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Chair

Mr. Bruce Stanton

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• (0900)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): I would like to welcome committee members, the minister and officials, as well as witnesses and guests.

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

[English]

In orders of the day, this morning we have the Minister of Indian Affairs and Northern Development. Today's hearings and our next meeting, on Thursday, will be in consideration of Bill C-5.

We'll proceed with the minister for approximately 10 minutes.

Minister, if you wish to introduce the officials you have with you today, that would be wonderful. Thank you.

Please proceed. You have 10 minutes.

Hon. Chuck Strahl (Minister of Indian Affairs and Northern Development): Thank you very much.

Perhaps I will start by introducing the officials with me today. Sara Filbee is the assistant deputy minister of lands and economic development at Indian and Northern Affairs Canada. Strater Crowfoot is the chief executive officer and executive director of Indian Oil and Gas Canada. Karl Jacques is senior counsel with the Department of Justice.

They'll be here to answer all the difficult questions. I've promised them that I'm prepared to hand off anything that gets too technical to them, so they're ready for that, and they're ready, of course, to answer any questions you may have.

Thank you, Mr. Chairman and committee, for inviting me here today to outline both the necessity and the many benefits of Bill C-5, legislation that is needed so that first nations oil and gas resources will be managed using the most modern and effective tools available. This will ensure that first nations have the efficient regulations necessary to fully capitalize on the economic development opportunities created by oil and gas industries on their territory.

As committee members know, Bill C-5 has been a long time coming. As the 130 first nations with petroleum production or the potential for production on their lands will tell you, it's long overdue. The Indian Oil and Gas Act came into force back in 1974, so it's been around a long time. To say that things have changed since then is an understatement. The world has changed since then and the oil and gas industry has changed. There's a new generation of workers.

There are new ways of working and better ways to protect the environment while increasing profitability. A lot of things have changed since that act was first written back in the 1970s.

Provincial laws and regulations governing the sector have kept pace with these changes in the intervening years, but federal legislation remains seriously out of date, and that's a real problem for first nations. Even though provincial governments have no jurisdiction over first nations for either oil or gas development or leasing of oil and gas rights on reserve lands, they do have authority over oil and gas companies operating on these lands. Federal laws governing oil and gas projects on reserve lands need to be better harmonized with provincial oil and gas regulatory regimes.

[Translation]

Cooperation with provincial authorities is essential. So, too, is the need to bring this outdated Indian Oil and Gas Act into the 21st century.

• (0905)

[English]

Bill C-5 responds to the needs of first nations and the oil and gas industry alike. It will do the following.

It will modernize and clarify the oil and gas regulatory process. For example, it will clarify ministerial and judicial review powers.

It will increase certainty and strengthen the accountability of Indian Oil and Gas Canada, which acts on behalf of first nations, such as providing Indian Oil and Gas Canada with new powers to audit operators.

It will also enhance protection for first nations environmental, cultural, and natural resources. For instance, as minister, I will have the authority to suspend operations that damage or threaten the environment or first nations sites of cultural, ceremonial, or spiritual significance.

[Translation]

I am confident that this is the right legislation, right for the times, because it is the result of extensive consultations and cooperation with the key players with a stake in this issue. And because it responds to what First Nations have been telling us needs to be done.

[English]

Over the past decade, Indian Oil and Gas Canada, working in partnership with the Indian Resource Council, a first nations organization advocating on behalf of some 130 oil and gas producing first nations, or potentially producing first nations, has held sessions with most of those oil and gas producing first nations and numerous tribal councils. And thanks to the longstanding and mutual relationship between Indian Oil and Gas Canada and the Indian Resource Council, first nations played an active role in the development of Bill C-5. Many of their suggestions for improvements have been incorporated in the bill before us.

We also worked with the Indian Resource Council and the Federation of Saskatchewan Indian Nations on the National Energy Business Centre of Excellence. This centre provides first nations with oil and gas expertise, things like legal advice, oil and gas business advice, and operations advice. It also helps them in identifying and coordinating programs, such as training and information sharing for first nations oil and gas managers. This will assist first nations in moving from being passive recipients of royalties to being actively involved in the business side of oil and gas, something I know there's increasing interest in. This will generate opportunities for wealth creation, and it could increase the number of oil and gas permits and leases held by first-nations-owned oil and gas companies, which currently are at approximately 40%.

I want to reiterate that first nations have told us time and time again that capacity development is very important to them. Many first nations are not ready to take advantage of the First Nations Oil and Gas and Moneys Management Act, the legislation that came into force in 2006, which enables development-ready first nations to assume full control of their oil and gas resources and moneys.

[Translation]

My department recognizes that the First Nations Oil and Gas and Monies Management Act may not be the right fit for every First Nation—First Nations may not yet have the necessary experience and capacity to take that major step. But this is an option for those who wish to take advantage of it.

[English]

Bill C-5 will ensure that Indian Oil and Gas Canada becomes, and continues to be, a modern regulator for those first nations whose oil and gas resources will continue to be managed under the Indian Oil and Gas Act. I also want to point out that this bill is not the end but merely a continuation of an ongoing consultation process with first nations. We will continue to work in partnership with the Indian Resource Council on the development of the regulations, and to develop mechanisms to deal with issues of concern to first nations.

Now, Mr. Chairman, there are a few other critical features of this legislation that I would like to briefly note before I take members' questions. During second reading debate, we heard the recurring themes of first nations consultation, economic development, and the environment. I have already touched upon the first two a little bit, but just to continue, one important issue addressed by Bill C-5 is providing assurance that the environment on first nations land will be protected, not only for today's generations but also for the generations that will follow. Bill C-5 provides for the authority to

replicate appropriate provincial legislation and regulations. Harmonizing the environmental regime governing oil and gas activities on reserve with that of the same activities off reserve within a particular province is a good example of replicating a provincial regime into federal law to protect the environment.

Through this act, it will become possible to continually update environmental protection regulation without further regulation. In cases where there is a violation, as minister, I will have the authority to suspend a company's operations if those are damaging to the environment, or if areas of cultural, ceremonial, or spiritual importance are at risk. As well, the bill will give me the authority to impose hefty penalties for trespassing on first nations land, or the failure to submit forms, reports, or other required information. For more serious offences, the bill establishes a process to directly access the courts, and further establishes significant fines, which can be levied per day.

First nations are also protected in cases of non-compliance. For example, the bill provides for compensation to be paid to a first nation for loss of oil and gas, or reduction in the value of their lands resulting from trespassing.

Bill C-5 will give the Indian Oil and Gas Act real teeth, unlike the outdated version in place today.

I think it is very important that Bill C-5 will allow federal regulations to incorporate provincial laws as they relate to environmental protection, exploration, and equitable production or conservation. I want to clarify, however, that Bill C-5 does not give over any jurisdictional authority whatsoever to the provinces, nor will Bill C-5 have any impact whatsoever on the crown's fiduciary responsibilities, or on aboriginal or treaty rights. In fact, the proposed changes will strengthen Indian Oil and Gas Canada's legislative and regulatory capacity. This will actually increase its ability to fulfill the crown's fiduciary and statutory obligations related to the management of oil and gas resources on first nations lands.

● (0910)

[Translation]

Mr. Chairman, the fact that First Nations have been asking for these changes reinforces just how necessary they are. This is maybe the strongest argument for speedy passage of this legislation.

[English]

Mr. Chairman, the fact that first nations have been asking for these changes reinforces just how necessary they are. This is maybe the strongest argument for speedy passage of this legislation. The more than 130 oil and gas producing, or potentially producing, first nations across the country have waited long enough. It's time to act. I know I can count on this committee's support to move this legislation forward as quickly as possible.

I'd be pleased to respond to questions from committee members, and I look forward to hearing the results of your deliberations over the days to come.

Thank you.

The Chair: Thank you, Minister.

We'll now proceed to questions from members, beginning with Mr. Russell for the Liberal Party.

Mr. Todd Russell (Labrador, Lib.): Good morning, and thank you, Mr. Chair.

Good morning, Minister, Ms. Filbee, Mr. Jacques, and Mr. Crowfoot. It's good to have you with us.

I want to go back to the IRC's mandate and to ask the minister if he agrees with this particular provision in their mandate:

To support First Nations in their efforts to attain greater management and control of their oil and natural gas resources.

I believe that's something we all probably agree with conceptually or in principle. If you're in agreement with that particular statement, how does Bill C-5 move us in that particular direction?

I ask this because I don't see many powers vested with the first nation in this particular bill; they're all vested with the minister or the governor-in-council to make certain regulations respecting oil and gas on reserves. How does that complement or play into the First Nations Oil and Gas and Moneys Management Act?

I would also like to know how many first nations have opted into the latter, that is, the First Nations Oil and Gas and Moneys Management Act? How many are effectively under that particular piece of legislation, and how many remain under the auspices of the forerunner of this particular bill, Bill C-5, which will probably now become new law?

So I'd just like to have a sense of that.

Hon. Chuck Strahl: Thank you.

Those are good questions, I think, and I'm sure you'll ask similar questions of some of the first nations that are covered under this act during their testimony.

I have a couple of things to say.

One is that a strong regulatory regime that can keep pace with provincial regulations, I believe, allows maximum benefits for the first nations. For example, the Alberta oil and gas regulations have been changed dozens and dozens of times since our bill has been brought in. Everything from environmental protection to how drilling is done, how cleanup takes place, and how royalties are paid, all of that stuff, is regularly updated to reflect modern reality, but that hasn't been the case here.

You may hear some horror stories of what has gone on, where companies have come in and offered to do slap-dash drilling operations such that, "If you get me in here, I can do something for you." It has not been good for the environment, it's not been good for the first nations, because it's not been done properly or under sufficient regulatory oversight, and first nations haven't benefited to the maximum they should from the royalties due them.

The second thing is that, moving forward, I've promised in my exchange of letters with the Indian Resource Council that on any regulations we develop, I'll work hand in glove with them. There is further regulatory work to be done, and one of the assurances I want to give—and this is important for first nations—is that the hand-in-

glove relationship will be developed and be ongoing. So on the regulations that will benefit first nations oil and gas, or potential oil and gas revenues and production on their lands, we'll work closely with those first nations to make sure we cover the bases. So if they identify gaps, or if there's specific language we need to use, we're prepared to do that while working with them.

• (0915)

Mr. Todd Russell: I'm just wondering how this allows first nations to have greater management and control. Do you feel this particular bill moves in that direction at all?

Hon. Chuck Strahl: I think Strater has a comment on that.

Mr. Strater Crowfoot (Executive Director, Indian Oil and Gas Canada, Department of Indian Affairs and Northern Development): Thank you, Mr. Chair.

To respond to Mr. Russell's questions, the bill itself does not directly help first nations in gaining more control. It helps us better manage the resources on their behalf.

Our process is a two-key process. We work with chiefs and councils in approving deals. We both have to approve them to have them go forward. For us, then, this really clarifies the rules we operate under. It enhances our tools. It helps first nations to better jointly manage the resource.

With respect to the First Nations Oil and Gas and Moneys Management Act, or FNOGMMA, that bill is intended for first nations to take direct control of those resources. FNOGMMA was passed in 2006.

Currently we're working with three first nations. This year we're hoping to have them move to a vote. These are the Alberta first nations Blackfoot, or Siksika, and Blood, and White Bear in Saskatchewan. These first nations are moving along to gain full control of their oil and gas resources. They'll be having a vote before September 30 to ask their membership if they would like that to go ahead, and that the first nation gains full control.

We are currently working with two other first nations looking at FNOGMMA. The act has two parts—the oil and gas operations and the moneys management. You can opt in to just moneys management. We have currently two first nations looking at the moneys management side.

Mr. Todd Russell: The only criticism I have heard or have been written about, Minister, is that the department has been reluctant to pull a lease, for instance, granted to a company if they have not complied with certain current regulations or haven't provided the royalties.

Is that a fact? And if that's a fact, why is that the case?

Hon. Chuck Strahl: I don't know of the individual case, but I can see that Mr. Crowfoot has some comment.

Mr. Strater Crowfoot: Thank you, Minister.

Our tools allow us to pull a lease, but that is an extreme case. We work with the company—because they have a permit and a lease for the land—to try to comply with the terms of the lease.

That's our last option. By doing so, we take away the flow of royalties to the first nation. We work very closely with the first nation and the company to ensure that the company complies with the full terms of the lease.

Again, that's our last option. We're reluctant to do that. As I mentioned, it takes away the royalties flowing to the first nation. But we're not opposed to doing it: if that's the last option, we will do it.

Mr. Todd Russell: Thank you.

[*Translation*]

The Chair: Thank you, Mr. Russell.

Mr. Lemay, you have seven minutes.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Minister, I've carefully studied this bill, which I find interesting.

I find it interesting that the Indian Resource Council, the IRC, still exists, but especially that it mostly consists of aboriginals who know the file.

Can we be sure that will be the case if Bill C-5 comes into force?

• (0920)

[*English*]

Hon. Chuck Strahl: Most certainly the Indian Resource Council continues to exist. I agree with your analysis; they've offered not only a good sounding board for the government but also a good mechanism for oil and gas producing first nations to have a board with the expertise to engage with both companies and governments to talk about the needs of first nations.

The Indian Resource Council has proven to be very useful, and it should and will continue.

[*Translation*]

Mr. Marc Lemay: I imagine you read the Ermineskin decision rendered by the Supreme Court on February 13. I know it's taken 20 years to settle that case. It concerns gas, oil and the Crown's trustship role that the minister must play.

I would like to know whether the Supreme Court decision of February 13 will have an impact on Bill C-5 or whether that's a thing of the past.

[*English*]

Hon. Chuck Strahl: The decision the Supreme Court brought down in February dealt with how the federal government handled moneys that came in through Indian oil and gas revenue and whether we did a proper and good job of investing and looking after that money.

As you can imagine, it went through all the stages of a court process to get to the Supreme Court. It was a 20-year process, and it was a very expensive one, unfortunately, for both the first nations and the federal government, because it dragged on for so long. The Federal Court ruled seven to zero that the federal government had behaved properly in handling these moneys. They dismissed the case totally.

That being said, that ruling doesn't change anything in this act. This act will still allow those first nations that want to, to handle their money. Mr. Crowfoot mentioned the first nations that preferred to

handle their own money. There is some expertise involved, but some first nations are ready and want to do that. Nothing prevents them from proceeding with that. Nothing will prevent Ermineskin or Victor Buffalo from proceeding with that if that's what they'd like to do. Certainly that's an option available to them. It's a decision for an individual first nation to make.

[*Translation*]

Mr. Marc Lemay: I had an opportunity to meet the representatives of the Indian Resource Council, and I've realized all the opportunities, in research, in particular.

Minister, I see that there is a very large number of First Nations here, that the list is really long. You say in your presentation that some communities aren't ready and that they have to be assisted. Is a plan in place for that purpose, whether it be by you, your department or the IRC? If oil is discovered during drilling, the First Nations will absolutely have to be ready to deal with that. How do we prepare them?

[*English*]

Hon. Chuck Strahl: That's an excellent question. Something has been raised with me, particularly by the Federation of Saskatchewan Indian Nations, who are seeing some of the traditional oil and gas that was in Alberta—and there's quite a bit of expertise and experience in Alberta—now shifting over somewhat to Saskatchewan because of interest in development there. That is why we've developed the two centres of excellence, one in Alberta and another one in Saskatchewan; they are the two biggest centres of Indian oil and gas activity. Also, each one is a little bit unique, one from the other. Indian oil and gas production in Alberta is somewhat different from the potential over in Saskatchewan, which tends to be more into heavy oil and so on. So the feeling was that there needed to be the two centres that would give expert advice, training, and a place to bounce around ideas about getting the maximum benefit for the first nations in each of those areas. The Indian Resource Council itself is an excellent resource. These folks are experts at what they do and have been an excellent resource. People have the council to go to directly. The centres of excellence are an effort to allow first nations to get the expertise they need early on and to talk to both legal advisors and professional people about how to maximize that benefit.

I think the centres of excellence are going to be part of the answer.

• (0925)

[*Translation*]

Mr. Marc Lemay: Mr. Crowfoot, I would like to know why the Indian Resource Council is focusing solely on oil and gas. Wouldn't it be a good idea for you to be a bit involved in mining development as well? There are a number of places where major activities are underway in that field.

The Chair: Mr. Lemay, unfortunately, your time is up.

Mr. Marc Lemay: May he answer?

The Chair: He may briefly.

[English]

Hon. Chuck Strahl: Very briefly, I will say that of course we're interested. Think how interested first nations are in other resource development opportunities. Of course they are very interested. But there are other acts and other ways of managing both mining and timber, for example. There are other acts that cover how they may be handled. This deals exclusively with Indian oil and gas because it's such a specialized industry, and it does require that kind of expertise. Other issues are important but need to be covered, I believe, under different acts of parliament.

The Chair: Merci.

Now we go to Ms. Crowder for seven minutes.

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

Thank you, Minister and guests, for appearing today.

I just want to follow up on a question Monsieur Lemay started with regard to that court case. I haven't read the court case, but my understanding is that the reason the Supreme Court ruled seven to zero was that the only guidance they had was the Indian Act, and under the Indian Act, the department is permitted to invest trust money. My understanding was that the issue was whether this was the best investment for first nations. Clearly the first nations didn't believe that was the case.

The reason I'm bringing it back again is that you've indicated that first nations participation in this oil and gas regimen, the way it's set up, is optional. But I'm sure you're aware that there have been a number of stories in the newspapers over this last week or so about the fact that the department is looking at revamping governance processes—not reintroducing the First Nations Governance Act—so that it won't be optional. The reason I'm raising this is that there was a consultation piece that went with this Bill C-5, and there's a lot of concern that the good work in C-5 with the consultation process will not also be carried over into this other piece, and that participation won't be optional.

I wonder if you could just comment on that, because that directly impacts on the payout of royalties.

Hon. Chuck Strahl: I'm not sure it really impacts on the payout of royalties.

Ms. Jean Crowder: Well, the Indian Act governs it, and if this proposed process going on is going to change the Indian Act, it could potentially impact on the way royalties are handled.

Hon. Chuck Strahl: I'm not sure how it affects how royalties are going to be handled. I think the two subjects are quite different.

On the issue of consultation, for example, and the issue of how we fund first nations governance and so on, there's a forum in Alberta this week. Band managers from all of Alberta are invited to attend. They're going to sit down together and go through the issues that have been raised, not just by governments but by first nations themselves, on how we could manage the funding of the governance issues more effectively. It's not up for renewal for another year, so we have lots of time. We're going to do broad consultations on how we can do a better job of that.

Just to assure you that those consultations will be broad, the Assembly of First Nations is already involved. Also, as I mentioned, in Alberta, a year in advance, every first nation has been invited to those discussions. So there's lots of time for lots of discussion. Nothing is going to be rammed through, and my hope is that we'll all come to a consensus on what has to happen going forward.

But I don't think there's any impact on—

● (0930)

Ms. Jean Crowder: Let me clarify, and I don't need you to respond to this.

If you are looking at changes in the Indian Act, there is potential to change how royalties are happening. That's all I'm saying.

Let's leave that for a minute.

Hon. Chuck Strahl: You keep saying that, but I don't think there is any impact on that.

Ms. Jean Crowder: Okay, we'll take you at your word for that.

On the regulatory process, you indicated that when it comes to the regulations, first nations will be involved in that. Is that a written agreement? I'm not doubting your word, but I've been involved in other committees, and then there have been changes of government. Is there a written agreement that that will happen? The regulations, of course, don't have to come back for parliamentary oversight.

Hon. Chuck Strahl: Mr. Crowfoot may have something to add, but one of the things that happened early on was that we had consultations, of course, and a forum that the Indian Resource Council was involved in, as were first nations that were concerned about how it might move forward.

I also wrote a letter of assurance to the resource council, confirming that as we moved forward to develop those regulations, we would do so hand in hand with the resource council and first nations to make sure that their concerns were addressed. That is important, because it's often the nitty-gritty of the regulations that actually makes the act effective.

So I did put that in writing, and they had a copy of that letter before we tabled the bill.

Ms. Jean Crowder: Great.

I'll just touch on the environmental aspect. When I was looking at the environmental considerations, I saw that when no comprehensive federal regimens exist, they'll use the provincial laws. In the absence of federal regulation or regimens... We know that in many provincial bodies the environmental process is actually being stripped away. I need only look to the province of B.C. for an example. Much of the provincial environmental oversight has been downloaded to the municipalities—for example, in development applications.

Will the federal government have some oversight in terms of the rigour around the provincial regulations?

Hon. Chuck Strahl: What is the question?

Ms. Jean Crowder: For example, if there is no federal regulation and it defaults to the provincial, and if the provincial is not up to a standard that we would want to see in Canada, will the federal government be taking a look at whether they should be doing something federally on those?

Hon. Chuck Strahl: I wouldn't say that the provincial regulations are the only game in town, but they have proven to be the most fulsome. That's why they're regularly updated. Almost all provinces that have oil or gas or both are constantly updating their regulations and have a complete regimen on how that might work. That's why we want, as much as possible, to try to replicate those provincial regimes, because they've proven to be very effective and they cover most of the bases—for everybody. You can imagine whoever might own oil and gas rights, whether it's first nations or not, those people will want to know going in what the regulations are, how they're going to be treated, what the royalty regime is, what the environmental standards are. Everybody wants to work to whatever the rules are. In our experience, that's where the expertise has been, in the provincial regulations.

I don't think there are any gaps there.

Ms. Jean Crowder: The reason I raise it, though, is that we have the Fort Chipewyan first nation—

The Chair: Merci, Madam Crowder. We're out of time there.

Thank you very much. Now we'll proceed to Mr. Rickford for seven minutes.

• (0935)

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair, and I apologize to you and the minister for being a little bit late this morning.

Thank you for coming today, Mr. Minister, and the other witnesses.

I'm a little bit more familiar, coming from northwestern Ontario, with the forestry sector and the economic development opportunities out there for first nations and non-first nations communities to work together. But in reviewing Bill C-5, and obviously in hearing some of the commentary, I was struck by the economic development opportunities that arise from this particular piece of legislation. I pulled some words out of your speech this morning, Mr. Minister. I heard “training and capacity development”, which has been an emphasis in the economic statement. I heard “profitability”, “business side of oil and gas”, and “wealth creation”. It seems to me there's a whole host of economic activities arising from these amendments, and I know that economic development is a top priority for this government. It's something we've been working on across the sectors with first nations communities.

Could you comment a little bit more on how you think these changes would fit into what the government is doing for economic development in general, and then maybe distill it down to a bit of a discussion around first nations economic development?

Hon. Chuck Strahl: This is part of the puzzle. There's never a piece of legislation or any one ministry that can say it covers all the bases.

I do think there is great opportunity right now. I mentioned Saskatchewan, but it covers wherever oil and gas may be found and where first nations have said they want to exploit those resources, they think it's a good opportunity, and it gives them a revenue stream of own-source revenue that wouldn't have been there. Of course, once that happens then a lot of other things become possible. Other business opportunities flow from that and can be funded with it.

But I think the rest of the package comes from things like we announced in Budget 2009, where we've put in \$200 million, for example, on skills and training for aboriginal people. We're prepared to move very aggressively in order to make sure that first nations and aboriginal people take full advantage of any business opportunities that are out there. We signed, for example, everything from the AHRDA-type programming, which is on more typical skills and training development on a case-by-case basis, to some of the ASEP programming, which involves big multilateral arrangements with provinces and big corporations about how we can train aboriginal people to take part in this industry. We've had some good successes right across the country where people are able to take advantage of that. With the training and the skills development, people are more comfortable to participate in whatever industry. You mentioned forestry, but certainly oil and gas will be the same thing. The centres of excellence are also going to help.

I think it's important that first nations go forward with confidence and don't feel that they're going through in a knowledge vacuum. They need to know that the advice they're getting is sound and based on the experience of others in like situations. I think with that combination, business loves certainty, and aboriginal business is the same way.

Mr. Greg Rickford: Could you elaborate a little more on the business side of oil and gas?

Hon. Chuck Strahl: I'm not exactly sure, but in every case where proposals come forward on oil and gas, either on development or on doing the development, in other words, if people want to get involved in the actual drilling or site preparations, and certainly there's a good history of environmental cleanup, post-drilling activities, and so on, then I think it's important. I'm going to be surprised if first nations aren't increasingly going to want to take part in that part of the activity. It's not just a case of phoning up Exxon and asking them to poke a hole in the ground; it's a case of saying we're interested in doing a business deal with you and that business deal looks like this, and then coming forward with some aggressive proposals on how that might involve them, the local first nations, in everything from the set-up to the cleanup, so they get not just revenue but jobs out of it. They can set that as part of the contract, of course, going in.

• (0940)

Mr. Greg Rickford: The training and the centres of excellence would look at this whole spectrum of activity in set-up to cleanup. Obviously, and almost categorically, they involve different sets of expertise with the cleanup on the environmental piece and set-up with very highly skilled trades.

Hon. Chuck Strahl: I think there's great opportunity in this. Increasingly, as I mentioned, people don't look at this simply as a revenue stream, although that may certainly be primary, but they also look at it as an ability to engage in a long-term economic opportunity. I don't want to pick how it might play out, but we've seen it in everything from providing catering services to providing drilling services.

Over a quarter of the companies involved in this are first nations owned. They want a piece of the action, not only on the revenue side, but they want to be a key player in the actual companies that are doing the work. Again, I think increasingly for progressive first nations, and I would include the Indian Oil and Gas first nations in that group, they are saying it's not just about revenue, it's also about other opportunities.

As I mentioned, it's everything from managing the money that comes in, if that's where they want to go, to being part of the business that actually is involved in getting the oil and gas developed, to other interesting downstream activities, whether it be refineries or other secondary industries that supply services, and so on. All that is possible, and the government is interested in this and has programs to help make that possible across the gamut, from formal agreements with provinces, companies, and first nations to infrastructure development and other things that happen on individual reserves.

The Chair: Thank you, Monsieur le ministre.

[Translation]

We'll go on to the second round.

Mr. Bélanger, you have five minutes.

[English]

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Thank you, Mr. Chairman.

Mr. Minister, you've used a couple of expressions this morning —“hand in hand” and “hand in glove”. I must admit I much prefer the “hand in hand” because inherently it means two wills coming together and acting in cooperation, as opposed to a glove and a hand, where one will is exercised perhaps a little more over the other.

Hon. Chuck Strahl: I have to be careful when I mix my metaphors.

Hon. Mauril Bélanger: Yes, one wants to be careful about that.

I want to explore, in my four minutes, the regulation-making authority that would be conferred to the executive under this legislation. Is it fairly common, because I must admit I haven't run into this very often, for a bill—therefore federal law—to grant to the executive the authority of incorporating provincial law via the regulatory route?

Hon. Chuck Strahl: I don't know how common it is. Does anybody have that?

Mr. Karl Jacques (Senior Counsel, Department of Indian Affairs and Northern Development): I can answer that. It has been the case, for instance, in the First Nations Commercial and Industrial Development Act, where actually for economic development on first nations reserves, Parliament has granted power in regulations in

order to adopt provincial legislation. That would be an instance where in fact it has been the case.

Hon. Mauril Bélanger: I'm not aware of that. So by inference I would say it's not a fairly common occurrence.

Mr. Karl Jacques: It's not that common, but it is happening more and more in areas where actually the idea is to provide harmonization between federal and provincial—

Hon. Mauril Bélanger: I understand the advantages of harmonization, but I also understand that when Parliament cedes its authority to legislate the regulatory route, that may cause some imbalance in the way our governments and our society function. That's why I'm a little concerned about establishing, by regulation, legal authority.

My question is the following. Proposed subsection 4.2(3) of the bill says:

The Minister may enter into an agreement with the government of a province, or with a public body established by the laws of a province,

I want to focus on “a public body established by the laws of a province” here. If we've established that provincial laws are incorporated into this bill by regulation, which Parliament will not necessarily approve or see, does it mean therefore that the public body established by laws of the province, into which you may enter into an agreement, will be totally outside the accountability loop?

• (0945)

Hon. Chuck Strahl: The first level of accountability, of course, is that regulatory development is done hand in hand with the Indian Resource Council.

Hon. Mauril Bélanger: Not with Parliament.

Hon. Chuck Strahl: I guess it depends on your point of view. Parliament has oversight of the bill and it can call me on the carpet at any time. Eventually I think we have to say that first nations have an active role to play in this and we want to reflect that. That's why we've given that letter of comfort to the Indian Resource Council to let them know that's not going to be an arbitrary thing. The effort, if I can just finish the thought, is to try to replicate as much as possible the provincial regulations, because that is the best opportunity for first nations to maximize their returns so they don't get a regime where people give an Indian discount for saying, “I can do something that's half-baked.”

Hon. Mauril Bélanger: Minister, I don't question in the least the desirability of cooperation and consultation with the aboriginal authorities, absolutely not.

By the way, could we have a copy of that comfort letter?

Hon. Chuck Strahl: I think so, yes.

Hon. Mauril Bélanger: Thank you.

Please keep in mind the question I just asked, and I'll refer you to the following section in the bill. Proposed subsection 4.2(4) does not at all address the matter of agreements that you might have entered into with public bodies established by the laws of a province. Is there essentially a hole here, whereby the government would have entered into agreements with public bodies established by provincial law that have been incorporated into our law by virtue of regulations, yet don't have to be accountable because they're not mentioned in proposed subsections 4.2(4) or (5)? That's the question.

Hon. Chuck Strahl: One moment, please. You're getting very specific, so we're going to have to get into the actual nitty-gritty of the bill now.

The Chair: We'll have a brief response if we can, Minister. We don't want to push the envelope here, but we're just about out of time. In fact, we are out of time.

Hon. Chuck Strahl: Maybe we'll give just a general comment. Then for the very specific answers, I'll get you the answers for that.

Mr. Strater Crowfoot: Looking at the oil and gas regime that we have, if we had something that existed federally, we'd use it, but our act and regulations right now are so small compared to what the provinces have, so for us, we're looking at... Where we need to fill a void, we will do so by looking at certain aspects of the provincial regime. That will make it consistent with reserve land and off-reserve land. The federal authority will still be retained by the federal government, but we'll just take certain aspects of the provincial legislation that we need and have that apply on reserve lands.

The Chair: Thank you.

Hon. Mauril Bélanger: That's the point, Mr. Chairman. It's that basically we're asking Parliament to cede all authority, in a way. Anyhow, I understand we're out of time.

The Chair: I appreciate that, Monsieur Bélanger.

Hon. Chuck Strahl: I'm sorry. I didn't twig to this earlier, but the regulatory process will still be gazetted, as is normal. The scrutiny of regulations committee can still go through the regulations. There's nothing to stop any of that from happening. Although we work closely with the Indian Resource Council and the affected first nations to develop the regulations, the regulatory process still continues.

The development of it is meant to be sensitive to those first nations, but it will still go through the gazetting process. The scrutiny of regulations committee could look at the regulations and ask questions about them. Nothing bypasses that. It's just that in the development of it, it's sensitive, I think in a special way, to first nations.

The Chair: Thank you, Minister.

We must move on now to Mr. Duncan for five minutes.

Mr. John Duncan (Vancouver Island North, CPC): Good morning. Thank you for being here and giving us such a complete explanation of things.

The energy business centres of excellence that have been set up in Alberta and Saskatchewan have a mission to provide oil and gas expertise as well as to identify and coordinate training and capacity development programs for first nations oil and gas managers. Is it anticipated that because of, I believe, their response to this

commitment to a continuous change process, they will also be monitoring and recommending changes to the regulatory process as part of their mission?

● (0950)

Hon. Chuck Strahl: No. Unless my officials gave me something else that I haven't picked up on, the centres of excellence won't be making those sorts of recommendations. The purpose of the centres of excellence is more for just strictly the business options and potential they can give to oil and gas producing first nations as far as saying here's something to consider, or here's my legal advice, or here are the best practices that we've experienced, and so on. They're not the ones that will be doing that second part.

Mr. Crowfoot, you're jotting furiously, but I just want to make quite sure I got that right.

Mr. Strater Crowfoot: Yes, Minister.

Mr. Chairman, the development of the regulations for oil and gas will be conducted by committees that we've set up with the Indian Resource Council and with certain oil and gas expertise from each first nation that we feel has a lot of oil and gas production. Right now, we have two committees in place that are looking at the regulatory process and at helping develop the regulations.

Mr. John Duncan: Thank you.

My next question is whether it is anticipated that there will be any first nations with producing conventional oil and gas wells that will choose to be outside of the Indian Oil and Gas Act and/or the First Nations Oil and Gas and Moneys Management Act.

Hon. Chuck Strahl: I don't anticipate that. I think it's in their best interest to be part of it. They get the benefits of all of the things we talked about, a strong regime to manage everything from environmental protection to cultural, spiritual, and other things that may be important to them.

It also makes sure that they don't get... This is something I heard quite often in Saskatchewan. The federation warned that on occasion corporations come in, promise the moon, hope to get around the regulations that are out there, and try to strike a deal outside the normal regulatory protection.

I think this will protect first nations; I anticipate they will all be part of this. Even though we're incorporating the provincial regulations by reference, nothing changes our fiduciary relationship with the first nations. There is still that fiduciary protection that exists between the first nations and the federal government.

The real protection and the real opportunity is by taking part in the Indian Oil and Gas Act. The actual moneys management part of it is another option, but it's not necessary to get the full benefit of this regulatory act that we are talking about here. But that is an option for them moving forward.

Mr. John Duncan: So it's technically possible but unlikely, and it's at the first nations' option.

Hon. Chuck Strahl: Right.

Mr. John Duncan: We do have, as a committee, some correspondence from the Stoney Nakoda Nation regarding their circumstance, where they felt they had been shorted on royalty payments. According to the correspondence, they started to go after that in 1991, to seek compensation. It wasn't settled until 2007 or early 2008.

• (0955)

The Chair: I'm sorry. If you could finish, then we'll take a brief response from the minister.

Mr. John Duncan: It seems an inordinate length of time, so I would ask for a brief comment on the length of time. Secondly, I would assume that Bill C-5, the bill we're discussing, would eliminate that possibility from recurring. That's my final question.

Hon. Chuck Strahl: I'll let Mr. Crowfoot answer that.

But on the Stoney Nation, they were involved in all of the consultation meetings that took place up to the tabling of the bill, all of the sessions for the last couple of years. None of the issues that are in their letter was ever raised at that level. So it's really unfortunate, because there was ample opportunity to address this at that time and nothing was ever raised. Now after it was tabled we have this letter.

On the specific answer, Mr. Crowfoot.

Mr. Strater Crowfoot: Thank you, Minister, Mr. Chair.

With respect to the Stoneys and the royalties that you're referring to, oil and gas operations are very technical in nature. Through a regime that is called "top gas", which the province and companies worked out some years ago, it was very complicated how the price of gas was calculated and marketed. Through a number of audits we've conducted we've determined how much was owing to the first nation. It's very complicated, and we hope through C-5 that it addresses a longer limitation period for us to look at the operations. It helps us set a royalty fee that is more certain.

The Chair: Unfortunately, I think we're out of time. I appreciate members' patience.

We'll go to our last question for this round, with Mr. Lévesque for five minutes.

[Translation]

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Good morning, Minister.

Mr. Crowfoot, you looked like you very much wanted to answer a question my colleague Mr. Lemay asked earlier. I'd like you to answer briefly because this is on my time. You don't need to press a button: here someone controls our desire to speak.

Do you remember Mr. Lemay's question?

[English]

Mr. Strater Crowfoot: Could you repeat the question, please?

[Translation]

Mr. Yvon Lévesque: The question concerned assistance in implementing Bill C-5.

[English]

Mr. Strater Crowfoot: We have worked very closely with the Indian Resource Council in developing this act and regulations.

As the minister said, a number of first nations have gone beyond our just collecting the royalties for them. So they're becoming more involved in the oil and gas operations. Currently about one-quarter of our land base is held and owned by first nations companies. A quarter of the companies we deal with are first nations owned.

The assistance we provide to first nations is to help them collect the royalties and make sure those royalties are properly due to them. By doing so, the first nations are able to access this money and then perhaps invest it in their oil and gas operations.

But this bill works with FNOGMMA, because our regime is a regulatory regime and the first nations want to get more involved in oil and gas. They can look at FNOGMMA or look at the moneys part, and by taking the moneys they can access the moneys and then decide how they want to use them and perhaps even invest in their oil and gas companies.

[Translation]

Mr. Yvon Lévesque: Thank you, Mr. Crowfoot.

Minister, now I'll ask my own questions.

If I were aboriginal, I would really be concerned about Bill C-5, because it states that the government may exclude First Nations lands containing crude bitumen from the application of the act. .

I'll ask my questions in sequence because I don't have a lot of time left, and I'll ask you to answer them comprehensively.

Why would First Nations lands potentially be excluded from the application of the act? They could be excluded if bitumen is found on those lands.

The bill provides for broader regulation that would make possible more extensive regulations over First Nations lands and gas on Indian lands. Can you give committee members some examples of desired regulations under the bill that currently do not exist under the Indian Oil and Gas Act?

• (1000)

[English]

Hon. Chuck Strahl: Thank you.

I can think of a few examples where first nations, in working with us, may suggest lands that are inappropriate for oil and gas development. For example, they may say something that has cultural importance or spiritual significance or something that's environmentally sensitive, and they may identify any of those things—maybe somewhere that is home to a species of animal or plant they're concerned about, and so on.

But all these are efforts to work with first nations. The effort is not to be arbitrary; the effort is to give the minister the power to do it, if you will, on their behalf. And we're working closely with first nations to.... The powers that you describe I wouldn't consider to be arbitrary; they're to work with first nations, both on development of regulations and on identifying some property they may not want to use. But it's like negative option billing. If first nations want to proceed, then we want to work with them, if it's possible to make that happen. In other words, I'm not going into it saying that I don't want to do it. We're going into it saying, if this works for you and in your first nation you've come to this conclusion and you want to proceed, then we want to work with you and do it in a good way so that you maximize your benefits.

On the second question, I've got so many things written down here I'm not sure what the second question was.

[Translation]

Mr. Yvon Lévesque: That concerns clause 3(2), the one on bitumen.

[English]

Hon. Chuck Strahl: I think your second question concerned the types of regulations we might envision. A good example is environmental regulations, as I mentioned: making sure we can replicate where possible the provincial regulations. Sara has handed me a note saying that we can also make them as good as or better than the provincial regulations. If there are particular cases in point in which first nations say they think they need to go further on this, that this is something we can make even better, then we can do that, working with them.

There's a long list here, with everything from regulations on how reports are made to how we store and access records. We can do everything from establishing interest rates on how the money is paid to.... There's a long list of things that can be done. I just mentioned one on reclamation or environmental standards, but it covers the whole regime of things that are of interest to first nations, such as any property owner would want on their property. We want to make sure we exploit this resource in a way that benefits the first nation, but also does the cleanup, does the environmental studies, does the work that gets the job done.

The Chair: That's great, Minister.

Merci, Monsieur Lévesque.

Thank you, Mr. Minister, for the time you've given for our first meeting on consideration of Bill C-5. We appreciate your taking the time away from other commitments that we know you had this morning to attend.

Members, we will have a very brief suspension so that we can formulate for our next witnesses.

• _____ (Pause) _____

•

•(1010)

The Chair: Members, we're now going to proceed to our second hour. With us, in addition to the officials who were with us for the first hour this morning, we have representatives from the department

and from the Indian Resource Council. Chief James Ahnassay is going to lead off.

Chief, you can introduce the other members of the delegation who are with you today. We have ten minutes for your presentation, and then we'll proceed to questions from members.

I know there were questions from the last round that we did not have time for. Perhaps members who wish to can get on the list. We have officials here from the minister's office to help with those answers.

Chief, if you'd like to proceed, you have 10 minutes. Merci beaucoup.

Chief James Ahnassay (Member of the Board, Indian Resource Council): [Witness speaks in Dene]

Thank you, Mr. Chairman.

I'll make a few introductory remarks on behalf of our chairman, Errol Gray, and then we'll turn the presentation over to Mr. Roy Fox, president of the IRC. I would like to start off by introducing our delegation, which is representing the Indian Resource Council: Roy Fox, president and CEO; Delbert Wapass, vice-chief of the Federation of Saskatchewan Indian Nations; Joe Dion, who was the founder and original president and chairman of the IRC; and George Stanley, who is the chief of the Frog Lake First Nation in northeastern Alberta.

Mr. Chairman, members of the committee, thank you for the opportunity to be here today as you study Bill C-5.

The IRC has been an active participant in the development of this legislation. We have a vested interest in the passage of this bill, and we hope we can assist you in doing so quickly. We recognize that this federal legislation is strongly needed to enable efficient and effective regulation of industry activity on our lands.

The Indian Resource Council advocates on behalf of its membership for changes to federal policy that will improve and increase economic development opportunities in the oil and gas sector for the first nations and their membership.

We provided information about a proposed amendment to our membership and garnered their input to the extent possible.

The IRC has worked with Canada to develop a long-term approach to the reform of the Indian Oil and Gas Act. We have a steering committee to manage this process and two joint technical committees in place to work on the specifics.

The work of joint technical committee 1 is reflected in this legislation. This committee has started to develop a regulatory regime that this regulation will authorize. Many of the issues and concerns that have been raised by our members will be addressed through this regulatory process.

Joint technical committee 2 focuses on what we call the continuous change process. This committee has responsibility for discussing issues that have not been fully addressed in this bill. These include future Indian Oil and Gas Act modernization changes, issues related to the first nations management and control of their oil and gas resources, and economic and business development.

We are here today, Mr. Chair, to formally express our support for this initiative, to speak to you about our agenda for continuous change in the management of oil and gas on Indian lands, and, most important, to answer your questions about C-5 and our involvement in this initiative. The Indian Resource Council has participated in this process under the leadership of our president, Mr. Roy Fox. At this point, I would like to turn our presentation over to Mr. Fox.

Thank you.

• (1015)

Mr. Roy Fox (President, Indian Resource Council): [*Witness speaks in Blackfoot*]

Thank you, Chief Ahnassay.

And thank you, Chair and the committee, for giving us the opportunity to appear before you today.

I would like to share with you the perspective that the IRC, the Indian Resource Council, has always had with respect to oil and natural gas development and the work we do.

Our role has been to ensure that our member first nations get the best possible return on their oil and natural gas resources. We have tried many ways of meeting that important objective over the years. Initially, it was to ensure that the royalties we received were fair and equitable. However, it has gone a little further over the years as we have come to realize the level of involvement that we can have on the business side of the oil and gas sector and pertaining to development of our lands.

Enhancing that involvement has become a key objective of our organization. In talking of greater control of our oil and natural gas resources, we are also talking about the ability to really participate in the business side of our industry for the benefit of all first nations and their members.

Mr. Chair, the Indian Oil and Gas Act provides the framework for the management and stewardship of oil and natural gas development on our lands. The Indian Resource Council has been working since 1999, in partnership with Indian Oil and Gas Canada and the Department of Indian Affairs, on the modernization of the Indian Oil and Gas Act. The purpose of these amendments is to provide Indian Oil and Gas Canada—our resource manager, our regulator, our fiduciary—with a more modern toolkit with which to perform these important roles. We believe that the amendments contained in this legislation will provide Indian Oil and Gas Canada with the authorities required to enforce industry compliance on behalf of first nations.

Chief Ahnassay spoke earlier of the work that our technical committees have been doing in support of this process. I would like to expand somewhat on the work of joint technical committee 1.

Joint technical committee 1 is made up of representatives of both Canada and our member first nations, representing most of the major oil and gas producing first nations, who obviously have a vested interest in the proposed amendments to this act. We have had regular and consistent participation and input from first nations since this process began in earnest in 2002.

These representatives have been drawn from the Four Nations of Hobbema, the Tribal Chiefs of Alberta, the Dene Tha', the Blood Tribe, the Siksika, the Stoney tribes, and of course the Federation of Saskatchewan Indian Nations.

Since this process was re-engaged in the summer of 2006, this group has been involved in the most detailed aspects of developing a framework for the bill that we could all agree upon, negotiating the drafting instructions for use by Canada in the preparation of this bill, and reviewing the final legislation prior to its introduction in the last Parliament as Bill C-63. This group was also tasked with the responsibility of keeping their first nations and leaders apprised of this work and bringing feedback to the joint committee.

This was a truly cooperative process in which we agreed on what would be included in this package and what would be put off to a later date. We did not get all of what we wanted here, nor did Canada. What we did get was an agreement on some fundamental changes to our governing act that would benefit our first nations.

• (1020)

We also agreed on a continuous change process and a regulatory amendment process that will address additional and valid concerns that are raised by first nations. This work has already commenced, and the estimated time is that it will take between 18 and 24 months to complete.

In addition to working with Indian Oil and Gas Canada and the Department of Indian Affairs headquarters on this initiative, we have worked hard to keep our members informed and involved in the discussions. Obviously the participation of affected first nations is very important to the acceptance and validation of any new initiatives. While the bulk of our members is located in Alberta and Saskatchewan, we have also travelled to meet with interested parties in British Columbia, Ontario, and the Atlantic provinces. In addition, we have hosted two detailed symposiums for our members, where all aspects of this package have been presented and discussed at length. We also responded to individual requests by first nations to provide additional information, which we have done and will continue to do as the regulatory process starts.

Finally, the membership of the Indian Resource Council has reviewed the progress—

The Chair: Mr. Fox, excuse me for a second. I'm sorry. We are over our time, so if you want to sort of summarize and bring it to a wrap-up, we'll give you another minute or so to finish up and then we'll proceed with questions.

Mr. Roy Fox: Okay, let me just quickly finish off, Mr. Chair, some of the more important points.

While we do derive some benefit from these reforms, the true benefits accrue to Indian Oil and Gas Canada and Canada through provisions of a more modern and efficient set of authorities and regulations to do their job efficiently on behalf of first nations. The hopes and future aspirations of our members are being dealt with through a process of continuous change, where the IRC priorities are being discussed. Through these discussions, we hope that Canada will fulfill the commitments that have been made on issues that this bill fails to address.

Perhaps it would be good at this time, Mr. Chairman, to stop. I would like to involve the panel we have here, the chiefs who are here, and of course my predecessor, Joe Dion, to answer any questions you may have.

The Chair: Very good, and I appreciate your understanding with that.

I would say that if there were some items that you wanted to include, perhaps you could get those in to the responses in the course of the time that we have from members, if there were some items of your opening remarks that you wanted to still cover off. We appreciate your understanding with that.

Mr. Roy Fox: Thank you, Mr. Chair.

The Chair: We'll proceed with the first round, and likely only one round of questions here. We'll begin with Mr. Bagnell, for seven minutes.

Hon. Larry Bagnell (Yukon, Lib.): Thank you.

Maybe in the future, when there are only hours, we could have shorter amounts for the round.

There has been an amendment proposed to us that would give the first nations the ability, like other first nations governments, like other governments, to cancel contracts with oil companies when they don't produce the royalties, just like the federal government or provincial government would. I was wondering, Chief Stanley, what you think about that proposed amendment.

•(1025)

Chief George Stanley (Chief of the Frog Lake First Nation, Indian Resource Council): Let me turn it over to—excuse me, Mr. Chair, I have a bad cold—my CEO to answer that, if you don't mind. Mr. Joe Dion.

Mr. Joe Dion (President of the Frog Lake Energy Resources Corporation, Indian Resource Council): Thank you.

The ability of the government and the first nations to cancel leases or contracts with companies if they're not practising the proper requirements or expectations of first nations I think is a good one. At the same time, the nations have to be careful that they don't abuse this kind of authority that will be vested in a minister. I guess by virtue of having a minister, the minister would of course consult with first nations first before he would cancel such contracts or leases.

It's a good tool to have, but I think one has to be very careful that it's not abused, because if it's abused by the first nations or by the minister, you could scare off investment in our communities.

Hon. Larry Bagnell: Or end up in court.

So you're not opposed to the amendment that would give the first nations that power?

Mr. Joe Dion: Not at all.

Hon. Larry Bagnell: Interesting; the government *is* opposed to that.

As a second point, it's been suggested to us by one first nation that it doesn't give first nations the ability or the power to develop oil and gas on their lands. I'm just wondering what your response is to that critique.

Mr. Joe Dion: This legislation does not what?

Hon. Larry Bagnell: It doesn't give a first nation the power to develop oil and gas themselves, on their own lands.

Mr. Joe Dion: Actually, it does.

I think a great example of that situation right now is Frog Lake. At Frog Lake First Nation we issue the lease to its own company, in this case Frog Lake Energy Resources; I'm the president of the company. We in turn farm out these leases to partners, in this case CNRL and Buffalo Resources Corporation.

So we do have the ability to do our own development on our lands through this legislation.

Hon. Larry Bagnell: Perhaps I could ask Mr. Crowfoot why the government is opposed to the amendment that the council here is in favour of.

Mr. Strater Crowfoot: I want to start off by saying, as Joe Dion has expressed, that if the lease is cancelled, it may scare off investment. Cancelling a lease is a very serious matter. Currently, I would point out, it's the case that both we and the chiefs and councils agreed to the terms of the lease when we issued it.

If a company doesn't comply with those terms, then we will cancel. That can happen right now. But I think allowing the first nation the sole authority to cancel it just by themselves could cause the lands to become perhaps sterile. Investment could be scared away.

So for these investments that are put into first nations lands, I think it's important that when we draw up the leases, we put the terms and conditions in the lease. If they're complied with, then the company should be able to carry on their business.

But we will be involved, as I said. We can do it right now. If those terms and conditions aren't being met, then we will cancel.

Hon. Larry Bagnell: I don't think that's giving very good reflection on, or giving respect to, first nations governments. You're saying that provincial governments, or Indian Affairs, are more reliable governments, are less likely to arbitrarily cancel a lease.

I mean, they're government; if they cancel a lease illegally, they'll be in court just like Indian Affairs would be, or just like a provincial government would be. We've developed government-to-government-to-government relations with first nations. They're government. Why would it scare someone away any more than if it were Indian Affairs cancelling the lease, or Alberta cancelling the lease?

Mr. Joe Dion: Can I respond to that question? That was a little curveball. I thought that was....

Anyway, just to clarify, I don't think the first nation should have the ability to cancel leases at this point simply because of this: there's a huge responsibility by the government to carry on as a trustee. If first nations do want to take over management of their lands outside this legislation, they probably can do that. But at this point in time, I think it would be best if these lands were held in trust by the federal government.

•(1030)

Mr. Strater Crowfoot: Mr. Chairman, the point here is that we jointly manage these lands today, together with chiefs and councils. It's a two-key process. For us to cancel, we both have to agree.

Hon. Larry Bagnell: Got it; thank you.

The Chair: Okay? The point's made?

Mr. Russell.

Mr. Todd Russell: Thank you, Mr. Chair.

Very quickly, there seems to be a premise here with this whole legislation that a hell of a lot of first nations cannot manage or assume control of their own lands, that we have to invest more authority with the minister, more clarity with the minister, in order to do this. I don't like that sort of underpinning the legislation.

I have a specific question here. It says in the IRC handout that "inconsistency" between federal and provincial laws and regulations impedes potential economic development activities on first nations lands.

What are those inconsistencies between federal and provincial regulations that we're talking about? The inconsistencies I hear talked about involve mainly whether there's a provincial regime off reserve and a different regime on reserve.

So what are those inconsistencies that we're talking about?

The Chair: You only have time for a brief response, and then we'll have to go to the next questioner.

Mr. Strater Crowfoot: Looking for inconsistencies in regulation?

Mr. Todd Russell: The statement was made that there is inconsistency between federal and provincial laws and regulations that impede potential economic development. So what are those inconsistencies?

Mr. Strater Crowfoot: One would be the limitation period we're dealing with. Alberta has moved to a two-year limitation period, and we're looking for us having up to a 10-year limitation period to ensure we have adequate time to do our audits and verify the royalties. So that's one inconsistency we're trying to address.

[Translation]

The Chair: Thank you very much.

Mr. Lemay, you have the floor for seven minutes.

Mr. Marc Lemay: I would like to know what strategies have been implemented to assist First Nations in getting organized so they can develop their resources. One would say that the First Nations, at least some of them, aren't ready for the manna to fall, if I may use that expression. It takes a lot of money to exploit oil and gas on aboriginal land. Can you explain to us how things work, in the context of day-to-day operations, if you discover gas resources on land? That means that you've gone there previously and, consequently, that you've entered into agreements. What do you do to properly prepare a First Nation that is dealing with an oil or gas boom on its land?

[English]

Mr. Roy Fox: Mr. Chair, in trying to answer the question, I think we would have to look at some of the history with respect to the involvement of first nations in the development of their oil and natural gas resources.

One of the ways we've tried to prepare first nations people to be able to deal with their resources in a constructive way, either in their management or on the business side, is to set up the pilot initiative. The pilot initiative then led to the development of legislation, which we call FNOGMMA. When we were preparing for that initiative, we ensured people from each of the five tribes were put on a one-year training course at the Southern Alberta Institute of Technology, as well as work with some of the experts at Indian Oil and Gas Canada. So we tried that initiative. Three of those tribes have remained with their program and have developed the capacity to manage their resources.

As part of the continuous change process, we've tried to ensure that in the future, should more of our tribes feel they could possibly take advantage of opportunities, we would have expertise ready for them to use. At the same time, we would then try to set up capacity training programs for their benefit. We did a needs analysis as part of the initial work of the business centres. That needs analysis indicated our people definitely needed help trying to take advantage of business opportunities, but they also needed help in the direct management of their resources. These are some of the ways we've tried.

•(1035)

[Translation]

Mr. Marc Lemay: Are there any First Nations, communities, that do not cooperate with the Indian Resource Council and that say they want to develop their resources themselves? If so, what do they do?

[English]

Mr. Roy Fox: Mr. Chair, we've tried to encourage those first nations who have oil and natural gas resources to become members of our organization. However, that is their prerogative. We've found that all of the oil and gas producing tribes are members of the Indian Resource Council, as well as those tribes that have the potential to be, who may have reserves of oil or natural gas within their lands.

Our responsibility goes beyond the reservation to reserve boundaries. We also assist some of our people with respect to oil and gas development on their traditional lands.

So it is entirely the prerogative of first nations and their own specific governments if they want to participate in the work of the Indian Resource Council.

[*Translation*]

The Chair: Thank you.

Have you finished?

Mr. Marc Lemay: Yes.

The Chair: Ms. Crowder, you have seven minutes.

[*English*]

Ms. Jean Crowder: Thank you, Mr. Chair.

Thank you for coming before the committee today.

I want to ask a question about the royalties. I'm sure you're aware of the story around the Supreme Court decision, which basically says that under the Indian Act, the government fulfilled its obligations, even though I think the Ermineskin and Samson First Nations who took this forward felt that if the government had acted in line with its fiduciary responsibility, they would have had a better deal on the investment of those funds.

When I looked through the legislation, of course, there's a substantial change in the way royalties are going to be overseen, indicating to me there will be new powers to make regulations providing a clear set of rules to prevent companies from using certain transactions with subsidiaries to unfairly reduce royalties owed to first nations. But this change does not supercede the Indian Act. So the government still has the authority, under the Indian Act, to invest the way it currently does?

Mr. Roy Fox: Mr. Chair, that is my understanding.

Yes, we feel it was unfortunate that two of our member tribes were not successful in their legal claims with respect to the investment of Indian moneys and how that was done.

Our understanding, though, is that this particular bill deals with royalties in a very limited way. The collection of royalties is the responsibility of Indian Oil and Gas Canada, and that is all they are responsible for. They then ensure that those moneys flow to Ottawa, to be held in the consolidated revenue fund, under the authority of the Indian Act and the Financial Administration Act.

So, yes, we feel it was very unfortunate for two of our member tribes to lose their court battle. Unfortunately, this bill really has a very limited amount of involvement in royalties. They merely collect the royalties.

• (1040)

Ms. Jean Crowder: I noticed in your presentation that you said there were things that both sides had to give up. Would the oversight of royalties in a more inclusive way have been one of the things you had to give up?

Mr. Roy Fox: Yes. However, we are discussing how we could have a more uniform royalty regime.

I'm not sure if you are aware that within the total scope of the development of oil and natural gas resources on Indian lands, we have about 90 different royalty regimes. That is one of the instances where the leadership of the first nation, the chief and council, and their technical people involved in oil and gas, really make that decision. What will the royalty rate be for our natural gas? What will the royalty rate be for our crude oil? What will the royalty rate be for our sweet gas? What will the royalty rate be for heavy oil?

So we do not have a consistent royalty regime at the moment.

Ms. Jean Crowder: Is that something you want to move toward, a more consistent royalty regime, or is that going to continue to be up to the nation to negotiate? I would think it would make some sense to leave it up to the nation.

Mr. Roy Fox: I think we all want to ensure the particular first nation that has that oil or natural gas resource has at least that kind of say in how it will receive royalties.

Ms. Jean Crowder: I would agree with that, but on the other hand, the government currently can invest the money at x percent, pay out the trust at a different percent, and use the difference in terms of their own use of money. Is that correct?

Mr. Roy Fox: That's my understanding, and a number of our member tribes have tried over the years to use those Indian moneys made from royalties and bonuses and surface leases for reinvestment in new opportunities within their lands and elsewhere. However, we have been prevented from using them.

Ms. Jean Crowder: Do we have time?

The Chair: Two minutes, Ms. Crowder.

Ms. Jean Crowder: I wanted to touch base quickly on the elements of consultation. I know that consultation process worked. Were there things around the consultation process you would have liked to have seen done differently?

Mr. Roy Fox: I suppose we would have liked to ensure we visited each one of the member tribes that have oil and natural gas resources. We would have liked to have more human resources to assist us in that process, and I think we could have had more general sessions during that process. However, we were limited by the amount of resources we had.

Of course, we have to realize we have been talking about change for a long period of time, so whenever change occurs, I guess all of us as human beings are hesitant, especially first nations. People feel that perhaps they could be jeopardizing their treaty rights or aboriginal rights and interfering with that historical relationship between the crown and first nations made by treaty.

It's a long process, and we knew it was going to take some time, but I think we've arrived at a point where we've decided this is the best we can do. Both sides were not able to get all we wanted, more wording in there with respect to business development, but that is something we have agreed to deal with. We will continue to talk about how we are going to ensure our member tribes and their business entities take full advantage of the opportunities on the business side.

• (1045)

The Chair: Thank you very much.

Sorry to be moving things along. We're starting to come in to the last few minutes, so we're going to go to Mr. Albrecht, and I understand you'll be splitting your time with Mr. Clarke.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair. I'm going to try to split my time with Mr. Clarke.

First, Mr. Fox and the group with you, thank you for being here. It's obvious you have a great deal of expertise to offer us. I also appreciate the letter you submitted to each member of the standing committee outlining your perspective, your concern for retaining competitiveness...the national "Energy Business Centre of Excellence to provide support, advice and expertise in planning and execution of economic development", and then allowing your member communities to have a greater and more timely benefit from oil and gas activities.

These certainly resonate totally with our government's approach, and it's very easy for me to say here's an Indian Resource Council supporting it. That's great.

I have one question with regard to the Indian Resource Council. Minister Strahl mentioned 130 first nations communities that have petroleum production or potential for this. Did I understand you to say that all of those are unanimous in their support for Bill C-5?

Mr. Roy Fox: Mr. Chair, I hope I didn't imply that.

It would be great to have everyone agree on important initiatives, but I suppose most Canadians are not able to do that at the best of times.

We've tried to ensure that all those first nations had the opportunity to hear about the changes, voice their concerns, and voice their input into the process. We did it not just by having big meetings, but also by using regional meetings in special treaty areas, special regions, throughout the course of the initiative, hoping we would be able to cover all the first nations that had the potential or that had oil and natural gas resources, to become fully involved.

Mr. Harold Albrecht: Just to backtrack a wee bit then, all 130 first nations had input into the process, and as with any committee or large group, there had to be a melding of their concerns into the final document.

Mr. Roy Fox: Mr. Chair, in setting up the meetings—not just the symposia but the regional meetings and the specific meetings—we were able to cover off some of the expenses they had to bear in getting to those sessions. In some cases we went out to them to ensure that our process involved everyone concerned.

Mr. Harold Albrecht: Thank you.

Vice-Chief Delbert Wapass (Vice-Chief of the Federation of Saskatchewan Indian Nations, Indian Resource Council): Mr. Chair, good morning to the standing committee.

To add to Mr. Fox's answer, in the Federation of Saskatchewan Indian Nations we represent 74 first nations. Of that number, there are probably 20 first nations or thereabouts that are producing, although we have 74 first nations within our legislative assemblies, which bring our chiefs together. We go through a thorough exercise with them, apprising them of activities, of legislation, and so on. We also deal specifically with the producing first nations with the

assistance of the Indian Resource Council and IOGC, as well as the centre of excellence.

In Saskatchewan, I know that in concert with the other parties the chiefs are fully apprised of the day-to-day work.

• (1050)

Mr. Harold Albrecht: Thank you.

Mr. Chair, how much time do I have left?

The Chair: You have three minutes.

Mr. Harold Albrecht: Okay, I have just one quick question and then I want to pass it off to my colleague.

We talked a bit about the examples of non-harmonization currently. You mentioned the 10-year limitation that's in proposed paragraph 5.1(1) of Bill C-5 as being in contrast with two years to Alberta, I think you said.

Can you give me one other quick, short example of how there might be lack of harmonization between provincial and federal regulations related to oil and gas?

Could we have a fairly short answer? Then my colleague can get his question asked.

Mr. Strater Crowfoot: Yes, I'd like to add to that. In the area of environment, there are areas in which the provinces do certain things and we do it a certain way. But we really want to clarify the roles of who does what, and that's what this legislation does.

Mr. Harold Albrecht: So environment and limitation would be two examples. Thank you.

I'll pass it off to Mr. Clarke.

Thank you, Mr. Chair.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair, and thank you to the witnesses for coming here.

I see that you guys have a lot more information to add, and I'll let you have this opportunity to take my time to address your issues with the committee.

Chief James Ahnassay: Thank you.

Mr. Chair, I want to add a bit to what Ms. Crowder was asking about, regarding our royalty investment consultation. In terms of investment, because of the limitations that exist through the Indian Act concerning investment opportunities, there is an opportunity for us as a first nation through the FNOGMMA to opt into the new legislative setting that was put in place to enable us to invest our moneys the way we want to as a nation. In that sense today, unlike the case in the past, there is an opportunity for us to take those opportunities in that way.

For consultation, we did our best with the resources we had to reach as many first nations as possible. As you know, at any large or distant gathering there are only a number of people who can attend, but most of our first nations tend to send the people who have knowledge about those processes to those sites, so that they can in turn return to our communities to disseminate the information and get some input in that way too.

Thank you.

The Chair: Go ahead, Mr. Fox.

Mr. Roy Fox: Thank you, Mr. Chair.

Thank you for giving up some of your time, sir.

I think it is important to note that the development of this bill, the amendment of this bill, is to us only part of a total initiative. We have to modernize the regime we work under; then I think we follow through with some of the other work that we feel has more priority for first nations, such as having a genuine opportunity to take advantage of business opportunities—for too long we have let others reap those benefits—not as royalty receivers but as profit makers. This is where some of our first nations want to head.

You just have to look at Chief James Ahnassay, our other chief, and at Joe, and at some of the business initiatives they are into. For a time, Chief James and his tribe owned five rigs, and they did very well. They still own several, but they have moved some of their rigs and made good profit.

The Frog Lake people are really developing, utilizing new technology in the extraction of heavy oil. The reserves are there; it's only a question of developing the technology of how to extract more heavy oil. They're well into it. They've taken over a lot of the operations from a big company.

In Saskatchewan they're really taking advantage of the TLE settlements that are occurring there. They're not just taking over as royalty receivers; they are engaging on the business side, because they realize that this is where the real return is. You get more resources—not just through money, but you begin to develop your own human resources—through capacity building.

To us, this is really just a part of a bigger process.

●(1055)

The Chair: Thank you, Mr. Fox.

On behalf of all members, I must say thank you, chiefs and vice-chiefs, witnesses, departmental officials. This has been a very informative session. As you can appreciate, there is rarely enough time to get in all of the questions that members would like to pose to you, but this has been extremely helpful in informing the committee's deliberations on this important bill.

Members, we are going to adjourn shortly. There are only two items I wanted to bring your attention to. The first is that you have received or should have received a copy of the budget requirements for this consideration of Bill C-5.

Maybe what we'll do is take that up as an item for consensus on Thursday.

Hon. Mauril Bélanger: I so move.

The Chair: Is there any discussion?

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Thank you. The budget is adopted.

The second item is just for the benefit of having a reminder that we will be considering topics for study on March 12, the Thursday. Each party and members were to submit their suggestions and priorities for topics of study by six o'clock this coming Thursday. This is just a reminder to do that, through the clerk's office.

There being no other business....

Oh, pardon me, Mr. Duncan, do you have a question?

Mr. John Duncan: Yes. I'm just wondering whether, as part of that request dealing with agenda items, we shouldn't prioritize somehow, rather than give a laundry list.

The Chair: That's certainly a good suggestion.

Members, when you submit your suggestions on Thursday, if you can assign a priority to them, that will likely be helpful for our deliberations on March 12.

There being no other business, this meeting is adjourned.

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