read that in the documents and I am comfortable with it. I want to say for the record that it is absolutely critical that it be optional.

Second, it must never remove the fiduciary obligation of the federal government to Aboriginal people in Canada. It must never intercede in that. That is critical to me.

Those are the two caveats that I would have, and only those. In every other way, I feel the bill is overdue.

I would also like to say to the committee that if the politicians here in Ottawa are looking for unanimous support from First Nations people or Aboriginal people in Canada for this legislation, it will never, ever happen. The divergence within Aboriginal communities in Canada is great, just as it is in any large population base, particularly when you spread it over that amount of geography. The issues, concerns and people are different. The cultures are different.

Yes, there are some similarities, but there are some great differences. Unanimous, 100 per cent agreement will never occur. Once this legislation is enacted and this is a going concern, I think you will see many previous naysayers and many others cheering, because it is overdue.

With those short comments, I would be pleased to take any questions you might have.

Senator Watt: You raised two points. One is that it should be optional, and I think it is optional now, after the cleanup that has been done on the legislation itself.

You also mentioned not to let government get off the hook in terms of their fiduciary responsibility. Where do you see the comfort in that area, in the legislation itself, that the Indian Act will kick in if it need be?

Mr. Jamieson: Senator Watt, as I look at the material, this is based on large-scale infrastructure financing. The government still has a fiduciary obligation to care for and nurture Aboriginal people in areas of education, health, welfare and other programs. This legislation does not impact that in any way, in my mind.

I am saying that I would never want to envision a day where a First Nations community is in trouble — I will not even begin to describe what that trouble might be — with some bureaucrat within the Department of Indian Affairs saying, “If you need money you have to talk to these people, because that is not our problem.” I do not see that in the legislation. I only wanted that read into the record, senator.

Senator Watt: I have one further area. Would this piece of legislation help us at the international trade?

Mr. Jamieson: Yes, I believe it would because it would put the tools in the hands of the people who are the borrowing people to strengthen their economic opportunity on the ground. That will take some time, Senator Watt, but I believe that it is going in the right direction. I have little fear that I will be out of work. There are many, many communities who are not qualified to join this group.

Senator Watt: Perhaps we will ask you to help us out; perhaps we will have a job for you.

Mr. Jamieson: I hope so. Maybe I will even be retired then, senator. Who knows?

Senator Watt: You will be more available to us then.

The Chairman: The next witness is Mr. Douglas Norris. Do you wish to make an initial opening statement about who you work for and why do you think you were asked to make a presentation tonight? Obviously, it is somehow related to the bill before us. Please outline that.

Mr. Douglas A. Norris, Director General, Census and Demographic Statistics, Statistics Canada: I am responsible at Statistics Canada for what we call the social and demographic area that includes our program on Aboriginal statistics. As the committee members may know, we have been engaged for some time in the collection of information as part of our national statistical system on

First Nations and other Aboriginal people. There have been some issues in the past with that. This bill that is before you today presents us with a real opportunity, as we go down the road in the future, to strengthen and improve the kinds of statistical information that are available to First Nations people and, more generally, to Aboriginal people. On behalf of Statistics Canada, I would like to support the establishment of the First Nations Statistical Institute. Although the bill before you has a number of areas, my comments today are restricted to the statistical institute, although that institute will certainly play a role in supporting the other institutes that are being proposed as well.

The creation of the First Nations Statistical Institute offers the opportunity for both Statistics Canada and First Nations to work together to expand and develop more comprehensive and complete data on First Nations people.

We do, as I mentioned, collect information currently. However, the new institute presents us with opportunities that I do not think we have had before. I have seen in my own career at Statistics Canada over the past 20 years an increasing interest on behalf of First Nations in the desire to have and to use statistical information for various programs and other purposes. It is that increasing interest that presents us with the opportunities to work with this new institute to improve statistical information for all of us.

Certainly, just as other levels of government have the capacity to generate and analyze their own information, First Nations governments and organizations require information of their own in order to collect, analyze and publish the information. They need to have this capacity in order to meet their own decision-making responsibilities and accountabilities. Several years ago the Royal Commission on Aboriginal Peoples pointed to the value of the statistical information and since that time I have certainly witnessed an increasing interest and an increasing desire for more information and to learn more about information.

One of the reasons we have had some problems in the past with data and collecting data on a complete basis is because many times First Nations did not make use of the statistical information that was available. That, in turn, can be traced to perhaps a lack of statistical capacity in terms of realizing the importance of that information and how it might be used.

Certainly since the Royal Commission, and particularly over the last three or four years, there has been a reversal in that. One of the ways we have responded to that at Statistics Canada is we have been able to mount a modest statistical training program for Aboriginal people to help better explain the possible uses of statistical data. That program is currently in fact oversubscribed, and we are giving it fairly often. That is a very modest start to building the kind of statistical capacity needed.

As indicated in the discussions I have had with the proponents of the First Nations Statistical Institute, they will certainly take a lead role in dissemination and analysis of statistical information to First Nations, and this would assure the appropriate data are made available to decision-makers and others.

In addition to providing much needed statistical support to First Nations communities, the establishment of a First Nations Statistical Institute will have the effect of improving the amount and quality of data on First Nations that we at Statistics Canada will continue to develop and provide as part of our role in the national statistical system. I see both our work at Statistics Canada and the work of the First Nations Statistical Institute being very complementary to one another.

The First Nations Statistical Institute should provide advice to federal departments on statistical matters pertaining to First Nations people and communities, and it is our hope that the legislation in front of you will help us better design our statistical programs to be culturally sensitive and to better capture the reality of First Nations communities.

The establishment of the First Nations Statistical Institute provides an excellent opportunity to build a very collaborative working relationship and knowledge transfer so that credible nationally comparable data is available on First Nations.

These are essential components to meet the long-term needs for First Nations responsibility in financial planning, program management, service delivery and other program delivery. In many ways I compare the First Nations Statistical Institute to provincial and territorial statistical agencies that have existed for some time and that are very much an integral part of the national statistical system. These organizations have mandates of their own within the provinces and territories and carry out those mandates independently of Statistics Canada but in collaboration with Statistics Canada and, as a result, we are better able to meet our mandate and we think we can provide support to the provincial and territorial governments in meeting their mandates. I see very much the same situation happening with the First Nations Statistical Institute.

Although the establishment of the First Nations Statistical Institute is very much a welcome initiative, it must develop as a professional, credible and sustaining institution. A First Nations Statistical Institute, like any modern day statistical institute needs to gain the support and confidence not only of First Nations people but more generally of all Canadians. In order to meet this challenge, there are some prerequisites many of which are embodied in the draft legislation. In particular, the a First Nations Statistical Institute must place statistical activities in the context of safeguarding the confidentiality and privacy of individuals, businesses and organizations, something that is fundamental to any statistical organizations.

It must be a public institution in the sense of being transparent with aggregate data and analysis being universally available using similar confidentiality constraints that we ourselves apply at Statistics Canada. It must have the ability to collect and share data with the federal government departments and other agencies while maintaining both respect for individual privacy as well as confidentiality.

It will work in collaboration with Statistics Canada to avoid duplication and to provide support and guidance to activities of the national statistical system that pertains to First Nations. It will have a strong professional board of directors. It needs to have a clear business plan that recognizes the need to build a First Nations Statistical Institute in a gradual and sustainable manner as the capacity, professional capability and trust develops over time. Finally, it must have an adequate budget that recognizes the costs and the complexity of a modern day statistical organization.

The proposed legislation based in large part on Statistics Canada's own Statistics Act, provides the framework to develop the First Nations Statistical Institute along these lines. Statistics Canada strongly supports the development of the First Nations Statistical Institute and we believe that such an organization can play an important role for both First Nations and the national statistical system. We at Statistics Canada are committed to sharing our experience and expertise to establish a First Nations Statistical Institute as a statistical focal point for First Nations data.

We believe we have much to offer given our experience and our technical experience and we are looking forward to working with the First Nations Statistical Institute once it is established. I might add that we have been working over the past several years and we have already drafted a memorandum of understanding to point the way to some initial ways that we will be working with FNSI once it gets established and determines its own priorities.

We believe that First Nations Statistical Institute will be a valuable contributor towards building a strong First Nations statistical program and we certainly look forward to welcoming the First Nations Statistical Institute into the Canadian statistical family.

Senator Stratton: When we talk about statistics, you raise the question of privacy and transparency because not only do you have to respect privacy but be transparent because you will be publishing. Can you give us examples, because I am always curious when people talk about privacy, what do you mean, and when you talk about transparency, what do you mean? How do you assure people that there will indeed be privacy? How will you ensure that anything you publish is not going to cause a problem? I know you have the answers but I think that you need to state them on the record so everyone around them is comfortable.

Mr. Norris: You show confidence in me, senator.

Senator Stratton: You would not be in your position without having the answer to those.

Mr. Norris: The privacy issue is a very important one, and we at Statistics Canada, as will the First Nations Statistical Institute, are governed by the Privacy Act. It really is a very important aspect of any statistical organization in order to ensure on the one hand that useful information is provided about Canadian society but that it is done in such a way to safeguard the privacy of individuals, and there comes from that the confidentiality aspects. While a statistical agency can paint a picture of groups of people or generalities, it needs to be very careful not to in any way disclose information about an individual. It is in that sense, and there are various methodologies that we use in making information available that actually do that.

The transparency that you refer to is important because the credibility of any statistical organization depends on the public seeing that organization as producing information and making it available to everyone. There are many debates held for example, on information that Statistics Canada produces. People have different views about how that information gets interpreted and what it means for various programs or policies. That is essential to a good democratic process in that there is a strong, high quality database available to engage a public debate in that way. On the one hand, we want to do that, and have the transparency, but on the other hand that needs to be done in the context

of very, very carefully preserving the confidentiality of that information and not putting any individual at any kind of risk in doing it.

Senator Stratton: Is there a 92-year limitation on this? I am going into the census. We are doing a battle in the Senate about release of confidential information with respect to census data.

Mr. Norris: That is a provision with the census information in particular. That does not apply to this information.

Senator Stratton: There will be no time limitation on this data?

Mr. Norris: No.

Senator Stratton: Parliament can do whatever it wants in the future, fortunately or not fortunately, so there is no time limitation, 92 years or whatever. This is sacrosanct?

Mr. Norris: There is no time at which that privacy, confidential aspect —

Senator Stratton: You talked about a strong board of directors. Who determines the board of directors and who determines whether or not the board of directors will be strong? You talked about it, so I have to ask.

Mr. Norris: The board of directors will be appointed by the Governor-in-Council. The criteria that have been developed that I have seen that exist in draft form for those, point to the need to have the kinds of qualifications that essentially we look for at Statistics Canada.

The Chief Statistician of Canada will be a member of that board of directors and will provide a very useful link between Statistics Canada and the new First Nations Statistical Institute.

Senator Stratton: Anyone appointed to this board will have the appropriate background, strong appropriate background?

Mr. Norris: That is right, in order to have both the understanding and awareness of the issues facing First Nations, and on the other hand, have the appreciation of information and how that can be used in the process.

The Chairman: While I was reading the bill, I began to see clearly and understood the need for the three financial institutions that this bill creates. I must say that I did wonder how did a statistics body come into the picture? I am curious to know, was Statistics Canada involved in any way in recommending or providing for the set-up and attaching the First Nations Statistical Institute into the bill as kind of an add-n to the financial bodies?

Mr. Norris: The origins of the institutes come from First Nations themselves, recognizing the need for a statistical body to collect and disseminate the kinds of information. Early on, we certainly had discussions with First Nations people about what it means to set up such an institute. They were interested in our experience, what it provides, what it involves. While it certainly was a First Nations-driven initiative, we have been very supportive from the very early days of thinking about the institute in terms of providing advice, providing our experience in operating a statistical institute. On our side, we have been looking forward to such an institute because, as I mentioned in my opening remarks, I really see that institute and our work being very much complementary and, in fact, helping us to do a better job at what it is we do, while also meeting very specific objectives that will come out of the need for First Nations governance.

The Chairman: Do you see the connection, recognizing that this bill deals with financial First Nations financial institutions and also we are talking of infrastructure on reserve land. How is the whole question of statistics information related to that?

Mr. Norris: I think certainly, as I believe the first witness tonight mentioned on a number of occasions, in the financial area the importance of having credible information, good data, is something that is very much valued in the financial area, and so a statistical institute could provide the kinds of technical expertise in making sure that statistical type information was produced, made available, and displayed, just as we perform that role for Canadians at large, for Canadian business and for Canadian federal, provincial and territorial governments. The First Nations Statistical Institute will have a role to play in supporting the data information needs of the financial institutions. It goes beyond that in terms of providing other kinds of information as well. I certainly see a role.

The Chairman: If I was an Aboriginal person somewhere in the country and I would see the usefulness of these financial institutions, the person may think ultimately it may affect me because it will provide for the local band First Nations Council being able to raise money for infrastructure, and I would have a hard time connecting this statistical body that is being created with somehow improving my life.

Mr. Norris: It is a challenge. It is one that we face with all Canadians in terms of convincing them of the usefulness of statistical information and taking the time to fill our surveys. When you think about how the information is used, very often it is used to identify the needs of a community, for example. What are the priority needs. For example, I suspect statistical analysis and information went into the planning of the budget that we heard today from the government, identifying what the program needs are, and where they could be targeted. That kind of information does relate to an individual, whether it is I as a Canadian in my community, or First Nations person in the sense that is there a need in my community for new housing, more education, or other kinds of services. I think statistical information is extremely valuable in pinpointing the need for that, and certainly, in my experience, governments look to having that information in order to make the decisions on programs that are required. It is very important.

The Chairman: Would you say that in terms of the national statistical gathering process on the lives and activities of First Nations that the federal government has the hardest time getting good information from across the country from First Nations?

Mr. Norris: It has been difficult. I would not underestimate that. Part of the reason is perhaps that we collectively, as a national statistical system, have not done a good enough job of getting across the discussion we have just had about the importance of information and how it really can affect you, your family and your community. That is something that the new proposed institute will really facilitate and as a result I am very hopeful that not only will that information be better, but other own information as the national statistical system will also be better.

The Chairman: I do know that from firsthand experience. I live in the northern part of Canada and I know that it has been difficult for Statistics Canada to get information from First Nations communities because invariably it means that someone from a bigger centre, often times someone from the south, like Edmonton, or Winnipeg, is coming to a smaller community and the person being tasked with going to the homes of Native people and asking them questions. You must remember that many of the questions are designed for people in the south. I suspect that the questions being asked of all Canadians are the same. Therefore, the people making up the questions would do it from a southern perspective in downtown Toronto or suburbia and so often times the questions I do believe are not very relevant. They are inappropriate, and so there has been difficulty. I know that also too with Aboriginal people in the north often time people are a little reluctant to have strangers come into their homes. They are generally poorer, they do not have all the amenities, and so the questions that are being asked have very sensitive and very difficult, because they are just poor people often sick, and faced with all sorts of social problems. In that situation I could see a real unwillingness for Native people to divulge information to these people that just suddenly come to their doorstep and want to come in and ask them questions. In that situation, that has been the difficulty. I do know that in the bill, the section dealing with the statistical institute, it does talk about First Nations perspective to collection and analysis of data and statistics not presently interpreted from a First Nations perspective, reflecting First Nations custom and culture. Hopefully, this new First Nations Statistical Institute will be able to do a much better job in asking culturally appropriate questions and get information that I suspect is not being gathered at the moment. Would you comment on that?

Mr. Norris: You have put it very well. That is essentially one of the most important contributions that will come from the establishment of a First Nations-led Statistical Institute. In some cases surveys that are designed nationally, and in the distant past, did not have a lot of input from First Nations people. It might not have always been the most appropriate for small remote communities. While we certainly try very hard at recognizing that, and that is in the an issue that only applies to First Nations but some of our recent immigrant groups as well, I think having a First Nations Statistical Institute will allow us to benefit from making our surveys, even the ones we will continue to carry out at a national level, much more culturally sensitive and much more relevant to the reality of First Nations communities. I have already seen that myself in the opportunity that I have had to go out and meet with band councils and talk about their statistical needs. It is very useful and this will permit much more of that interaction, and no doubt will have the results that you are suggesting.

The Chairman: I know that there is not a great deal of Canadian knowledge about Aboriginal people. It is amazing, I find, that there is not very much information. I remember 10 years or more ago there was a TV program called *North of 60*. I was involved in that and it depicted a little northern Aboriginal community. I do know that for many people in Canada I have heard people say they were amazed and this was their first view into the lives and homes of Aboriginal people. In some respects it was educational and beneficial, I am sure. I know that Aboriginal people in our country do not always vote, or participate in Canadian society. Maybe you are not the best person to ask, but still you may comment on whether this scheme of setting up this First Nations Statistical Institute is a way

of Federal Government intrusion into the Aboriginal people's lives and an attempt to get information that has been very difficult to get.

If you are a bit cynical, you could view it this way, that First Nations doing the work will now be a way of getting into the lives and homes of Aboriginal people to gather the information for the benefit of the country. Any comment on that?

Mr. Norris: I believe the proposed institute will be led by First Nations people. I would think that they, more than anyone else, would be very sensitive to that issue. They would be well placed to recognize the sensitivities, on the one hand, of collecting information, and on the other hand, recognizing the value that it can bring to First Nations and communities. This will be a positive factor in the future, because it will be led by First Nations people themselves, and they will be very sensitive to the issue you raise.

The Chairman: Any further questions? Senator Léger?

Senator Léger: It is exactly the same line you were talking about, and you just said that the First Nations would be the ones doing it. We just had sessions where in finances and so on — I may not be expressing it correctly — they are already doing it. Does this initiative, the First Nations Statistical Institute, come from the First Nations themselves, or does it come from the federal government?

Mr. Norris: It is coming from the First Nations themselves. They recognize the need for statistical information. The federal government and Statistics Canada have responded by seeing how we can help build a long, sustainable, credible institution; but the ideas and certainly the priorities will come out of the institute itself after it is set up and a board of directors is there. The programs and priorities will come from First Nations people themselves.

Senator Léger: It cannot start until you say go.

Mr. Norris: It cannot start until the legislation is passed and you say go.

Senator Léger: That is what I like, but from what I heard before — and nothing is illegal, I do not think — it sounds like an initiative from the federal government. However, I certainly agree with Senator Sibbeston, and you certainly must know that, how Statistics Canada has a very hard time asking the right questions. They have nothing to do with the people that are answering them, and they do not know where they stand. I imagine that must be very complex with the First Nations, with the Aboriginal people, so it has to come from them.

Mr. Norris: That is right — without a doubt.

Senator Léger: Maybe you could try it first — let them do it. Thank you very much.

The Chairman: If there are no more questions, thank you very much, Mr. Norris. This concludes the witnesses that we have tonight. I want to thank the three witnesses that appeared before us tonight, and thank all the other witnesses — all the other people that are here who are interested in the subject. Thank you very much, and keep coming.

The next meeting will be March 8; we have two more meetings scheduled. On March 8, we have invited a number of chiefs that are against the bill, so we are interested in hearing their reasons why they are not supportive of the bill. In the following meeting, on March 9, we have taxpayers that currently live on reserves or that have some experience under the present regime. We are interested to hear how they were faring and what their experience has been.

That will be the last meeting, and we expect to conclude consideration of this bill shortly thereafter. That is the schedule. Thank you very much.

The committee adjourned.