

**TRANSCRIPTION/TRANSCRIPTION
COMMITTEE/COMITÉ**

DATE/DATE: March 8th, 2005 - 9:30 a.m.

LOCATION/ANDROID: Room 160-S, Center Block Parliament Building,
Ottawa, Ontario

PRINCIPALS/PRINCIPAUX: Eric J. Large, Acting Chief, Saddle Lake First Nation
David M. General, Chief, Six Nations Council
Randall Phillips, Chief, Oneida Nation of the Thames
Michael Anderson, Research Director, Manitoba
Keewatinowi Ininew Okimakanak
Chris McCormick, Grand Chief, Association of Iroquois
and Allied Indians

SUBJECT/SUJET: Meeting of the Senate Aboriginal Peoples Committee re Bill C-20,
an Act to provide for real property taxation powers of first nations,
to create a First Nations Tax Commission, First Nations Financial
Management Board, First Nations Finance Authority and First
Nations Statistical Institute and to make consequential
amendments to other acts.

Nick Sibbeston: Okay, I will just call the Senate Committee Aboriginal
Peoples meeting to order and before we start, I would ask one of the witnesses to say a
prayer just so we just have a good meeting this morning. So if we don't mind standing
and the gentleman over there will say a prayer for us.

(Prayer in native language)

Nick Sibbeston: Thank you, Mr. Whiskijack (ph.). Before we begin the
proceedings and being hearing you, we just a small administrative matter that we have
to deal with here and this is the budget of our committee for the future. We have
undertaken a study of aboriginal people in businesses and we have begun a study to
look the whole matter of aboriginal business across our country, and particularly looking
at the elements that make for successful aboriginal businesses. So we have undertaken
a study and we have done some work, mostly just having witnesses appear before us,
but we will also be going on a trip, on a tour. We will be going in the next couple of
weeks to the Northwest Territories and after that, we will — sometime in the spring, we
will be making some visits to British Columbia and Alberta. Later on this summer, early
fall, we will then move on to Saskatchewan, Manitoba and Northern Ontario and then,
eventually we will work our way east from Quebec and eastward. So we need money to
do this study and so we have a budget here that committee members have had a
chance to review and if there is acceptance of it, if there can be a motion to approve it?

Gerry St-Germain: Moved.

Nick Sibbeston: Moved by Senator St-Germain. Seconded by Senator Christensen. All in favor of the motion? All opposed? The motion is carried. Thank you very much. Okay, so I welcome all of you today to our Senate committee and our Senate Committee of course is dealing with C.2, dealing with a bill that will 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. So we are reviewing the bill that deals with these matters and we welcome you and look forward to hearing your views on this subject. So I leave it to you as to who will begin and make your presentations. Chief Eric Large, would you be interested in beginning?

Eric Large: Senators, (inaudible) and committee, I have about an eleven-minute presentation that I would like to do. First of all, I would like to thank you, senators (inaudible) and your committee for inviting me to make my presentation on Bill C-20 and commend you on fulfilling your role as this chamber of sound to second-thought of parliament prior to the passage of bills that will have impact on Canadians in general and in the case of Bill C-20, that will have considerable impact on treaty first nations peoples in particular.

I'm counselor Eric J. Large of the Saddle Lake First Nation. This presentation I'm making on behalf of Saddle Lake First Nation is not to be construed, interpreted or translated as consultation or passage, or consent rather in the passage of Bill C-20. I'm here to express my treaty first nations concern with the intent and potential impact of Bill C-20 which I will attempt to briefly outline. Background information is being made available to you for further study of our rationale regarding Bill C-20.

Mr. Chairman, with me is elder Ben Whiskijack who has provided the background which consists of 13 pages. Honorable Senate committee members, this is my 16th year as leader in Saddle Lake First Nation of Northeastern Alberta, including a three-year term as chief, 1992-1995. Saddle Lake Reserve #125 is approximately 70,000 acres of park and agricultural land located in Treaty 6 territory. There are approximately 8,500 tribal members attached to Saddle Lake First Nation, four are descendants of two of our chiefs who signed treaty No. 6 in 1876 at Fort Pitt Saskatchewan District Northwestern territories. By the year 1900, two other of our chiefs subsequently amalgamated to Saddle Lake and adhered to Treaty No. 6.

For purposes of brevity, I will refer to the four proposed institutions in Bill C-20, variously referred to as commissions, boards and an institute. In reference to Part II, First Nations Tax Commission, Saddle Lake First Nation does not permit any body, board or commission of any other government to determine its fiscal powers. Saddle Lake First Nation retains the authority and jurisdiction in relation to the acquisition of revenues or in fiscal arrangements with other levels of government or other entities. Saddle Lake already has a fiscal relationship with the crown in right of Canada, based on a nation to nation relationship, reaffirmed in Treaty No. 6.

This relationship is composed of our commitment of peaceful coexistence of Her Majesty's government and in the sharing of the top soil of land with Her Majesty's settlers. In exchange, Her Majesty is obligated to share the revenue derived from the produce of the land and natural resources so that the first nations would continue to survive unmolested. Saddle Lake — rather, tax exemptions whether personal or corporate (inaudible) Saddle Lake First Nation. We cannot compete with huge multinational corporations economically. That is why we need a semblance of a level playing field. We need fiscal resources flowing from the crown that support the development of economic employment and business opportunities to be able to sustain our people and contribute to Canada's social, political and economic fabric. I'm proud to inform you that Saddle Lake First Nation is making best efforts to raise the level of education, employment and economic initiatives while providing social services and public works with limited sources of revenue.

Regarding Part 3, First Nation Financial Management Board, Saddle Lake First nation perceives this proposed board as another multilayered, costly bureaucracy, ostensibly created for first nations who desire advice on best management practices. However, since this board is the creation of government, it will enable first nations to continue as in the days of the Indian agent who controlled all aspects of first nations people's lives, a relationship of dependency and paternalism. The proposed management board will not serve Saddle Lake First Nation and other first nations which already have the experience, confidence and proven track record in managing their affairs in a manner that meets or exceeds standard management practices.

For example, Saddle Lake First Nation completes continuous and satisfactory reports to Indian and Northern Affairs Canada, Health Canada and Human Resources and Skills Development Canada. Saddle Lake First Nation has management systems in place and the various service delivery programs as well as policies and procedures that are accepted by our staff and the people of our first nation. Saddle Lake First Nation has businesses which operate with boards and operate according to standard business protocols. Personal contact, written communication, workshops and tribal meetings serve to inform our people of our nation's affairs.

Article 39 of Part 3, quote, "The board is not an agent of Her Majesty", unquote, is problematic to Saddle Lake First Nation as it lacks clarity while seeming to state it has no relationship to the board, to the crown. The proposed bill C-20 and article 39 of Part 3 imply that crown agents such as the Governor in Council, cabinet or parliament are the creators of the board and leaves unanswered the question is to whom the board accountable. In Saddle Lake's estimation, Part 3 is an example of the crown's reluctance to fulfill its treaty and constitutional obligations to treaty people of Saddle Lake First Nation.

Finally should a first nation need remedial management, it phases interventions through imposed management or third-party management under articles 52 and 53. Saddle Lake First Nation's opinion is that situations requiring

remediation do not need legislation, imposed management regimes or threats to get back on track.

In reference to Part 4, First Nations Finance Authority, the option will be offered to first nations to raise their own revenues to finance their public works infrastructure. However only first nations with excellent credit rating and with substantial own source of revenue will qualify for the funding consortium leaving out many first nations who have little or no credit, land or other own source of revenue. Saddle Lake First Nation has received information from reliable sources that investors in large bond and debenture markets do not invest in small amounts of the range of \$20 million the proposed consortium may only be able to raise, but that large institutional investors seek to invest in the \$200 million range or higher. The result is that qualified first nations will access less money while the cost of replacing or repairing their public works infrastructure is never ending.

Saddle Lake First Nation's view is that the federal crown by making Part 4 of Bill C-20 optional is offering the proverbial carrot at the end of the stick to any first nation willing to take the leap and seek all its revenues on its own. The effect of article 60, the finance authority, again not an agent of Her Majesty, is that the federal crown is cunningly divesting itself of its treaty and constitutional obligations to treaty first nations to provide adequate capital and fiscal resources to ensure the renewal or replacement of public works infrastructure and other social and economic services on reserve that protect and maintain the physical and mental and social well-being of treaty first nations such as Saddle Lake through the assurance of high quality drinking water, safe roads and buildings, sewer systems and landfill sites.

The proposed Part 5, First Nations Statistical Institute offers first nations the opportunity for them to collect, compile and analyze more data information and statistics. Logically more of the same will not necessarily result in increased funding to first nations for them to address adequately the deplorable living conditions of their people.

With the creation of the First Nations Statistical Institute, the information gathered is supposed to be used by first nations to justify further funding from various government departments or other sources. Many first nations presently use Statistics Canada data through the census and other surveys or studies as well as data from the departments of Indian and Northern Affairs, Health Canada and Human Resources and Skills Development Canada. However, first nations such as Saddle Lake do not necessarily receive additional funding for the much needed areas of public works, education, health services, social development, administration, policing, economic development, employment and training, tribal justice, child welfare, band support, research and development, management development and capacity-building.

There may be annual small increases of 2% for some of the aforementioned but this results in no additional benefit to first nations as cost of material and inflation may exceed the small increases of any new funding. Saddle Lake First Nation has observed that the living conditions of first nations people, peoples have been

studied and analyzed continuously since their discovery in 1492. Numerous governments, royal commissions, agencies and institutions have collected, compiled and analyzed first nations peoples and their historical and contemporary conditions from the first nations cradles to their graves. Notwithstanding their perceived benefits supporting statistics however valid are often superseded by the federal government of the day's fiscal and monetary policies. For example, if there is national economic uncertainty, the government may pursue a policy of fiscal prudence which affects the delivery of all services, of services to all Canadians and impacts first nations well-being in particular.

Mr. Chair, senators (inaudible), with all due respect, Saddle Lake First Nations advises you to reject the bill C-20 as it allows the federal crown through legislated optionality to deviously distance itself from meeting its treaty and constitutional obligations to Saddle Lake treaty first nation and to other treaty first nations. Saddle Lake submits that all of the energy, planning commitments and financial resources that the above four proposed institutions will require better spent — providing for the much needed infrastructure and services at the first nation level. The fast-tracking of Bill C-20 from the previous Parliament to order in council in the House of Commons and to the Senate does not allow first nations adequate time and resources to respond to it.

In conclusion, Saddle Lake First Nation is advising Parliament and the federal government that the best efforts and resources should be better utilized in recognition and support for Saddle Lake First Nation's self-determination, a nation-to-nation relationship as reaffirmed by the Royal Proclamation of 1763, Treaty No. 6 of 1876, the retention of governing structure, belief in tribal customary law and the delivery of adequately funded public services and infrastructure. Saddle Lake First Nation reminds the standing Senate committee on aboriginal affairs that the crown in right of Canada has outstanding treaty obligations to Saddle Lake First Nation and other treaty first nations for the provision of fiscal and other resources. Saddle Lake First Nation reaffirms its right to economic base and to tax exemptions. The outstanding obligations by the crown in the provision of public services and infrastructure must be fulfilled so that the peoples of Saddle Lake First Nation are ensured their treaty and constitutional rights to adequate services are conducive to the health, safety, education, development, cultural survival and future growth of their families and nation.

Senators and committee members, thank you for hearing me.

Nick Sibbeston: Just before we go further, I should just introduce to all of you the senators that are here. Senator St-Germain who is far over there, and he is from B.C. and then Senator Charlie Watt who is from Northern Quebec, Senator Landon Pearson from Ontario and myself Nick Sibbeston, I'm from the Northwest Territories and we have Senator Léger who is from New Brunswick and we have Senator Lone

Christensen who is from the Yukon. So we have people, our committee has representatives from all parts of the country.

So in terms of procedure, would it be best if we heard everyone and then senators are going to ask questions? Senator St-Germain?

Gerry St-Germain: I have a couple of questions. No. 1, how many presenters have we got this morning?

Nick Sibbeston: We have five, I believe.

Gerry St-Germain: Five?

Nick Sibbeston: I believe we have five.

Gerry St-Germain: Well, it should be pretty tough to question if we don't take them one at a time. I realize that it is a bit of an inconvenience to those waiting to make a presentation, but if we have questions to Chief Large, I think that it would be best if we would have a short period of question now based on some of the statements because if we have five presentations, it is going to be next to impossible in this time allotted to get to them.

Nick Sibbeston: Well, I think not impossible. I think all the presentations would be necessarily this long. Would some of the presenters agree that they could make it shorter and so then leave us more opportunity to question? I think so. I get that impression at this point.

Gerry St-Germain: So you...

Nick Sibbeston: I think in terms of procedure, it would be a lot better to hear everybody and then we can then ask questions and know how much time we have left, because I certainly don't want to leave anybody out, you know, for lack of time. We have approximately until 11:15 because there is another meeting in here at 11:30. So knowing that, would you help us in making sure that your presentation...

Gerry St-Germain: May I? I would ask the presenters to keep it as brief as possible because I would really like — you know, we have asked you to appear because you were basically, I understand, denied the appearance in the standing — in the other place, the opportunity to appear. So I would just ask you to — I'm trying to — we want to make sure that we hear fully what your position is. Thank you, Mr. Chairman.

Nick Sibbeston: Yes, okay. Then who would be next? Okay, chief David General.

David M. General: Senators, good morning. Thank you for the opportunity to present the views of the people of the Six Nations of the Grand Territory. I would first like to acknowledge the Algonquin nation on whose territory we are meeting today. Secondly, I would like to thank the elders from Six Nations who came with me to make this presentation here today and I believe there is one youth that came with us also. So I would also like to acknowledge them.

Six Nations along with many other first nations across Canada have been waiting for the opportunity to present their positions and views on Bill C-20, the First Nations Fiscal and Statistical Management Act. Unfortunately we were denied the opportunity like Senator St-Germain has mentioned to the standing committee in the House. On December 7th, 2004, the standing committee heard from minister Andy Scott and only the proponents of C-20. We were told by the committee members that the bill has received enough debate. We were told that there was an all-party agreement to hear only the minister and the proponents and we were told that there was really no opposition to the bill since the government had incorporated new amendments.

Senators, I'm here to tell you that there is significant opposition to Bill C-20. If the proponents of C-20 claim to represent the interest of a purported 100 first nations, then I want to hear the remaining 530 first nations who do not want the bill. Regrettably, many of the first nations do not have the time and the resources to be here in Ottawa today. Many of the first nations lack the resources to participate in the democratic process and this is a serious disadvantage.

On the other hand, the proponents of Bill C-20 are very well funded. They are able to maintain a constant lobby and when you combine the efforts of their principal lobbyists, the chairs of the four fiscal institutions and such federal officials who want Bill C-20 passed, that, senators, is a considerable lobby force. When you consider the issues that face first nations across Canada, when you look at the immediate needs at the community level, wouldn't the millions and millions of dollars spent developing four national institutions under Bill C-20 have been more wisely spent on housing, education, and water plants to produce clean drinking water.

I will just depart for a moment just to say that first nations should be people who are developing the priorities for spending all this money that is being generated. The estimated costs for the four institutions ranges from 25 to \$30 millions annually. One only needs to check the public records and do the math. Our position has been and continues to be the entire concept of the fiscal institutions is so questionable that no amount of (inaudible) can fix the bill. This has been the — this has been stated repeatedly in a number of standing resolutions in which the chiefs in assembly reject the predecessors to Bill C-20.

Senators, you have been told, you have been informed that the original bill has been remedied with various amendments. One of the amendments present Bill C-20 as optional. This amendment is misleading. I have had the opportunity

to talk to a senior government official on the following. Would there be any resources for infrastructure projects for first nations who do not opt into Bill C-20? And the answer was no. The same question needs to be asked by this committee. If this committee gets the same answer as I was given, then most certainly Bill C-20 is not optional. We are told that Bill C-20 is optional, yet the statistical institute attached to it is not. If the statistical institute is to be applied to all first nations, why does it have to be linked to Bill C-20? Could it or more properly should it be a stand-alone institution?

Senators, I ask you: given all the time, resources and energy spent by first nations to generate information, statistics and data aimed at improving funding, funding levels, why are we even considering such an institution? The decision to opt into the fiscal institution is a decision that is on par with those that now require referendums. The designation of land, amendments to our election codes, adoptions of membership codes, ratification of self-government agreements and the acceptance of claim settlements, as currently read, the first nation leadership — as the bill is currently read, the first nations leadership could for ever wrap their membership in a web of fiscal institutions with the mere vote of a single council. Most alarming, there is no requirement for community consultation. On the other hand, it is virtually impossible to get out of the proposed arrangements once established.

I would ask the committee to please consider the following amendments: require each first nation to hold a referendum on this question. There is also the questions about what the bill does not address. This bill does not address the true questions of the fiscal relationships that were set out in the Penner (ph.) report, in the Royal Commission on aboriginal peoples and on this committee's own report, "Forging the Relationships".

Senators, I have read with some satisfaction the proceedings of Wednesday, December 1st, 2004. Prof. Stephen Cornell, co-director of the Harvard Project on American-Indian economic development appeared before this very committee. It is not difficult to support the ideas of the necessary prerequisites of jurisdiction, good governance and culturally appropriate institutions that prof. Cornell advances as necessary for first nations to succeed in taking charge of their destinies. It is not difficult to realize that in the words of Prof. Cornell, indigenous governments must have legitimacy with the people being governed.

It is not difficult to appreciate the hopeful words of Prof. Cornell when he says that "Look not only at the problems but also at the solutions of indigenous people are generating" and one of the issues - I digress, I will depart from my presentation by saying one of the issues that we face in our community right now is the huge amount of excise tax that our communities pay and it is for us as a community, as a nation, to get involved in solving that problem. Those are the discussions that are going on right now at Six Nations.

More reassuring were the questions and comments that you, the senators, made in committee that day. You spoke of the challenges and successes

in your own regions. You spoke of differences. You spoke of diversity. No one piece of legislation can be the panacea for all first nations' needs. You have heard the resistance to the one-size-fits-all approach and you have heard the support for the government-to-government relationship. From Six Nations of the Grand River, you will hear a strong support for nation-to-nation relationships. You will also hear us advocate nation specific relationships.

I truly believe that within the reports mentioned above lies the variety of diverse solutions for improving the lives of our diverse peoples. The solutions of one nation must not infringe upon the solution of another nation. This is consistent with our traditional teachings. This fundamental principal is the underlying basis for the Two Rowenpo (ph.). The peoples of Six Nations of the Grand River and many other first nations share the view that Bill C-20 is an infringement on our inherent rights to self-government.

We would respectfully suggest that this proposed bill be reviewed with the senate committee on legal and constitutional affairs to address this very question. This would save both Canada and Six Nations, all first nations, valuable time, energy and resources that would most certainly be consumed by the courts. Another subject that needs thoughtful consideration is the power of the minister to unilaterally appoint boards of the four institutions. If there are to be 40 political appointments, we suggest that the appointments should be done with the public consultation of all first nations.

I realize that my time may be running short here, so I will just offer the final few points. The proponents of Bill C-20 do not need the proposed bill when the institutions are already up and running. Their websites are on the Internet, their offices have been rented and their staff has been hired. The proponents of Bill C-20 do not need the proposed bill when the institutions are already being funded.

In closing, I must emphatically state: Bill C-20 is detrimental to the self-determination of Six Nations of the Grand River Territory. We do not want or need legislation designed by someone else. We want to continue the discussion of our inherent aboriginal and treaty rights. Within that discussion, it will become apparent that by resolving the issues of land, resources and jurisdiction, Canada and Six Nations and many other first nations will find themselves in a far more productive path.

Senators, I would like to thank you for hearing the views of Six Nations of the Grand River and it is my hope that the power of the good mind will be with you as you consider this bill and make your decisions. Thank you for your time.
(Words in native language)

Nick Sibbeston:
Mr. Anderson?

Yes, thank you very much, chief General. Who will be next?

Michael Anderson: I'm pleased to proceed, Mr. Chair, but it is my practice as a technician to defer to any chiefs who are present here to make their presentations, for the appropriate purposes of the committee.

Nick Sibbeston: Okay, then in that case, then are there other persons, chiefs? Mr. McCormick, would you be interested in proceeding?

Chris McCormick: Good morning, everybody and I appreciate it, senator, that you requested a prayer to open the meeting. I would like to acknowledge that we are on Algonquin territory. I thank the elder for the prayer and I thank the senate for giving us the opportunity to present.

I'm presenting on behalf of the Association of Iroquois and Allied Indians, but as of last week, I was also asked by the political confederacy for the province of Ontario which is all of the provincial and territorial organizations to present on their behalf too. That umbrella organization represents 134 first nations in the province of Ontario. So I ask for some speaking notes and I got them this morning at 8:00 and they are 17 pages. So I have done my best to cut them down. I hope that I have copied the points that are most important to the committee.

The first point that we would like to talk on is inadequate consultation. Bill C-20 is national legislation which affects the rights and interests of all first nations. For example, the bill prejudices the inherent right of self-government for all first nations by providing that all future first nation laws and property taxation and financial administration are subject to a veto by federally appointed committees, tax commission and the management board respectively.

Several leading Supreme Court decisions stand for the proposition that a government measure likely to prejudice rights in a significant way must go through a rigorous first nation consultation exercise before acceptance and implementation, Sparrow and Haida and in some cases first nations consent may be required (inaudible). The consultation record of Bill C-20 is very suspect and raises the distinct possibility that the bill if passed into law will be declared constitutionally invalid. The bill in its predecessors going back to 2001 have been consistently rejected by first nation assemblies at the national and provincial levels. This opposition has been generally ignored by INAC and a small number of first nations in support of the bill. Some cosmetic amendments to the bill have been introduced, but there has been no serious reconsideration of the substance of the bill.

The last paragraph of the preamble of the bill states as follows: "And whereas first nations have led an initiative cumulating in the introduction of this Act...", that is the kind of statement that gives lawyers a bad name. Some first nations support the bill, but most are opposed. With the respect, it should cause your committee concern that the government is complicit in this kind of deception in a significant statute.

The hearings before the standing committee of the House of Commons were a microscope of the fundamental unfairness of the consultation process of Bill C-20. The hearings lasted only part of the day. The only witnesses were INAC and supporters of the bill. These supporters are affiliated with the four institutions to be blessed by the bill. Naysayers were excluded from the party. The dubious nature of this procedure speaks volumes of how this bill has been handled from day 1.

This bill is being rammed down the throat of first nations. This is inconsistent with the commitment made by prime minister Martin at the historic aboriginal roundtable last year. He promised that legislation and program packages would not longer be imposed on first nations. He promised a partnership approach. That there are tactics being used to pass Bill C-20 come hell or high water raises serious doubt about the sincerity of the commitment of the new partnership.

The rationale for transferring the bill to the Senate committee on constitutional affairs - federal policy developed by INAC accepts for all purposes that the inherent right exists and is protected by section 35 of the Canadian Constitution Act, 1982. This is a general recognition. The elaboration of the aboriginal and/or treaty rights of self-government depends on research and discussion at the local level. Ironically, the federal policy support for the inherent rights is referred to in the first paragraph of the preamble of Bill C-20. The inherent right in section 35 cannot be purely ornamental or empty. It must have some substance content. There must be some legislative jurisdiction for first nations associated with the inherent right. Certain federal enactments may be unconstitutional because of the inconsistency with the inherent right.

Is there anything in Bill C-20 that the FSMA which is potentially inconsistent with the inherent right of section 35 of the Canadian Constitution Act of 1982? Is there such a potential inconsistency with the inherent right? Parts of Bill C-20 may be unconstitutional. This is the issue that should be of interest to the Senate committee on constitutional affairs. There is an opportunity for the Senate to consider important draft legislation vis-à-vis the inherent right in section 35. This is a very important area for a legal and political point of view which would benefit from consideration by the Senate committee on constitutional affairs.

What parts of the bill, if any, might clash with the inherent rights? In my view, there are two key potential problems. First, section 4 of Bill C-20 provides that a first nation cannot pass a financial administration law without the prior approval of the first nation management board. Second, section 5 of the bill provides that a first nation cannot pass a local property taxation law and related laws without the prior approval of the first nation tax commission. Both the management board, sections 40 to 41, and the tax commission, sections 19 and 20, are appointed by the federal government.

It is -- section 22 guarantees three seats on the tax commission for tax say and business interests, likely in practice to be non-aboriginal.

These federally appointed individuals will give thumbs up or down to all property taxation laws including the expenditure of funds proposed by all first nations in Canada. There is nothing this bad in the Indian Act of 1927.

In other words, these two federally appointed committees, the tax commission and management board, have absolutely veto over first nation laws dealing with some of the intimate matters of local government, i.e. local taxation and local finance administration. The tax commission even has a veto over the annual budget for the expenditure of property tax revenues, section 5.1 (b). In my view, this federal veto over intimate local law making is inconsistent with even a modest understanding of the content of the inherent right in section 35. If the inherent right does not cover jurisdictional local taxation and financial administration, what does it cover? What is the residential content of the inherent right if such a basic local jurisdiction is not included?

I just wanted to touch on the first nations statistical institution. There is no optionality about this institution. Whether or not first nations like it, the institute will exist and will be paid for from funds that would otherwise go to real first nations priorities such as schools and health care. The institution will have a platform to make pronouncements about first nations statistical policy, even though it does not enjoy the support of the majority of first nations.

The institute will have a broad unconsensual access to the most intimate data on all first nations in Canada, whether or not their support the institution. This reality is artfully camouflaged by section 106 of Bill C-20 which talks of agreements with first nations on the sharing of statistical information. However the kicker is section 107 which provides for non-consensual access to practically all first nation data held by the federal government.

This data is massive and intimate, given the level of financial program over reporting required by first nations. So first nation data will be shared with the institute even though most first nations are strongly opposed to its mandate. Fully funded by INAC, the institution will (inaudible) even if not a single first nation data sharing agreement under section 106 is ever signed. This (inaudible) the assertion that the institution and the rest of Bill C-20 are optional or opt-in.

The tax and borrowing — I will cut it short, Nick, the fact that most first nations in Canada especially in the north are hurting very badly indeed, many first nations are verging on bankruptcy or third-party administration as it is called in the parallel universe of INAC. All social economic indicators are well below Canadian averages and in some cases, are equivalent to third world. This overwhelming problem does not stem from bad local management or some other fault at first nation level. Rather the problem stems from the decision of Canada in 1995 to cap federal transfers to first nations. The effect has been devastating since the overwhelming majority of first nations most depend on federal transfers.

Instead of dealing with first nations' physical agenda, the bill refers at tax and borrow-mania (ph.). The bill is based on the proposition that first nation can tax and borrow their way to prosperity. This may work for a handful of first nations with significant reserve business properties. However for the overwhelming majority of first nations, the truism stands. You cannot draw blood from a stone. If there is no business base which is the norm, there is no hope for a property taxation system. Without property taxes, there can be no borrowing on the international bond market under the auspices of a financial authority. For the great majority of first nations who are struggling to get a capped federal funding, the tax and borrow scheme of Bill C-20 is at best a bitter joke.

I will close. I have more but I guess the only other thing I would like to point out is in regards to chiefs in assembly. This bill and its predecessors have been continually opposed by chiefs of Ontario in assembly. The official position based on resolutions at the Assembly of First Nations is to oppose the bill and I would strongly urge, based on the presentation, that this bill be referred to the legal and constitutional affairs committee of the Senate and I guess, you know, like in regards to this bill, is that there are institutions that were established in presently carrying-out the work of this bill and one of the things that we sort of question is why weren't these institutions tendered out? There is large amounts of money and there was no tender process. Isn't that the norm for taxpayers' money when institutions like this are going to be established?

So with that, thank you very much, senators and we will be available for questions.

Nick Sibbeston: Thank you very much, grand chief. Then I would ask chief Randall Phillips then and I see your presentation. You have given us a copy of your presentation and I notice that it is quite lengthy.

Randall Phillips: If I could correct you, chair, I did not give you a presentation. I don't know whose presentation you are referring to right now.

Nick Sibbeston: Okay, sorry. You are from the Oneida Nation, I'm sorry. I took you to be from Manitoba. Sorry. Okay, then if you would proceed then.

Randall Phillips: Thank you very much. Good morning, senators. Good morning, people. I would like to also just — to also acknowledge the fact that we are here on Algonquin territory. I would also acknowledge the elder for opening today's session with a prayer. That is really important.

Senators, I did not give you a brief today simply because I think that this — you have read enough briefs and I think that you will continue to read enough briefs. I think what you guys need to do is to have a personal direct contact with a leader from a first nations community that has had a chance to review this bill and I'm not going to go through a clause by clause analysis of it. I don't think that will serve any

purpose, simply because I think that at the end of the day, you might find that there is some sort of hope that this bill could be salvaged and I think that I want to echo some of the comments made earlier here that the amendment list would be too lengthy and there certainly would be another — an awful lot of time and effort to do so.

What I want to do today too is I have got five major points here in terms of discussion and present — to present to you today. One is that I would like to introduce myself as elected chief of the Oneida Nation of the Thames. I say that, the Oneida Nation, simply because that is exactly what we are. We are the only Oneida nation within Canada's boundaries. Our traditional homeland is from New York. Some of you may be aware that there is a current land claim negotiations with New York and the federal government in New York as it stands right now, but having said that, it is important that you understand that I'm here representing those people's interests and not necessarily all first nations interests or certainly not the proponents of this legislation's interests.

I think they have made it very clear to Parliament and to other members that they are in favor of this particular piece so that they can move on with their own interests and it is that springboard that I would like to take off right now on.

The Oneida Nation of the Thames is a unique community here in Canada. We are one of the only communities and in fact one of the only communities that I know of that wasn't granted land in the federal government, but rather we purchased this outright. So we don't call it a reserve back at home. We call it a settlement. We call it a settlement specifically for that purpose. Our children learn that this is settlement. Now they have quite a time sometimes dealing with the reserve just right across the river because of this notion, one is a settlement and one is a reserve. So our fundamental thinking is that of a nation.

We do believe that there are other outstanding issues in regards to land issues. This certainly is a bill about land ownership, land issues, land acquisitions and how you use that land in all regards under the pretext of taxation. Taxation is not something that is a value or an ideal that is widely held within our community and it is not widely held within our nation. Our forefathers, my grandfathers made a distinction a long time ago that they would protect us, this future generation, from exactly those kinds of imposition of foreign governments and this is unfortunately one of them. However it might be guised in other terminology and other phrases in terms of the good for the community, there is some fundamental rights here that need to be addressed and I don't think that this bill supports those.

I would like to make a quick mention in regards to the lack of a debate and a lack of consultation with regards to the last process here as you are aware, that this is the third time this bill has been introduced to the House, in different forms and again, I'm going to echo the sentiments of the grand chief saying that at each time, at each time that that was presented, the chiefs rejected it that. Yet it still sits here

at government. Does that say something? It certainly says something to me and the people that I represent. It just says that we are not being listened to. So once again, I go back and welcome the opportunity to say that I appreciate the fact that at least now, we have a chance to be listened to and our concerns with this.

The Oneida Nation of the Thames chief in council has formally rejected this bill through BCRs and those have been submitted through the proper processes, through INAC and everything else. Why we reject it is twofold. One is that it has a direct impact on our rights. Throughout this bill, you will see references that are made to control. You will see references that are made to approvals. You will see references that are made to government institutions, government-created institutions that will have a direct impact on the day-to-day administration and governance of our communities. That is not acceptable for the people that I come from.

We are not in support of institutionalized self-government and that certainly seems to be the trend. The notion of a national first nation financial authority that lends money out might be a good idea in concept, but those institutions already exist. First nations just need access to them. We don't need to create our own just for this specific purpose with a whole new set of rules and regulations that even bind us even further. We are not in favor of institutionalizing a board. We are not in favor of institutionalizing a tax commission.

Simply put, this whole notion of creating these types of institutions go against whatever notion of inherent self-government there is. We even had that debate, senators, in regards to the inherent rights policy and the objections that first nation communities, especially mine, have within that. It is limited, it is restricted and again it comes down to the last fact that it is controlling and it is precisely — that is what we want to try to move away from and I think that this bill continues to further us along that path.

Part of what the rejection is in some of the terminology used is that there is a finality to all of these institutions in the sense that they can say yes or no to anything and there is no appeal mechanism, none whatsoever. In the days — certainly in 2005, this notion of accountability should be first and foremost in everybody's thoughts but yet, should the financial board deem a first nation ineligible for whatever reason, and I'm sure there is — there are proponents that will outline that it is very carefully scrutinized in terms of these things, but at the end of the day, the control rests with the institution. The control rests with the decision-makers that are appointed by the federal government. So what we are dealing with now is another federal body to control first nations' interests and rights. Again, to the people I represent, that is not acceptable.

We talk about the optionality of this particular bill and how that optionality was sort of a deal breaker in previous pieces of legislation and now that has been addressed through this one. I think you have heard from the other panelists here that there is no optionality to this. Now they mentioned in regards to the specific

statistical institution in regards to optionality but I would like to take you one step further. This bill here has a direct amendment to the Indian Act, not in terms of the taxation amendment where everybody might logically take that first jump to, but what bothers myself and our community the most is it amends section 88 which is a general provision for other laws to apply on first nations territories.

Now if what we have been told is that this legislation is optional, then why change the Indian Act to read that this will be part of a law of general application? My fear, senators, is that these institutions will certainly look after their own self-interests and with every opportunity, encroach into governance issues that are solely the responsibility of first nations governments. There are too many provisions within those three institutions that will have a negative impact on our communities.

The other point that I wanted to raise here is in regards to the actual application of this, who is it going to benefit? I will tell you right now that it is certainly not going to benefit the Oneida Nation of the Thames. Why? Because we still have outstanding land issues and I think again, going back to one of the references made by a previous speaker, it is that those need to be resolved far before this does. Now we can't even get access to increased territory. So this notion of development coming in with our territory any time in the future where we can even think about using that as a tax base is far remote from our thinking.

Secondly, and I want to echo here the sentiments here of the grand chief, if and when we decide as a first nations government and a people to actually move in forward to increase our economics and increase our development capacity, that should be our choice and it shouldn't have to be guided by some institution. So there is no optionality to this.

The inclusion in several of the sections, and again this was reiterated, to third-party interests over first nations interests is also unacceptable to the people that I represent. This is just another sideway of outside interest directing and controlling what first nations want to do. It is limited, it is restricting and it is offensive, senators. The purpose of this is taxation. Let's be very clear about this. We can read the opening statements in regards to the creation of the four institutions but the purpose of this is taxation. It doesn't change the physical relations with first nations. All it does is harmonize communities with non-native communities which has been a goal of assimilation since I was born and since my father was born and since his father was born. And it is something again that the people that I represent take offence to.

So there is a lot of personal issues in regards to this bill. We are not in favor of anything that attacks our rights. As the Oneida Nation, we are part of the Odiashan (ph.) which is the Iroquois Confederacy and it is that group there that — where our governance and our history and all of our actions stem from. It is not from the Indian Act. So that creates quite a confusion and quite a dilemma for people like myself at home who are representatives of elected systems that our community really doesn't support in the first place, and to be further offended by the fact that this organization is

going to continue to dictate and guide us in terms of what we think is our future again is also unacceptable.

In closing, senators, certainly I wish to thank you for your time to listen to the rants and raves of a young chief. I have — I certainly have been the beneficiary of great many people back at home to provide some guidance throughout this short term that I have had. They are very supportive of the efforts that I'm trying to make and certainly they are very supportive of me coming here today. It does cost us money, senators, in terms of the — there is many things that we should be doing at home right now, but again, I think that the importance of hearing opposition directly from a community that has no benefit in this whatsoever, but definitely sees the negative side of it once it gets — one the legislation gets implemented.

So I ask, senators, in the course of your actions, in the course of your responsibilities that you do what you can to refrain from endorsing this bill. I ask you, again in recital with what the grand chief said, these are constitutional issues because what you are doing is creating institutions that are going to directly conflict with first nations governments and their rights and responsibilities through a process that we were never involved in directly and through a process where we have on record from our national office that we reject it. So I ask you to do what you can to stop that.

Should this piece of legislation go through, then I would ask you to make one simple amendment and that would be include a specific reference that this legislation does not and will not apply to the Oneida Nation of the Thames. Thank you for your time, thank you for your audience, I appreciate it.

Nick Sibbeston: Thank you. Now I believe we have Mr. Anderson and I guess the comments — just one more, I guess one more and I guess, my comments are for you. I see there is a lengthy presentation that you have prepared and — or are you able to summarize or shorten this somewhat because I think we do benefit, we do definitely have the benefit of reading your presentation. It is reasonable fairly technical, but I leave it to you though.

Michael Anderson: Mr. Chair, I was going to request that - certainly I don't intend to read the entire document, that the committee consider adopting the presentation that I have circulated as part of the evidence of this proceeding and then I would move on to simply summarize some of the points that have not been touched on by our colleague presenters here today, that are of particular interest to MKO if that would be acceptable to the committee, Mr. Chair?

Nick Sibbeston: Okay and in that regard then, can there be a motion to accept the document as an exhibit that -- Mr. St-Germain makes the motion. Seconded by Senator Watt. All in favor? Okay, motion carried. Okay, proceed then Mr. Anderson.

Michael Anderson: Thanks, Mr. Chair, members of the committee, also chiefs, grand chief, elders and youth that have attended to hear this important presentation and I also would like to share my appreciation for opening with a prayer, senator, our minds on this important issue and to acknowledge being in Algonquin territory today.

The MKO First Nation of course had appeared before the Commons committee when the bill was known as C-19 and we had submitted a submission at that time. Some of the things that I would like to refer to, in addition to other comments that we might make is that we have spent some time with the assistance of the clerk of the committee for example looking at your recent transcripts for February 23rd and 22nd which were not posted on the website as well as the remaining entire record of the discussions on this bill from C-19 through C-23 and now to its current incarnation, C-20 in part because a lot of discussion has taken place and in part, because of course the formal position of the Assembly of First Nations is to oppose C-19.

This is a different bill. It has certain amendments and MKO wish to understand fully the bill that is before this committee and certainly to be able to advise our own first nations. I have been asked by grand chief, Dr. Sidney Garret (ph.), to make the representations that I'm making today on behalf of himself and MKO and I appreciate the invitation of the committee to appear to do.

I should say firstly that MKO supports recognition of the autonomy of each first nation to determine whether the provisions of the proposed legislation are applicable to the circumstance of that first nation. I have some comments about that that I would like to make, however in respect of the inherent right and that MKO will not support any federal legislation that seeks to impose a system of financial arrangements upon a first nation or otherwise infringe the authority of a first nation, including those first nations presently exercising financial authority.

It is a basic principal of MKO that MKO represents the 30 northern most first nations in Manitoba and some 56,000 treaty first nations citizens. There are representatives, we have signed treaties 4, 5, 6 and 10, there are also four major languages spoken in our region: English, Ojibwe, Cree, Cree and Dene, and as a result of that kind of diversity, as an organization, we have to respect the differences of view, the differences of cultural perspectives, the differences in language even within our own region and so it is an essential principal of MKO that only that first nation who is directly affected by a measure may decide upon the appropriateness of that measure when it fall upon itself, for example, specifically in terms of lands and natural resources.

This measure is about land, in terms of land values, about taxation for the values of it, about financial management principles and rules that would apply to those regimes and so we are very careful when we make our comments here today about the interests of our first nations and those of others who have invested time in examining this bill.

MKO recognizes that with the important exception of the functions of the first nations statistical institute, that bill C-20 provides that the first nation has the option of requesting an order in council, naming a first nation as participating in the provisions of Bill C-20, namely in respect of the first nation finance authority, the tax commission and the financial management board.

We recognize that amendments have been made. We had objected as did many others to the fact that particularly in respect of the tax regime, that MKO also recognizes that its previous concerns regarding the imposition of these regimes upon first nations which have already enacted taxation laws under section 83 of the Indian Act, appear to be addressed and will preserve any such existing taxation laws as well as the related statutory regime under the Indian Act. So I just wanted to provide the background to the committee that we are quite familiar with those particular provisions and that they related directly to our earlier comments.

Similar to another comment that was made about the preamble, one that we have noted is that whereas the government of Canada has adopted a policy recognizing the inherent right of self-government as an aboriginal right and providing for the negotiation of self-government, it would appear from a careful examination of the legislation — and to assist us in doing that, we — although I haven't circulated it, we broke the bill down in a series of tables by each function, by its status and so forth so that we could review it, and it is clear that it would appear that the four agencies to be created by — that three of the four agencies to be created by the proposed statute are largely first nation in name and in terms of their primary mandate, but the possible exception to the reference at section 153 to the self-government agreement of the West Bank First Nation, bill C-20 also does not appear to reflect the terms of any comprehensive self-government arrangement or arrangements negotiated between the first nations of Canada regarding Canada first nation fiscal relations.

The witnesses appearing before this committee on February 22nd and 23rd as well as the commentary appearing at the already existing websites, very interesting, for each of the four institutions to be established, yet to be established under C-20, describe each of these institutions as first nation-led initiatives. However a review of C-20 also reveals that three of the four institutions to be created by C-20 are governed by cabinet appointees who are recommended by the minister. These are the first nations tax commission, the financial management board and the first nation statistical institute.

Three of these bodies are classified as “federal government institutions” in quotes, under the Access to Information Act. These are the first nation tax commission, the first nation fiscal management board and the first nation statistical institute all of which bodies by the way have been added as a consequential amendment to those that are affected by the Access to Information Act and whose records would be available under the provisions law, of course with exceptions in section 108 to those that are covered by privacy provisions under the statistical institute. Two of these bodies are “federal institutions”, again in quotes, as defined by C-20 and

which have their annual corporate plans and budgets approved by the minister, subject to any terms and conditions the Treasury Board may direct and one is a federal crown corporation and that is governed in accord with the Financial Administration Act amongst other provisions.

So when we look at the four institutions that are established by the bill, three of them are clearly federal government institutions. They have — there are various provisions in respect of whether or not they are an agent of Her Majesty the Queen and so on and so forth, but they are federal agencies. So we also note that Bill C-20 proposes at section 35.1 — and 55.1 for example, these (inaudible) Canada and discussed by the grand chiefs and others that certain standards be established by the tax commission and the financial management board respectively and adopted by all participating first nations, but essentially, it is a template for their local laws and financial practices.

There has been considerable discussion here today about the inherent right and the effect this bill may or may not have on this bill, essentially the effect this bill will have. MKO agrees that the extent to which these standards may infringe the exercise of the inherent right is a matter for further consideration. That is an interesting question as to for example perhaps taken up by your colleagues in the legal constitutional affairs committee as to whether or not a counsel can agree to impose an infringement of the inherent right of that nation through this agreement. For example, through section 2, (inaudible) order in council to be added to the schedule.

The language was used “basic willful jurisdiction”. MKO agrees that the establishment of financial practices and tax legislation and other means of managing the resources of a community, particularly your own source revenues, is a basic reflection of the inherent right to self-determination, to self-government and to adopt other templates that are established in fact by federal government agencies seems a fairly clear infringement of the exercise of the authority of the first nation chief in council, notwithstanding the fact they may elect to engage in that infringement.

The integrated relationship of the functions of the first nation financial authority and other government institutions in the standards established by these institutions is quite distinctly summarized on the websites of the first nation financial authority and I would like to just review what they say because it brings them all together for us.

“To become a borrowing member of the FNFA and to qualify to participate in FNFA borrowing where the borrowing is secured by property tax revenues, a first nation will be required to pass a property taxation law. The property taxation law will be approved by the first nation’s tax commission. Following passage of the property taxation law, a first nation will be certified by the financial management board as to meeting established standards of financial management. Following certification by the financial management board, a first nation will be formally approved as a borrowing member by the board of directors of the FNFA and

once qualified as a borrowing member, a first nation will submit its request for financing through the FNFA by way of an approved and certified borrowing law. The borrowing law describes the infrastructure to be built, the cost of that infrastructure and the terms and conditions of a borrowing agreement to be entered into between that first nation and the first nation's finance authority."

Many of these authorities and approvals of course are in effect determined by these federal government institutions. It is in this regard that the approach in bill C-20 to establish additional and new government institutions and standards that are established by these institutions does not reflect the commitment of Canada to work in partnership with the Manitoba first nations, including the MKO first nation, to recognize and fully restore the jurisdiction of Manitoba first nations in contemporary terms through the Manitoba framework agreement initiative.

The 1994 Manitoba framework agreement initiative provides a negotiating program an expenditure authority for Manitoba first nations in Canada to jointly develop and evolve the treaty relationships within the context of the FAI, including fiscal relations, self-government and governing structures which are all part of the main table discussion at FAI. The MKO first nations have been working since the inception of the FAI agreement to examine the nature of law within our communities and during this time, many first nations have developed their own election and government codes, laws and practices.

I will just make a comment that while the FAI was set to expire on December 7th, 2004, Part 9 of the FAI provides that the ten-year process may be extended by mutual agreement between the first nations and the minister. In November 2003, in Manitoba, FAI first nation requested such an extension and continue to seek the agreement of the minister. For its part, the MKO first nations remain committed to achieving the objectives of the FAI, including a renewed fiscal relationship.

So in looking at the records and transcripts, Mr. Chair and members of the committee, we were very interested in the comments that were made during the proceedings before you on the 23rd and 22nd of February because one of the things that was of great interest to us, and that was raised by the chair and other members of this committee, was why was it necessary to provide the certainty to conduct the objectives of the first nation finance authority to establish three government agencies that would require appointments by the governor general in council, that would have their budgets approved by the minister and/or would be a crown corporation subject to the Financial Administration Act. As I was reading through the transcript, I was — and committee members were asking this question repeatedly, I was eagerly looking for the answer, but I regret that that answer wasn't clearly provided.

So for a group of first nations, that is MKO, part of the Manitoba family of first nations that have entered into the framework agreement initiative, whose objective was to dismantle the department of Indian Affairs in Manitoba, and that is exactly what the header of the agreement says, dismantling, it seemed to us

a great step in the wrong direction to create three new government agencies to administer the affairs of first nations, particularly in a matter as sensitive as maximizing the benefit of property values for those first nations that have them.

Now we recognize that the ability to generate on source tax revenues is largely a factor of geography, that is whether you are close to rivers and lakes that are also close to large urban centers. Much of the MKO first nation in fact 15 of the 31 nations are isolated and accessible only by air or winter road, but there are several large first nations with MKO that have property values of interest. In fact the, Apaskarat (ph.) Cree Nation is one first nation within our region that has — is affected by high (inaudible) and as a section 83 tax regime.

So having said that, we were keenly interested as to why we would need to establish government agencies. Miss Kustra (ph.), when she was before the committee, indicated that this bill will provide the kind of certainty and checks and balances that many investors are looking for to invest substantial sums of funds. The minister used similar language in indicating that it was necessary to put in place pretty rigorous series of backstops and that Mr. Craven's testimony to this committee was very interesting, given his long-term participation in the development of the key ideas at the very beginning. He was indicating that the — in answer to the question in respect of why government agencies were required, I think his interesting comment was,

“I must admit partly our advice, that we said that any credit that you expect an investment banker to sell his client has to have certain characteristics. There were a number of unknowns related to the quality of the eligibility of a person - I was stuck by that phrase - the quality of the eligibility of a person to borrow money in different first nations. This standardizes and makes clear to an investment banker and his customers and to the credit rating agencies 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.”

So there is also some similar discussions about the perhaps intuitively simple thought of a government guarantee of the loans that would be provided by the agency, but it appears from examining the package as a whole, the commentary of the experts that help design the proposal as well as the legislation itself, that the government guarantee has been replaced with government oversight which again is a step in the opposite direction at the Manitoba first nations in our considerable efforts under the Manitoba framework agreement initiative, that is to establish first nation institutions that succeed in meeting the needs of first nations within the province of Manitoba.

What it also speaks to clearly, if this is the advice though, is are the demands the investors are making of our first nations to place their considerable tax base and the revenues that are associated with that as leverage for bond issues overseen essentially by a series of government institutions that establish the means and standards and mechanisms for providing the certainty the investors require.

Now we are in no position to dispute whether or not the investors require that level of certainty, but it is clear that that is the distinction that emerged from all the discussions that took place, that first nations are not in and of amongst themselves, according to this proposal, providing adequate security for the investments made with their own revenues.

So our concerns in that, the recommendations that we would make in respect to this bill, this is at the final page of the submission that I circulated to you, is first that nay first nation or first nation organization who desires to appear before this committee should be afforded the opportunity to do so, in respect particularly of the potential for the infringement of the inherent right and any other issues that they may choose to bring before you. The consultations that were described at some length I believe on February 22nd by the departmental officials, if my recollection is correct, were primarily related to the bill when it was C-19 as part of the so-called suite of bills that were being presented by the department.

The committee report — also amend C-20 as follows. We suggested that if you intend to proceed with the bill -

that clause 3 be amended by adding a new provision, that except as provided in section 153, nothing in this act shall be construed so as to limit or effect any existing treaty land claim agreement or self-government agreement with Canada or as to limit or effect any negotiation regarding any such treaty or agreement. Now what is our mind when we make this suggestion of course is the Manitoba framework agreement initiative but similarly that the processes, standards and so forth that are contained in C-20 are not applied in any way as a template to any other negotiation or process;

that the process for appointment and directors to the first nation tax commission, to the financial management board and first nations statistical institute be revised to include persons designated by first nation organizations as well as requiring consideration of the advice to these organization;

that section 146 which is the review provision be revised to provide a review of the provisions and operations of Bill C-20 and the operations of those institutions established by C-20 within three years after the day on which Bill C-20 receives royal ascent and although we are not really in a position to speak for the authority, it is the one - the finance authority is the one first nation entity and so we suggested that upon the request of the first nation finance authority if the finance authority concurs that that would be suitable for its purposes, because it would have the best idea. If the theory is the finance authority needs these three government institutions to anchor and provide certainty to its borrowings, it seems to us the finance authority would be the best, has the best vision of whether they are in fact working. That is in essence if the theory as presented to us is correct;

that section 146 be further revised to indicate that any recommendations that the minister might make related to the evolution of the mandate and operation of these institutions expressly address the assumption by first nations of the functions of those institutions as may be negotiated.

Again as a framework agreement initiative for a series of first nations adding more agencies without the hope of a sunset for their purposes seems a step in the wrong direction. By taking into account as well the direction of AFN chiefs in assembly in respect to developing new fiscal relationship as set out in resolution 596 and 4998 which essentially say that any of these relationships must respect the inherent right.

Now the final recommendation is that the government renew its commitment to a joint first nation crown initiative intended to developing new fiscal relationships that are based on the principles of flexibility, fairness, choice, certainty and economic incentives and efficiency which we referred to explicitly in the AFN resolutions, that reflect an equitable sharing of the resources derived from treaty lands and natural resources, as well as those lands and resources to which an unresolved aboriginal title applies and are in keeping with the constitutional and legal framework.

Now just one thing I would like to add about this particular renewal is an observation that, in respect to the functions of the statistical institute and the evidence that the committee received regarding the value of statistics, as the research director of the Manitoba Keewatinowi Ininew Okimakanak natural resources program, we assist all departments within MKO in developing statistical analyses of a variety of issues. Although I'm the natural resources director, I'm also a research director for the organization. I can indicate that in 1991, when Stats Canada began to do the census, particularly the post-census survey of aboriginal peoples, I participated in the negotiations of the memorandum of understanding with Stats Canada that was intended to do a lot of what the statistical institute claims it will do, but there wasn't a commitment to carry it through. We were looking for capacity, the placement of work stations that would actually access the census products. To develop a statistical capacity within Manitoba first nation, this MOU was negotiated in support of the Assembly of Manitoba chiefs at the time.

So the object of first nations interest in providing and having access to better data, particularly statistical data about first nations citizens and institutions is nothing new. I would respectfully submit that in Manitoba at least, partly the reason that we are in the position we are is as a result of the lack of federal commitment to meet the terms and obligations of MOUs that it had entered into in good faith with Manitoba first nations. Now I'm sure there are many reasons why it wasn't pursued but I just wanted to bring to the committee's attention that such a document existed and such an attempt had been made more than a decade ago.

As a similar thing, it just relates to our stuff about commitment is when the chiefs in assembly established our...

Nick Sibbeston: Can I just stop you here, if you continue, Mr. Anderson, there is not going to be any time for questions and in all fairness to the other persons who made representations, I think there is an interest in asking questions. So you can continue and take up all the time or I can stop you. Now...

Michael Anderson: Stopping me now would be fine because I was going to conclude in any case.

Nick Sibbeston: Well, it was hard to tell.

Michael Anderson: I just wanted to conclude by saying that there are examples of our interest with the statistical institute in particular as a function that first nations have expressed an interest in developing an arrangement with and moving in the direction of a first nation statistical institute that is truly first nation, that involves first nation organizations, that involves the agreements of Canada but that the agreements are from — between first nations and other agencies that hold this information as distinct from a federal crown corporation making agreements for first nations to access first nations data. Akasane (ph.) and thank you very much for the opportunity to appear.

Nick Sibbeston: Thank you. Senator St-Germain, do you have any questions?

Gerry St-Germain: Yes, thank you, Mr. Chairman.

Robert Daniel: Mr. Chairman, excuse me.

Nick Sibbeston: Yes sir.

Robert Daniel: I wasn't able to make it on your presenter list. My name is chief Robert Daniel, Swan Lake First Nation and I would like to present tables from documents with your committee today. We have some resolutions that we rejected this bill back in September 2001. We also have a resolution from Swan Lake First Nation and a letter to the prime minister's office and all the political organizations that we speak for ourselves in our treaty matters in Swan Lake First Nation, that no one represents us as it relates to our treaty, our treaty relationships or anything to do with our treaty rights. This bill does not do anything for us in Swan Lake.

Nick Sibbeston: If you want, just maybe...

Unidentified person: He tables his documents as — you are from Swan Lake Manitoba?

Robert Daniel: The Swan Lake First Nation, yes.

Nick Sibbeston: Sure, pick up the documents and we will file them as exhibits to the committee and we will have a chance to review and read them.

Robert Daniel: And also (inaudible) to Swan Lake on the bill.

Nick Sibbeston: It is unfortunate that we didn't give you a chance to make a formal presentation but our time is just about up and so...

Robert Daniel: I understand.

Nick Sibbeston: But I thank you for coming and doing what you have.

Robert Daniel: If there is a way that I could get to address the committee at some point, I would be willing to.

Gerry St-Germain: We will try.

Nick Sibbeston: Okay, senator St-Germain?

Gerry St-Germain: Well, thank you, Mr. Chairman. Well, I would like to apologize to our witnesses that we are so restricted for time. In all fairness, I think Senator Sibbeston and I try to operate in a non-partisan vein in working and when I brought up the fact that we have to listen to the opponents of the bill, he agreed and the committee agreed to have you here. Unfortunately, we didn't anticipate this number of presentations and maybe we should have and I can only apologize on my behalf and as some of you know, I don't — on native affairs, I try to be as non-partisan as possible. I voted against the party that I belong to on the last bill that went through the Senate and I don't know what I'm going to do on this one as of yet. I'm not guided by anything but what I hope is in the best interests of our aboriginal peoples and I feel that our chairman operates in the same vein and other members of this committee as well.

First of all, did I hear you, grand chief General, state that the appointments have been — some appointments have been made and the offices have been set up already for some of these agencies?

David General: I don't know about the offices (inaudible).

Gerry St-Germain: Well, Mr. Chairman, I think this is real arrogance on the part of the government, an affront to the Senate that we are still hearing this particularly legislation and there is no indication that this is going to pass. I think this is very presumptuous on the part of the government and I think that it is an insult to the institution of the Senate that the government is operating in this fashion. So that answers that question.

My question, there is a litany of questions that I have got obviously. From the first presenter, chief Large said that there is to his understanding treaty obligations that he feels should be treated, that should be handled before issues

like this are bought before — that are dealt with by government, but I guess, the opting in aspect that one has to opt in and it is being said here that there really isn't an option. I would like one of you who feels — yes, it is you, grand chief General, that stated that the answer is no in your presentation. Would you like to elaborate a little bit on that because I think this was an important aspect of the change from the previous bills to this bill.

David General: Thank you for the question. Previous to the committee meeting on September 7th, the chiefs of Ontario had a meeting with some of the officials who were sheparding this piece of legislation through the process and I had the opportunity to ask not only one government official, but one on December 6th and antoher one on December 7th if there would be resources set aside for those first nations who did not opt in to bill C-20 and the answer on both cases was no.

Gerry St-Germain: Resources for what, sir?

David General: Resources for infrastructure projects, the money that Bill C-20 was being set up to generate revenue for.

Gerry St-Germain: If I may interject, are you saying that any infrastructure on any of the 630 first nations lands would now, if any infrastructure was to be supported by government, would have to go through process?

David General: That was the understanding that I got from my questions.

Gerry St-Germain: Okay, the second question I have because we are really tight for time, I hate to push this, but the AFN, are they supporting this bill? Are they opposed to is as C-20?

David General: As C-20, C-20 has never become before the chiefs in assembly. The proponents and opponents, it is so delicate that nobody wants to go and either win or lose the support or rejection of the bill. So it has come before the first nations, the assembly. All there are is the standing resolutions against C-10 and C-23. The last opportunity for the national chiefs and the AFN under the current administration was September of 2003 and their attempt was rejected. So all the previous resolutions stand opposed to it, although we know since that time there is a personal support from the national chiefs and some of the other members of the AFN.é

Gerry St-Germain: So you think they are trying to avoid it for political reasons?

David General: I will say very directly, senator, yes.

Gerry St-Germain: The other question is that apparently the opting in of this is at the request of the council of a band.

David General: Yes, sir.

Gerry St-Germain: So in other words, a council on its own can arbitrarily opt into this C-20 and really not necessarily have the support of a given band, is that — am I correct in that assumption?

David General: Senator St-Germain, again thank you for the question. Yes, you are correct in your assumption and we are saying that this is such a huge decision, that not the leadership, the chief in council of the day, should be able to make that decision. It should be a very very well-informed membership that are consulted and that should be taken to a referendum and as I mentioned in my presentation, the list of items where this decision is as large as a decision to designate land or sign a sub-government agreement.

Gerry St-Germain: I guess by — you know, in fairness, Mr. Chairman, my last question is the question of the appointments to the respective agencies and boards, we are back to the old Indian Act. Basically, it is the minister again. The paternalistic scenario carries on through a different form of legislation. So basically we say we are getting away from the Indian Act which I have always been an advocate of because I think that — I think it was you that talked about Prof. Stephen Cornell and I think if one listens closely to the success stories in the studies that he has conducted, this paternalism has been the underlying factor for many of the failures unfortunately of our aboriginal peoples. I think if I'm hearing you correctly and I'm reading this correctly, we are back to the same old thing, but just under a different form of presentation? In other words, it is the Indian Act brought forward by C-20? Am I — am I misreading this and I'm not trying to put words in your mouth, I just haven't got time to ask the questions that we want so comment on that please.

David General: Mr. Chair, Mr. Chair, if I may answer the senator's question, again senator, thank you for the question. I think we sit enlightened by all those volumes of reports that I have seen and we need only to dust them off. The most current that everybody speaks to and refers to is the Harvard Project and when you start mentioning the nation-building and economic development and the bad word, sovereignty, you know, most Canadian governments have trouble with in context with first nations government, those are the pillars that I believe that we build our new fiscal relationship on and only when we have the courage to go back and start at that point, where we dust off our caps, we dust off Penner (ph.), we dig into those pages and we extract the most essence of what they are trying to say to us, that is when we are going to start on that new path, that good path, that bright path.

That is to the exclusion of looking at the Indian Act. There is so much that we have already spent our time and energy on, so much very very positive productive pages in those documents and senator, I think that is where we begin. We ignore the Indian Act and we look at what is the current capacity that we have and first nations across Canada have tremendous capacity, even from the time that (inaudible) provided to us some — almost ten years ago and that is why I'm hopeful as a young leader like chief Phillips is that we start on that road while we are still young enough to

make an impact because change takes a lot of time. So using those documents, senator, I hope that we can start on that path.

Nick Sibbeston: Thank you.

Randall Phillips: Do you mind if I give a quick response back to one of the questions by Senator St-Germain. Senator St-Germain, we respect optionality. I made a reference to a change in the Indian Act which called for this legislation to be included under the general application provision, section 88, that will apply to all first nation communities that are under the Indian Act, regardless of whether the specific legislation refers to them or not.

Nick Sibbeston: Senator Pearson?

Landon Pearson: Thank you very much all for your presentations. I come to this because the subjects under the discussion are rather complex and complicated when you get into financial arrangements and the way in which you are looking for, as I know, the credit ratings in Standard & Poors. This is the globalization of the world in which we all have to function and we all have to give up a bit of sovereignty in order to — I mean you know, unfortunately, but it seems to be the way things are going. I have two questions. One is that it does seem to me from a somewhat naive perspective is that your quarrel, it is not so much a quarrel as your arguments in some sense are with some of your other first nations because we have 100 who seem to want to support this and then the rest of you don't. So what I'm trying to follow is that argument, and I would be curious to know how you feel you have been — what kind of success you are having with those other first nations who seem to support this bill?

My second question is really perhaps more a comment than a question. Everybody brings up the issue of consultation and consultation is a very difficult word to actually describe fully. I have just been — spent quite some time over the weekend with a number of young people, including quite a number of young aboriginals and they are expressing some frustration and young, I mean very young. Not as young — I mean older than you, younger than you. You are young, but these are younger and there is a frustration on the degree to which to they get consulted. So if you have a referendum for example how young do you allow people to engage? You know, you don't have to answer that one. I would rather actually get the answer to the first one we have so little time.

Chris McCormick: The national associations, trying to appease the differences and opinions but there is one thing I want to point out, there is a 100 that are for it, but there is 500 and some that are against, but the resolution that was passed at the assembly was that if the government would put forward the bill, specifically with the first nations that wanted to be part of that bill, that it would be noted with the bill and that the bill be closed in that fashion. Not this opt in - opt out. It is that the bill would be put forward with the first nations that wanted to be part of the bill and it would go through in

that manner. I think there is a precedent set in regards to this type of legislation and the fact that your harmonization tax only applies to three provinces in the country.

Landon Pearson: Mr. Phillips, yes?

Randall Phillips: Yes, thank you, chair. Senator Pearson, I also want to give a quick response to your first question. This is a quarrel between other first nations? No, it is not. Plain and simple it is not. I think that there is other communities that see advantages and some certainly don't see any benefits whatsoever. I think it is being characterized and being pushed through by this process as a quarrel issue and it is not.

One of the things too that I would also caution the Senate on is that there is precedents in regards to a government following along this particular avenue with respect to the First Nations Land Management Act. That was a piece of legislation that was just prescriptive to very few first nations communities that wanted to engage in options in terms of how utilize their lands. As of today, the federal government through the department of Indian and Northern Affairs provides no other resources to first nations communities when they talk about land management regimes, other than through that particular act now. So again going back I think to what senator St-Germain had asked before, about the impact in optionality of this, it is that that we see that we see that have historical evidence in this path to go here, so it is not a quarrel against first nations. It is a quarrel against the process and the way that government tries to interpret these — what is in the best interest for us.

Gerry St-Germain: As a supplementary, you are saying that C-49 which was the land management Act is now applied across the board?

Randall Phillips: Our community had specific regards. We are dealing with some land issues right now within our traditional territory. 1701 provides where we are right now as our traditional territory. We purchased that land in 1840. We purchased some more and wanted the title to convert. We can't do that. We can't do that simply because the additions to the reserve policy which is a present INAC document doesn't apply to us simply because we are not a reserve. The only other times that we can get dollars to bolster our land management regime is through this land management act which of course we rejected.

Nick Sibbeston: (Inaudible). If not, I just would ask, I have a question. Lone Christensen?

Lone Christensen: Thank you, Mr. Chairman and all representatives, the five presenters. Certainly I think the information that you have brought in your arguments is very extensive and very in depth. Of the five presenters, and I take from what you have said that Bill C-20 is bought off, with the exception of Mr. Anderson who in fact did give — you know, said this really has to go ahead and these are the types of amendments. Were these amendments put forward, do you know, when you were dealing with the

previous two bills and you had made presentations? Were these amendments brought forward at that time?

Michael Anderson: Thank you for the question. MKO's previous position on C-19 is that it was not dissimilar to the position that has been presented today, is that it was just fundamentally flawed. There were changes in definitions, there was a wide variety of things that MKO believed would not be resolved and our reference to the Penner report and our captions still contained in this submission and we believe that is where all of these sorts of processes begin. However, we have looked at — and I began at the beginning, and all the records, the transcripts, the proceedings, the discussions and the investments that have been made and recognize that there is a certain inertia that is going on and if it is the intent of the Senate to recommend to the other place that this bill proceeds, then we have some great concerns, recognizing that there is considerable support amongst a lot of people for certain aspects of the bill, notwithstanding our positions.

One of the things that — if I might, regarding the quarrel issue in your question now is that I mentioned earlier MKO's position about recognizing the autonomy of our own member nation. That is similar to resolution 31 in 2002 of the Assembly of First Nations, but the context I would like to reiterate in our linkage to the framework agreement initiative is very much what the grand chief was saying. If this bill had — was isolated only to those first nations that had arrived at a negotiated arrangement with Her Majesty, then it would be similar to looking at it as one of the self-government agreement perhaps without speaking to what — you know, whether it is actually similar or not, we would be in a position of saying these first nations have put themselves into a position where they are requesting that Her Majesty approve these mechanisms specifically to affect them. It is precisely in fact because of the opting in clause at section 2 that gives concern, that a simple band council resolution as the grand chief so clearly indicated, will lock people into a process.

So without even wanting to go down the road of questioning whether or not a first nation has made the correct decision and so on and so forth, that is the distinction that we wanted to make, that it is our recognition, it is our read of 31 2002 where it says "Respect the right of these and other first nations to make their own local and regional agreements." We would respect that, but this is being presented as in fact legislation with a broader scope for which others can opt in that are unknown as of this time and whether or not those other first nations receive adequate information, advice and so on and so forth is a whole other road to travel.

So as the grand chiefs have noted and the others speakers, it is a fundamentally different bill than being presented with a land claim settlement, the Nunavut Act or another claim. This is a bill that has broader applications than just those that are interested and the AFN resolution as we understand it respects a negotiated arrangement between these first nations and Her Majesty.

Ione Christensen: You touched on my next concern where you said that, you know, this bill should be closed, but I see where you are coming from now, that it should be specific to those that have progressed to the point where they are — may have an agreement, have gone through that process and then this would be another tool that they could pick up on that table or were those — those first nations that had not gone to that, on that route as yet, they would not have the opportunity to opt in or out and by having the option of opting in and out, it is far too broad in your particular opinion?

Michael Anderson: We would agree and that is why batching in the statistical institute into this bill also concerns us. I mean it seems to us it could a stand-alone statute, but the fact that you have this broad general application and a crown corporation established to see what really is something that we see as per the AFN resolution a negotiated agreement between identified first nations and Her Majesty, that they are two different things.

Ione Christensen: Even if you did have it specific to those first nations that have come to an agreement, if this bill was implemented with that provision in it, you would still have the addition of government agencies and that seems to be a real concern from all of the presentations, that what we are doing is creating more agencies and not less agencies and in doing so, making the pot even thinner because it seems spread out to more and more bureaucratic administrative costs?

Michael Anderson: Yes, for example, as I had indicated, the statistical institute, our vision over a decade ago is that it would be an affiliation of first nations and governments working together to produce better statistics for the management and administration of first nations and that we in fact would be arriving at agreements with Her Majesty to access information that Stats Can and other agencies may have in their possession. We actually began to look at the privacy considerations, the transfer of data, the types of securities and prohibitions and in fact constraints that are in this bill in respect of the disclosure and who can handle it and all that sort of thing. So our vision is quite different than what we see in front of us in many respects.

Ione Christensen: Thank you, Mr. Chairman. It is such a complicated situation and I think we could perhaps spend another couple of hours on questions like that.

Nick Sibbeston: I know we are really going to run out of time, but I just wanted to ask a question...

Ione Christensen: Thank you very much.

Nick Sibbeston: ...to chief Eric Large. I notice in your presentation that you recognize that fiscal resources flowing from the crown, we need — basically you say you need fiscal resources flowing from the crown to deal with the economic development and I don't know your situation, the state of your — the area of the country that you live, but when there are developments that go on, particularly opportunities for business, have you had a situation where you had to deal with that, that situation of

need of requiring money in order to get the business going, how have you handled that? How have you met that problem?

Eric Large: Well, right now we have contribution agreements and these are written up by the department of Indian Affairs, but as an example, we only get about \$398,000 per year for what is called economic development. We have a social services budget of about \$4 million. I mean that is just the present day arrangement, but I guess what I was trying to say was that in an earlier question, regarding that earlier question was there are unfulfilled obligations by the crown in the area of resource sharing. When I began my presentation, I mentioned treaty No. 6, the understanding was the surface resources were only to be used by Her Majesty's settlers and other subjects for tilling of the soil and taking care of their animals of the day.

There was no surrender of subsurface resources and these are the things that I was trying to get at, but due to a lack of time, I'm unable to do that and this is where we are certain that we have a right to those, to develop. That is our base, that is our economic growth and development, but right now, like to access any economic development dollars, there is criteria and paperwork and levels of approval of the bureaucracy and business opportunities, they don't wait. So they pass us by and then we go to the next one. Several months ago, we did apply and it took about 10 to 12 months before we got an approval and by that time, the situation had changed in that business opportunity.

Nick Sibbeston: Okay, thank you very much. Okay, do you think...

Gerry St-Germain: There is a question that has come up and senator Watt unfortunately had another hearing to go in the House because of something that impacts the Inuit and the region he lives in, but there was a concern if a band — if the band council can enter into a situation without a referendum of the population of that respective band, there is a question of security of entering into financial obligations, that there is a possibility that if the band defaulted, that what would happen is that other bands can theoretically take over that particular band. Are you cognizant of anything of that nature being a negative aspect to this particular legislation, the way it has been written? In other words, if a band council decides to enter into this particular arrangement and end up unable to meet its financial obligations after entering into this, that particular — a particular band could be taken over by other existing bands, I guess, that are participants of this particular act. I'm not sure of exactly on the details of it, but have you got a comment on that, Mr. Anderson possibly?

Michael Anderson: Thank you. The bill as I understand it provides for the ability of the FNFA to seek financial management board intervention only in respect of sums that are related to the borrowings associated with the FNFA and not to the general funds of the operations of the first nation council. There was some discussion on the 22nd I believe about the distinction of the use of the term third-party management in respect of this bill as distinct from the more common understanding, perhaps more widely publicly that it would only be in respect of the management of revenue managed

from tax accounts that the financial management authority would have, be able to step in.

Gerry St-Germain: So it wouldn't jeopardize any other revenues or any other...

Michael Anderson: The bill is written that way, but I have to say that it is like water, to some extent — although these are separate accounts, that strains on any first nations resources tend to affect everything. The word that we typically use is called reprofiling where you have a comprehensive funding arrangement that allows the first nation to expend its total sum of contributions from for example the department on its own needs. Where it is inadequate to meet anyone of those needs, it will reprofile amongst other needs and make different priorities and so actually we are looking carefully at this particular aspect of trying to make a sharp distinction between these two, these two deposit the funds and try to do some analyzing to determine whether they could in fact be kept apart. In practical application in respect of the band's administration, the act does not permit the entry into specifically the other contributions that are not related to the borrowing amount as I am aware.

Gerry St-Germain: Thank you.

Nick Sibbeston: Thank you. Then we are out of time. I want to thank you all for your presentations and appearing before us and also too, thank all the other witnesses that have come to observe our proceedings, so thank you very much. Mr. Phillips?

Randall Phillips: Thank you, Mr. Chair. Senators, I just want to reiterate I appreciate the opportunity to speak to you and that through your clerk, I will be available for any questions follow-up or any other discussion should you wish to do so.

Gerry St-Germain: Okay, thank you.

UN REVISED / NON RÉVISÉ

THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES
EVIDENCE

OTTAWA, Wednesday, March 9, 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: Our committee is considering Bill C-20, concerning First Nations financial institutions. This is our fourth committee meeting. We welcome the witnesses who are here tonight. We welcome everyone else who is here tonight to observe the proceedings.

Just so you know who we are, I will introduce you to the members of our committee. Senator St. Germain is the deputy chairperson. He is from British Columbia. I am Nick Sibbeston from the Northwest Territories. Senator Fitzpatrick is from Kelowna, British Columbia. Senator Leger is from New Brunswick. Senator Christensen is from the Yukon. Welcome to you all.

Mr. Ken Marsh, Liaison, Canadian Property Tax Association: I am honoured and pleased to be here to speak on Bill C-20, on behalf of the Canadian Property Tax Association. I would like to commend the Senate for inviting the CPTA to provide testimony to this hearing, as too often taxpayers directly affected by legislation are left out of the legislative process.

Our national association was formed in 1967 and today has a membership of close to 400 persons, representing over 200 corporations across Canada. We are the largest organization of its kind in Canada. The CPTA brings a unique array of top corporate property tax officers, lawyers, tax consultants and government officials.

Since its inception on March 1, 1967, the CPTA has worked consistently to provide an opportunity for open and informed discussion of significant issues on municipal assessment and property taxation for its members across Canada. I am the past president of the CPTA, and currently serve the board and members as the legislative liaison supporting our ongoing activities related to Bill C-20.

I am also the manager of property taxation for TransCanada PipeLines, Canada's largest energy pipeline corporation. I am a certified property tax professional and have been in the property assessment taxation business for 25 years.

While I will focus my comments on the importance of Bill C-20 for the CPTA and property tax in general, I would be remiss if I did not mention another important taxpayer group which I participate in, the Canadian Energy Pipeline Association. CEPA represents Canada's transmission pipeline companies. Its members are world leaders in providing safe, reliable, long-distance energy transportation. CEPA is dedicated to ensuring a strong and viable transmission pipeline industry in Canada in a manner that emphasizes public safety, pipeline integrity, social and environmental stewardship and cost competitiveness.

The member companies of CEPA pay property tax in excess of \$350 million annually. CEPA has a direct interest in this legislation, and I would like the committee to note that it has provided support to the FNTC, which was reflected in the letter of July 9, 2001, by CEPA president, Mr. Bob Hill, to ITAB board chairman Manny Jules.

Taxpayers recognize the importance of taxation in the fiscal framework of the country. What we expect from the property tax system is fairness. Fairness can be defined in many ways, but in this case it means fairness and equity of property assessments based on market value principles and taxation that provides for services at affordable prices. It also means due process for addressing concerns and disputes, and the right to appeal assessments.

Governments have to recognize that they must be accountable to taxpayers for expenditure of tax dollars. The impact of an excessive tax burden goes well beyond the reduction of profits for a corporation. Excessive taxation reduces the viability of business, impacts plans for new development, reduces employment opportunities and stunts the growth of our economy.

Our attendance at this committee is another step in a process that for the CPTA spans many years. The modern era of the First Nation property taxation began in 1988 with the passage of Bill C-115.

For as long as I can remember, Manny Jules and other representatives of the Indian taxation advisory board have been attending and been actively involved in the annual workshops of the CPTA, and reporting to the membership on First Nation property taxation and the evolution of ITAB to a statutory institution First Nation tax commission.

The relationship the CPTA has developed with ITAB has led to an open dialogue with respect to tax policy development. We are pleased to see that the legislation before us has considered our views and included significant improvements to the current system. By replacing the Indian taxation advisory board with the First Nation tax commission, we are building a framework that provides greater transparency, stability and regulatory certainty to the benefit of First Nation governments and their taxpayers.

The Chairman: Can I ask you to slow down a bit? I am told by the interpreters that they need to have you go a little slower so they can keep up with you.

Mr. Marsh: My apologies. You will be particularly interested to know our view of how the proposed First Nation tax commission will benefit taxpayers. Here are some provisions that we would like to note.

There will be taxpayer representation on the commission. This will ensure our interests are brought forward and represented in all decision making. Previous ITAB policies and procedures to protect taxpayers' interest, like insuring taxpayer representations in property tax law review and notification of taxpayers and affected persons of property tax laws, will now be legislated and promulgated through the *First Nation Gazette*. The gazette has become an important resource for tax practitioners, and the legislative provision for the expansion of this service is vital.

The expanded powers of regulation will further guarantee quality services at a fair price. Because of Bill C-20, the CPTA will now have an opportunity to participate in consultation related to the development of these regulations.

Fiscal responsibility has always been stressed by the CPTA. This policy requirement has been considered in Bill C-20. First Nations' tax authorities are required to maintain a balanced property tax budget to protect current and future taxpayers, consistent with other jurisdictions. A financial firewall between property taxes and the First Nation revenues will ensure that property tax revenues are spent only on local services and long-term infrastructure improvements.

Taxpayers are also pleased that the legislation enables First Nations to develop laws that govern the relationship between First Nations and their taxpayers. This legislation will provide for expanded communication and dispute resolution functions, thereby eliminating the possibility of conflict through a misunderstanding.

In closing, I would like to add that this legislation will help to improve investor confidence in First Nations. Investors have already established a good working relationship in many Aboriginal communities. Now there will be a national institution to provide the regulatory framework that is required by First Nations to support both lawmaking and building infrastructure.

The CPTA supports the passage of Bill C-20. We recognize that like any legislation, there will be room for improvement in the First Nation fiscal and statistical management act. We are satisfied that this is a significant step forward and that the current form meets with our requirements. The CPTA also looks forward to the review of legislation in the years ahead when we will again consider improvements to the statutory basis for real property taxation on reserves.

The parliamentary process for this legislation has taken almost five years. We urge the Senate to pass this legislation quickly. We ask the government to make this a priority, and provide the resources required to get on with the business of implementation of these institutions. Thank you for receiving this testimony. I would be pleased to answer any questions.

The Chairman: We will let the other witnesses make their presentations. When all is done, you will be able to answer questions.

Mr. John Reddick, Chair, Interim Westbank First Nation Advisory Council: Good evening, Mr. Chairman, and committee members. I am here to express my views, concerns and general thoughts as a resident on First Nations' land, paying my residential taxes to the band.

First, I should introduce myself and give you a little of my background. My name is John Reddick. I have been living on Westbank First Nations' land since November 1995. I have been a member of the Westbank First Nations' interim advisory council since June 2001, and am currently the chair. The role of the advisory council is to give input to the chief and council on any matter that directly or significantly affects non-member residents, which, incidentally, includes review of the draft taxation budget.

In February 2002, I also participated in the first of two focus groups organized by the Indian taxation advisory board, whose stated purpose was to explore different perspectives, promote understanding among the parties, explore issues surrounding residential taxation and representation and discuss possible policy solutions.

I should say that the Westbank First Nation experience is almost certainly different than many other First Nations in that their self-government agreement, which will be implemented April 1, entrenches within the agreement a law establishing the advisory council to allow input into any matters that directly or indirectly affect them. Also, most significantly, it incorporates a dispute resolution mechanism.

I mention this because it bears on some of the concerns that I believe exist for taxpayers who reside on band lands and they are these. Taxpayers want to be assured that the cost of services they receive are properly reflected in their taxes and are comparable to other municipalities. To achieve this, I believe that it is essential that First Nations wishing to assume taxation powers should be mandated to establish a mechanism to allow taxpayer input.

I believe that it is in the interests of First Nations and resident taxpayers that all such dealings be as transparent as possible; and that when an advisory body has a legitimate question concerning matters that affect them, that they be dealt with in an open and timely manner. It is in this way that trust is built and confidence grows in the process.

Within this framework, First Nations wishing taxation powers should be mandated to establish a disputes resolution mechanism so that disagreements can be dealt with at the earliest possible level and at the lowest level. Another concern of taxpayers is that there be proper checks and balances to ensure that any First Nation currently collecting taxes or wishing to assume taxation powers have the resources and expertise to do so, and that there be an appeal process to an independent review board that includes residential, business and utilities representatives. The proposed establishment of the First Nations taxation commission and the First Nations financial management board under Bill C-20 will go a long way to providing these checks and balances. The enhanced regulatory and administrative powers of the proposed tax commission and financial management board provide protection that does not exist under section 83 of the Indian Act. To provide expert resources for First Nations and for the protection of taxpayers, First Nations currently collecting taxes under section 83 and those wishing to do so in the future should be mandated to do so under Bill C-20 and the act should be amended to reflect this. The establishment of the First Nations finance authority and the very successful model it is based on is very much in the interests of both First Nations and taxpayers and makes one wonder why this was not done a long time ago.

In closing, I would like to thank the committee for this opportunity to appear, and to table a copy of these remarks and a copy of the Westbank First Nation draft law establishing the advisory council that will be implemented as the first order of business under the Westbank First Nation Self-government Agreement, April 1, 2005.

Senator St. Germain: I move acceptance of the documents into the permanent record of the committee.

The Chairman: It is moved by Senator St. Germain that the committee accept the documents. Is the motion agreed to, honourable senators?

Hon. Senators: Agreed.

Mr. Maurice Sanford, President, Snake Island Cottagers Association: My name is Maurice Sanford, President of the Snake Island Cottagers Association. I thank the committee for allowing me to present a brief this evening. Snake Island is part of the Chippewas of Georgina Island First Nations Reserve No. 33. The land consists of three islands, Snake, Fox and Georgina, all located on Lake Simcoe in Ontario. Snake Island has approximately 240 cottagers. We lease the land that our cottages are built on from the band. On April 1, 2001, we entered into a 40-year binding lease with the band. I would like to point out that this lease was the first in Canada that we know of, and presumably precedent setting, that was negotiated with the First Nations band since the passing of the First Nations Land Management Act in 1999. When we first learned last November that the band was about to tax the cottagers, we were shocked that this could be legal. We had no knowledge of what had happened previously. While investigating the taxation rights of Aboriginal peoples, we happened to find Bill C-20 on the internet. It has always been my belief that the rights of citizens to vote and be represented by a government, particularly with respect to taxation matters, was well established in Canada under the Charter of Rights. Now I understand that the proposed Bill C-20 and changes already made to the Indian Act have taken this right from us. Our association was not aware of these changes or that the rights had been taken from us.

What is most troubling to me is the lack of transparency that seems to prevail when dealing with the band and the Department of Indian Affairs and Northern Development. Back in 1999-2000, the band developed and adopted their own land management code. One of the first in Canada, the code was written under the guidelines of the First Nations Land Management Act. Section 10(4) of this act reads as follows in respect of third parties:

If other persons have an interest in the land that is to be subject to the proposed land code, the council shall, within a reasonable time before the vote, take appropriate measures to inform those persons of the proposed land code, this Act and the date of the vote.

The band has not informed our association of the proposed land code. In light of Bill C-20 and changes to the Indian Act, we will be challenging the land codes so that we are better represented on council and so that our views as a third party interest in band lands are heard.

At the time, various bills were passing in Parliament. Back in 1999-2000, the Department of Indian Affairs and Northern Development still had full jurisdiction over Indian affairs and yet we were never advised, despite the fact that we met with officials of the department and the band while these changes were in the process of being made. It seems to me that the most telling and important issue is that the concept of taxation by the bands was expected and understood by DIAND and was part of their agenda in lands transfer policy made back in 1999-2000. Clearly they have failed to inform us or have deliberately misled us about this issue. At the same time that our leases were about to expire, we signed a 40-year commitment without knowing that taxation would soon be applied. This, we were entering into a new ball game and no one would explain the rules to us.

Notwithstanding all of the above, if Bill C-20 is passed and the First Nations are granted the right to tax, which I now know they are, on their lands, changes must be adopted in the land code or in Bill C-20 so that a fair, above-board and completely transparent process is established. Just as laws are passed in Parliament, a similar process of transparency should prevail when bands deal with issues that involve third party interests.

The Sechelt First Nation band in British Columbia adopted a municipal style of self-government whereby non-aboriginals would serve on the council as a non-elected member. We propose in our case, because there are three separate islands with no formal lines of communication, that three members, one from each island, sit on band councils along with the five voting band members. The band would still hold the majority of voting members and non-aboriginals would have the right to speak on the matters proposed that affect them and to vote on any proposal made before it would be adopted. At the time when a new bylaw is proposed to council, a committee would be formed that would include non-Aboriginal representation to further study the proposal. Once the study was complete, findings would be presented to council and voted on. Once the bylaw is voted on, the right to appeal to a tribunal would be available. The tribunal would consist of a chief from another band, a local councillor and the area member of Parliament.

This appeal process would not have to be a judicial review where lawyers are necessary but it would have to be a fair and legitimate process. The final right of appeal would also be made available and should be presented in the form of a letter to the Minister of Indian Affairs and Northern Development. I am sure some bands may not like what we are proposing but the Sechelt First Nations has adopted this style of government under the B.C. laws. In so doing, it has shown that Aboriginals and non-Aboriginals can work together for the betterment and preservation of reserve lands.

In closing, complete transparency and the right to be heard and represented in such affairs must be a part of the band land management code or part of Bill C-20, where the word shall be part of the sentence to be adopted by the band.

Senator St. Germain: Thank you, gentlemen, for appearing before our committee. It is encouraging to hear that the Canadian Property Taxpayers Association is in favour of this.

I suppose with any changes or with any proposed legislation, there is always the risk that someone will slip through the cracks, such as the Westbank First Nations. Mr. Reddick, you listed your concerns and we have an understanding of the Westbank Agreement because we went through it not long ago. Do you not think that the transparency and taxpayers input are adequate?

(1840 follows — **Mr. Reddick:** In terms of the Westbank experience...)

Mr. Reddick: In terms of the Westbank experience, the establishment of the advisory council is very positive. We have definite input into matters that concern us.

As a matter of interest, a meeting of the advisory council that was scheduled for today had to be postponed because the subject for discussion was the draft taxation

budget proposed by the Westbank First Nations for this year. To briefly describe the process, the budget is developed on an interim basis. I believe it goes initially to chief and council. It comes back to the advisory council which examines the budget and compares it to last year's budget. We then submit written questions and ultimately we get a response to them.

We must remember that, while our input has significance and should be listened to, we are an advisory council.

I am very pleased to see the powers in Bill C-20 for this proposed First Nations taxation advisory commission. There are powers and regulations, there is control and an appeal process and there are three members of a 10-person committee that represent the interests of the taxpayers, be they business, homeowners or utilities. That is a tremendous move, and I support the bill.

I have difficulty in that, although there is this improved mechanism, there is also a portion that allows First Nations that are taxing now or may wish to tax in the future to opt out. I believe that that defeats the purpose. To quote a friend of mine, when you build a new mouse trap, maybe you should make it mandatory that everyone use it. That is okay, I guess, as long as you are not a mouse.

Bill C-20 has a lot of strengths and a lot more power, and I think it should be mandatory that First Nations operate under it.

Senator St. Germain: There are reasons why it is not mandatory. I represent you as a senator from British Columbia, as does Senator Fitzpatrick, and we are very concerned about the well-being of all British Columbians. We are concerned that we do the right thing. To make it mandatory would be unfair to native bands because some of them want to remain under section 83 of the Indian Act for various reasons, including size and logistics.

I believe that Bill C-20 will be of advantage to you and, without putting any pressure on Westbank, I am quite certain that they will opt in and give you the comfort you need.

Mr. Sanford, I gather that you have been paying rent on these 240 cottages.

Mr. Sanford: Yes.

Senator St. Germain: Is the band or nation supplying any infrastructure?

Mr. Sanford: They currently supply only garbage pick-up for which we pay, through a maintenance fee, \$200 per year per cottage in addition to our lease.

Senator St. Germain: What about road infrastructure?

Mr. Sanford: There are no roads. It is a small island about a mile off shore and there is only a path where the tractor pulls the garbage wagon.

Senator St. Germain: Would that not obviate the need for taxation on residents to a great degree?

Mr. Sanford: We thought so, but the land manager told us that they are going to start taxing us. I asked what the taxes would be for, but she did not provide an answer. What could they tax us for? I think they get grants for the three police officers who are on the big island. There are none permanently situated on our island. Other than that, I have no idea what they could be taxing us for. There are no permanent landowners on our island.

Senator St. Germain: Without being facetious, in many municipalities people wonder what they are being taxed for.

Mr. Sanford: I am not against the taxation process. I now understand that the band has the right to tax under various acts. My concern is the lack of transparency. They tell us after the fact that something has happened. We would like to have a process that will allow us input throughout rather than after the fact.

Senator St. Germain: I think that Bill C-20 will give you a level of comfort that you do not now have.

Mr. Sanford: I tried to read the bill, but it is pretty difficult.

Senator St. Germain: That may be. This is an evolving process with Aboriginal peoples. I feel safe in saying that Bill C-20 will be an asset in your situation.

Senator Fitzpatrick: Welcome to the committee. I have appreciated your testimony.

Mr. Reddick, who is from the Okanagan, lives in Westbank across the lake from Kelowna where I live. It was about a year ago that we received Royal Assent for the Westbank First Nation Self-Government Agreement. It was the first stand-alone self-government agreement approved in Canada.

I appreciate your testimony tonight in particular because you come to us with the experience of living in a community that has operated under section 83 in regard to tax collection. Could you give this committee an impression of the size of your community, Mr. Reddick? It is not a small, sleepy community but rather a one of significant size.

Mr. Reddick: There are 8,000 non-member residents on Westbank First Nations land. That represents 20 per cent or more of all non-member residents on band land across the country. That is a significant amount of taxation money. In fact, it is like a small municipality in itself.

I personally live in a gated community of about 265 homes. There are three other such gated communities in the ward that I represent.

There are five members of the advisory council, each with a ward that probably has the same number of people in it. You see that it is a significant number of people and significant amounts of taxation monies that are involved.

If you were to travel from Kelowna, you would pass through Westbank on your way to Vancouver. We are a seamless society. It is a very attractive area. We are very fortunate that we have a very progressive, forward-looking band in Westbank First Nations.

If I may make a comment to Mr Sanford indirectly, I think the establishment of an advisory council similar to one that we have in Westbank First Nations would go a long way to solving some of your communication problems. Like everything else, it is a growing process and as we go along and establish mutual trust, everyone will feel much more comfortable with the process.

I would not want to say that the interim advisory council — it has actually been in effect for over four years — has not had its bumps in the road like any relationship that happens. I hope I have answered your question.

Senator Fitzpatrick: As I said, I live across the lake. I do not live in Westbank First Nations land, but it is fair to say that there is a very good consensus within the community that the self-government agreement is a good thing. I do expect from the knowledge that I have received that Westbank will proceed to participate in this new financial management act.

That leads me to Mr. Sanford. I thought it may be helpful for you to have an appreciation of the experience that Westbank has had; they have had this advisory council. The Westbank First Nations band has certainly dealt with the community and listened to them. In my assessment of C-20, it provides a more transparent alternative than you have under section 1(a) of section 83 of the Indian Act. You said that you were advised that taxation was going to be proceeded with. Has it actually happened?

Mr. Sanford: No.

Senator Fitzpatrick: If I could make a suggestion, you might use Westbank as an example with respect to having an advisory council or advisory committee. There is the other question, we are all facing this, whether we live on First Nations land or otherwise, our taxes go up every year and it is part of this process, land valuation.

Mr. Sanford: Yes, I think an advisory council would help us very much. What I was saying before, the lack of transparency, things were happening. When we developed our new lease with the band in 2000-2001, one of our clauses in our lease speaks to taxes, levies and so on. The band themselves did not meet with us but they hired a lawyer, Mr. Robert Pollack, to negotiate with our cottage association. We asked about this clause, the lawyer said that is only if one of the three levels of government, federal, municipal or provincial government, pass a law and the band would have to forward that amount to us. We said okay, that is fine, that makes sense. At that time, even though I am sure the band knew that they had the right to tax, that was not put across to us when we actually developed our new lease. When they said we are going to tax you, we were confused.

I was speaking to Mr. Jules and he said maybe we should be getting together because he is part of it. I would be more than happy to develop some kind of advisory council and maybe this would alleviate the unknown and the suspicion.

Senator Fitzpatrick: If I can suggest, you will get very good advice from Manny Jules. He had has been at this for a long time.

Mr. Sanford: Seems that way, yes. I wish I had met him before.

Senator Fitzpatrick: My last question is to Mr. Marsh and perhaps it is not a fair question because you were talking with respect to the taxation organization that you represent, but you also represent the TransCanada Pipeline and Canada Energy Pipeline Association. Would you provide us with your view that Bill C-20 will provide a catalyst for economic opportunity for First Nations because it really does allow them to take the business into their own hands with respect to their economic development. We know in some resource areas, pipelines will be very important to First Nations. Would you care to comment on that?

Mr. Marsh: As you are aware, we currently do pay property tax across many First Nations. I would not want to say exactly how much the industry pays but, I think of the \$40 million we pay a fairly large portion of that.

We were encouraged by the fact that we have representation. The bottom line with the membership is when the bill was introduced, we realized that there are the taxpayer representatives. It was something that we felt was encouraging, our interest would be met. We would be involved in the regulation and policy procedures. We felt that it was a very fluid process from the current section 83 of the Indian Act. We really had no concerns going forward.

From an economic standpoint, we see it as being very transparent and we are encouraged by what we see.

Senator Christensen: Mr. Sanford, on your issue, you are subject to tax now under the existing Indian Act, section 83?

Mr. Sanford: I understand that now yes.

Senator Christensen: You did not know that before.

Mr. Sanford: I had no idea, and especially when we developed our lease. We would have done it differently.

Senator Christensen: If the band opted into this, there is a lot more transparency and C-20 would be to your advantage and to the band's advantage. It would be a win-win situation.

Mr. Sanford: Exactly, right.

Senator Christensen: Mr. Reddick you were saying some bands would opt out. This is an opt-in kind of legislation. Everybody starts from square one and those that wish to come in to C-20 can come in, but it is not a matter of everybody being covered and then they can opt out of not applying it.

Mr. Reddick: I understood that, yes.

Senator Léger: Let me try to ask questions not on the specific words and experience. I understood from Mr. Marsh, the First Nation Tax Commission and the Canadian Property Tax Association got along quite well. It is the mentality that I am looking at, the back and forth, this new era that we are all invited to enter. That gave fiscal responsibility on both sides. As you said at the end, there is room for improvement, the two sides realize that. Investors' confidence, that was

certainly very important. If I understand well, the mentality on the two sides were both trying to advance tax-wise?

Mr. Marsh: Correct.

Senator Léger: That is what I wanted to know — the mentality. The words and so on are not my job.

Mr. Reddick, it would still be in the same vein — the transparency that you seek; that same transparency exists on both sides, does it not?

I often wonder if the Aboriginals do not have another way of having transparency. If I understand, you came to understand each other, to find one way. When it comes to a law, Bill C-20, the words are there, legal and so on, but the feeling, the mentality is there also, right? For non-members, that was most interesting for me. There are 200 and whatever non-members there, so you are living that back and forth.

Mr. Reddick: Yes, absolutely.

Senator Léger: That is what I wanted to know. Are the checks and balances the same both ways? We have to come to one at the end. Are the two sides advancing both ways?

Mr. Reddick: Yes, and we are very pleased to see within Bill C-20 that there is actually resources for both sides, both in the form of an appeal mechanism and also in the form of resources for bands that want to take on taxation powers. It is a pretty daunting task that all of a sudden you get involved with having to levy taxes, to have the bylaws in place, to have representation and so on. I am very pleased to see the additional powers that have been put into Bill C-20, and the resources that are available to First Nations.

Senator Léger: We have had witnesses from the First Nations, both for and against; but those who were for definitely sounded as if this spirit of working together was positive — we have to find both ways and the two sides have to learn from the other. That is what I was looking for.

The Chairman: Any further questions?

I have a question for Mr. Marsh. The bill provides for the establishment of three financial entities — the tax commission, the financial management board and the financial authority — and the first two are established by the federal government, with large boards of directors with Order-in-Council appointments. This is a question I have asked other witnesses. Are there comparable provincial bodies that govern and deal with tax matters? What comparable entities are there in the provinces that would be similar to the regime that is being established under this bill?

Mr. Marsh: If you are speaking in terms of a commission, I would not say there was a similar provincial commission. However, what we do realize is that the lines of the valuation concepts, the taxation concepts, do follow the lines of other provincial or municipal jurisdictions. There is commonality there, and that is what we are encouraged by.

The Chairman: In terms of the financial management board, that would be unique to First Nations in this case because it is a body that is established to deal with financial management in ensuring that there are good accounting and financial management of First Nations.

In the provinces, is there any body that deals with municipalities or other property owners at all?

Mr. Marsh: Are you speaking specifically about financial management boards?

The Chairman: Yes.

Mr. Marsh: I cannot answer that, sir.

The Chairman: One of the concerns I have expressed is that the federal government seems to be establishing large entities with 12-person boards. In part, I wonder if the federal government needs to go to this extent to set up such large boards. Can a tax regime be established by the federal government for First Nations without going to this extent of setting up large entities? This is why I am asking.

I recognize maybe it is a first step, providing comfort to First Nations and the federal government that the system that will be established will work. However, I think you have to be mindful of what is out there in the real world, what is out there in the provinces that have experience in this area. Obviously, they will work toward being as efficient and as functional as provincial-type institutions.

Mr. Marsh: Right.

The Chairman: Are there any other questions?

If not, I want to thank you, gentlemen, very much for your information and the evidence given to us tonight.

Honourable senators, this is our fourth meeting dealing with this bill. I do feel we have had a good opportunity to hear as many witnesses as possible on this bill. We are now at the stage where all our witnesses have come forward and given us evidence, so we are in a position where we can consider the bill clause by clause. Senator St. Germain?

Senator St. Germain: I would like to go on record, Mr. Chairman, that there have been concerns with the legislation brought forward by Aboriginal bands. There is an issue concerning opting into the system, that the council of a band or a nation, as I like to call them, is all that is required to opt in.

There has been discussion that there should possibly be a referendum process. I have searched my soul on this, listened to both sides, and I think it should be on the record that there is concern about this. However, I believe that if we are going to have our First Nations as economic generators for their people and economic generators in the community as a whole, if everything was done by referendum, it would mitigate, if not obliterate, any opportunities for good business. Like anything else, business decisions generally have to be made quickly. Nevertheless, I think it should go on the record that there was concern on that.

The other concern is that there is a lot of apprehension that the adoption of this bill will possibly undermine certain benefits that native nations have now — benefits that flow through the Indian Act and through the federal government. I have been assured that this should not happen simply because the only portion that would be affected would be rental revenues, which would be as a result of taxation under this particular legislation. It should have no effect, but it was another concern.

The final concern is the statistical institute — that it should not be included in Bill C-20, but in a bill that stands alone. I do not have the answers on that exactly. I am not certain why there is apprehension about this, because stats are generally collected on anything and everything, and good decisions can only be made with statistics.

These are the three things that have been brought to my attention. They are worthy of mention and should be on the record. They were brought forward to me by other Aboriginal nations that came forward, and I think they did so in good faith. I have been able to satisfy myself that these three items will not jeopardize anyone, and hopefully the benefits of Bill C-20 will outweigh anything that will arise out of these three items.

The Chairman: Honourable senators, is it agreed that the committee move to clause-by-clause consideration of Bill C-20?

Hon. Senators: Agreed.

The Chairman: The normal procedure is to postpone consideration of the long title, the preamble and the short title contained in clause 1. Shall the committee proceed in the normal way? The normal way is agreeing to groups of clauses as they are organized in the bill.

Hon. Senators: Agreed.

The Chairman: Shall clause 2 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 3 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 4 to 15 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 16 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 17 to 28 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 29 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 30 to 34 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 35 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 36 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 37 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 38 to 48 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 49 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 50 to 54 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 55 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 56 and 57 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 58 to 73 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 74 to 78 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 88, 89 and 90 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 91 to 103 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 104 to 107 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 108 to 113 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 114 to 131 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 132 to 139 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 140 to 146 carry?

Hon. Senators: Agreed.

The Chairman: Shall clauses 147 to 154 carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 155 carry?

Hon. Senators: Agreed.

The Chairman: Shall the schedule carry?

Hon. Senators: Agreed.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Agreed.

The Chairman: Shall the preamble carry?

Hon. Senators: Agreed.

The Chairman: Shall the title carry?

Hon. Senators: Agreed.

The Chairman: Is it agreed that the bill be adopted without amendment?

Hon. Senators: Agreed.

The Chairman: Is it agreed that I report this bill to the Senate?

Hon. Senators: Agreed.

The Chairman: This concludes our consideration of Bill C-20.

Are there any other matters that honourable senators wish to deal with?

There being none, this concludes our business for tonight. I thank you all for attending, particularly the witnesses and other people who have come to observe our proceedings tonight.

The committee adjourned.