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**Official Report
of Debates
(Hansard)**

Thursday 23 September 2004

**Journal
des débats
(Hansard)**

Jeudi 23 septembre 2004

**Standing committee on
finance and economic affairs**

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**Comité permanent des finances
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Loi de 2004 sur le partage
avec les premières nations
des recettes tirées
de l'exploitation des ressources

Chair: Pat Hoy
Clerk: Trevor Day

Président : Pat Hoy
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 23 September 2004

Jeudi 23 septembre 2004

The committee met at 1018 in Thomas Cheechoo Jr Memorial Hall, Moose Factory, Ontario.

**FIRST NATIONS RESOURCE REVENUE
SHARING ACT, 2004**

**LOI DE 2004 SUR LE PARTAGE
AVEC LES PREMIÈRES NATIONS
DES RECETTES TIRÉES**

DE L'EXPLOITATION DES RESSOURCES

Consideration of Bill 97, An Act respecting the sharing of resource revenues for First Nations / Projet de loi 97, Loi concernant le partage avec les Premières nations des recettes tirées de l'exploitation des ressources.

The Chair (Mr Pat Hoy): The standing committee on finance and economic affairs will come to order. We'll work on the echo in the room.

On behalf of the committee, let me say how pleased we are to be in Moose Factory today. We've had an enjoyable tour across northern Ontario, and we're pleased to be here in regard to Bill 97.

MOOSE CREE FIRST NATION

I see our first presenter is ready, Moose Cree First Nation. Let me say good morning. You have 30 minutes for your presentation. You may allow time within that 30 minutes for questions, if you wish. I would ask you to state your name for the purposes of our recording. We do have Cree translation available if anybody requires it. Go ahead.

Chief Norm Hardisty Jr: Good morning. My name is Norm Hardisty Jr, and I'm the chief of the Moose Cree First Nation.

Mr Chairman and members of the standing committee, let me first welcome you and your committee to our homeland, the traditional territory of the Moose Cree First Nation, and to the community of Moose Factory.

It is certainly my pleasure that I finally have the opportunity to address this matter to members of the Ontario Legislature, each of whom I sense carries a positive commitment to carry out their responsibilities surrounding this very important issue.

This act is a long time coming—99 years after the signing of our treaty. I invite you just for a second to try to envision a picture of the Moose Cree if the

government of the day had included this act as part of our treaty.

I see a newly built hospital staffed with doctors. I see schools fully funded and properly equipped. I see youth and elder resource centres and community libraries. I see paved streets and sidewalks. I see prosperous private and commercial business feeding the local economy. I see a chief and council governing with full resources for a healthier community.

Yes, I know; my vision resembles Timmins, North Bay or Thunder Bay. The things in my vision are being taken for granted by the people in those municipalities. Yes, we all have 20/20 hindsight and very little foresight. Let's just hope that our foresight has improved greatly since 1905.

I view this process as a government-to-government approach in negotiating the substance to the proposed act. The very core of our negotiations will be focused on our homeland that has been referred to as our traditional lands.

Since time immemorial, my people, the people we now know as the people of Moose Factory, commonly known as the Moose Cree First Nation, have occupied these lands known as the Moose Cree traditional territory, as their home. The act describes traditional territory as a piece of land that my ancestors have since travelled across for many years and made use of by my people.

We need to ask ourselves, what is a home, remembering that our culture and lifestyle differ greatly in many ways. Those people who lived in a certain time, as a place where you permanently reside from which you derive a lifestyle necessary and suitable at the time, perhaps best describe traditional lands. In many ways, Moose Cree viewed its community merely as a place to trade and a place where not everyone can derive a livelihood, and it is still that today. All you have to do is look at our social programs to see our unemployment rate.

Our traditional lands have been traded, bartered and sold without our consent.

During the 1600s, England issued the Rupert's Land agreement to the Hudson's Bay Co, which gave this company the full use of a large tract of land, including water, for the purpose of operating its business. This was carried out without the consultation and, indeed, without consent of the people of Moose Cree.

Under this agreement, the Hudson's Bay Co assumed that it had full authority to claim land for the purpose of

erecting fortresses and posts to conduct their business. The people of Moose Cree never received compensation, nor did they have knowledge of the existing agreement between the British crown and the Hudson's Bay Co. They simply welcomed the traders and allowed them to share the land. This was primarily due to their belief, which in many ways still exists, that they were merely the stewards of the land and no one had the right to outrightly claim ownership of the land.

The Hudson's Bay Co introduced concentrated trading by building a central supply outlet for trappers and their families. Here the people traded for their annual needs to take home, much like how we travel to southern centres for our Christmas shopping. This was the first time that the people of Moose Cree came together as a community, but only as people leaving their homes temporarily to trade.

Again, in 1876, the Dominion of Canada in right of the crown of England brought forth an act known as the Indian Act. This act was put in place to guide the government of the day in dealing with its aboriginal people. Once again there are no records to indicate that the people of Moose Cree had prior knowledge of this act, let alone any consultation afforded to them.

In the ensuing years, provinces began to emerge and development began to flourish, while the aboriginal people remained silent. The government was aware of the need to ensure that its federal auspices did not further erode into the provincial Parliaments. To complement the provinces' need to bring forward some control measures toward development regarding land and resources, the federal government enacted various acts and regulations to distinguish between federal and provincial regimes. All the while, the federal government saw the need to address its problem where development might interfere with their homelands and lifestyles.

In 1905, the federal government signed the James Bay Treaty 9 with the people of Moose Cree. People did not realize how big a part the Ontario government played within the treaty process. The province in fact played a major role in the treaty process. They had the veto power to decide the location of each reserve. It is the opinion of our elders on the aftermath that Ontario already knew the potential areas of resource development; hence, we received all invaluable lands.

John Fletcher, who was an eyewitness to the signing of the treaty in Moose Factory, accused the federal government in 1978, while addressing the hearings on north of 50, of premeditated breach of trust of the federal government's fiduciary responsibility by not correcting the notion of the treaty commissioner's blatant behaviour of not disclosing to the people that Ontario was not merely acting as a witness to the process but as a leader on many of the conditions imposed on the Moose Cree. He also accused the Minister of Indian Affairs of not disclosing to the people that the treaty was in fact written to exist within the parameters of the Indian Act, deliberately designed not to supersede any federal-provincial bilateral agreements, including land and resource developments.

1030

We are embarking on a very difficult road. We should not kid ourselves that any proponent or the province can be pushed into a fair and comprehensive agreement. This is because Ontario and any other proponent do not fundamentally subscribe to the sharing spirit of Treaty 9 in relation to lands and resources, including water. Instead, they will rely on the following clause from the text of the treaty:

"And His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the government of the country, acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes." You know the clause.

Here we are today, and it looks like we've come full circle. Despite everything that happened yesterday, I am prepared to sit down with you in a co-operative setting to try to come to a negotiated agreement and hope that we do not need to go to an arbitration process.

I would like to acknowledge Mr Gilles Bisson for his hard work and dedicated representation of the people in this area, especially for his sensitivity to the aboriginal people's needs. He has recognized that the Moose Cree, as one of the many First Nations people dwelling in the region, desperately need to be recognized as players amongst governments and to be considered as equal citizens of this province.

I have many concerns regarding this proposed act but I would like to assure your party, Mr Chair, that I am in full support of this endeavour. But before we begin our negotiations, there are certain assurances that I would like to see agreed upon. The following are areas that I would like to see agreements on prior to any negotiations taking place:

(1) This act cannot be misconstrued as any derogation of any part of our existing Treaty 9.

(2) The proceeds as a result of this agreement cannot replace or compromise federal and provincial funding available currently or any funding opportunities afforded to the First Nation in respect of this proposed act.

(3) The foundation of our relationship with the province is with our treaty. Consequently no other parties, be it resource companies or other provincial municipalities, can be party to any negotiation or the agreement itself regarding this proposed act.

(4) This proposed act cannot regulate any First Nation from going into a separate impact benefit agreement with any resource developer as both parties see fit to negotiate in terms other than described within.

(5) Financial resources must accompany this initiative, along with the financial capacity, to facilitate technical and legal advice to the First Nation. This will ensure that both parties are on an even playing field.

(6) It must be recognized and affirmed by both parties that any agreement is not considered a treaty and it cannot be used in the interpretation of any other agreement.

(7) It must be understood that any agreement cannot relinquish the obligatory duty of the province that it must continue to address co-planning and co-management of land use and resource development with Moose Cree First Nation within its homeland.

(8) Moose Cree First Nation boundaries of its homeland must not be negotiated nor included in any arbitration process.

(9) Moose Cree First Nation must have the flexibility to execute protocol agreements with neighbouring First Nations on adjacent or overlapping boundaries.

(10) Finally, Moose Cree First Nation must define what is revenue sharing and the parameters of the dollar value in resource development.

1030

That is the end of my presentation. I would like to let the committee know that I have copies of my presentation which will be given to every one of you. I thank you for allowing me to make my presentation.

Again, welcome to Moose Factory. It is our hope that you will enjoy your stay here. It is also my hope that you will have a very interesting session today.

The Chair: We have about five minutes per caucus for questions and we'll begin with the official opposition.

Mr Norm Miller (Parry Sound-Muskoka): Thank you for your presentation, Chief Hardisty. I think we've all enjoyed our night here at Moose Factory. It certainly was a beautiful day yesterday, and today as well. I haven't had to use the long underwear I packed for the trip. In fact, I was sweating a little bit on the walk down the road to get here from the Eco-Lodge.

Certainly your vision of prosperity and success for your community is one that I also hope materializes at some time in the future. You've emphasized that you want negotiations on revenue-sharing to be government to government. My question is, where does the federal government fit into this, and is the federal government fulfilling its responsibilities toward First Nations?

Chief Hardisty: I think the federal government has a fiduciary responsibility. I really feel that they are a major player. I've always believed that a lot of the responsibilities have been handed down to the province. At times it's almost a tripartite agreement type of thing. They do have a major role. I've always believed that when we signed the treaty, they were as responsible as are Ontarians to the province. They have the same obligations to First Nations people. In my opinion they are never away from the table.

Mr Miller: Certainly in our travels around we've seen some housing that has been pretty awful, I would say, on First Nations. That's the question I've been asking myself: Where is the federal government in fulfilling their responsibilities for basic infrastructure on First Nations?

Chief Hardisty: Did you want me to respond to that?

Mr Miller: Sure.

Chief Hardisty: When we signed the treaty back in 1905, shelter was an issue, however you want to define "shelter," be it a tent using tent frames or a conventional home like today. I believe that was in the spirit of the treaty.

It has always been my belief that when the treaty was signed, it was an agreement to provide certain services that each citizen in Canada takes for granted today. I really feel that although we're underfunded in housing, health and certain other programs, as native people we will keep going. We will utilize the mainstream society's avenues in dealing with the financial aspects of any other program.

I'll give you an example in housing. We utilize the CMHC program. We utilize any provincial program that's there. We move in the same direction as the mainstream society, but we do this without prejudice to our treaty. Somewhere along the way this federal government should be accountable for what's within the treaty and what was agreed upon.

So this is the road we're taking. At all times that we govern ourselves in any aspect of our programs, it is without prejudice to our treaty, which we're still working on. I think that's the road we've always taken.

Self-sufficiency and self-governance: We've always done that. Like any other Ontarian or citizen across this country will tell you, we're underfunded. To tell you the truth, we've never had a full bucket to work with in any program.

Mr Miller: We've heard from many chiefs whose goal is self-sufficiency. That has come across through many presentations. Thank you for your presentation today.

The Chair: We'll move to the NDP. Mr Bisson.

Mr Gilles Bisson (Timmins-James Bay): I think Mr Prue had a question.

Mr Michael Prue (Beaches-East York): I just need to better understand the role in Moose Factory. I understand that you have a different governing structure than some of the other communities. Am I correct in that?

Chief Hardisty: We basically, sadly enough, have our own membership code. We all have our own ways of doing our elections. We have our own election code. Certainly, in years to come, we would like to see us being more financially independent than today. I see the day when we're going to go to the government and tell them, "Whatever you fund the municipalities, the cities and towns in Canada, whatever funding you're giving now, give us that money and let us spend according to what our people want. At the same time, of course, ensure that the transparency is there and that accountability is there."

I see that day coming, although it is quite a way off. I think the governments have to give us that leverage to begin working with them. Gone are the days where we're stuck in here. We've got to go out there now. We're in forestry. We're getting into hydroelectric development. That's going beyond. If those realities come true, especially with hydroelectric development—we're going to be depending on this government to give us the support

there too. We're willing in that area and I really feel that the government of Ontario, along with the federal government, can support us and work with us.

Mr Bisson: Just a couple of questions. Just so you know, Chief Hardisty, obviously there are going to be amendments to this bill around a number of the issues you talked out. It's the intent to make sure that we have a bill that is supported by the parties. There's no use having it otherwise.

My question is this. Insofar as timing, we've been hearing from a lot of the presenters that three years is too fast. Your sense of how we deal with that in the legislation: Should it be open-ended; as long as it takes to negotiate, so be it? If so, if you had to guess, how long do you think this process could be?

Chief Hardisty: In any approach, whether it be this act or any other type of agreement, especially when you're dealing with various First Nations, I don't think it's a one-size-fits-all approach. I really feel that we all are different in many ways. It may take us two or three years. It may take people less time; it may take them more time. It's a lot better to work as one nation, you know, nation to nation, rather than this government working with 10 different nations. I found that out.

If you honestly feel that this process is going to work, we have to work nation to nation, meaning the government of Ontario with the Moose Cree First Nation. We have to work together, and I really feel that, as we go along, we cannot be trying to catch up to somebody or dragging another entity or whatever the case may be. I really feel that this has to be nation to nation.

Mr Bisson: One of the issues that has been raised is that this bill excludes First Nations south of the French River, and there are some reasons why that was done, because it gets more complex the bigger you make this thing. Your thoughts on that?

Chief Hardisty: I really feel that, again, when we get into the issue you're talking about, it makes it more complicated. I think you're sending it into a narrower and narrower—it is a provincial agreement. I don't think that's what we want. I really feel that most Cree want to work directly with the province on our issues, and not necessarily with respect to Peawanuck or even the Six Nations. It has to be nation to nation.

1040

Mr Bisson: And that brings me to my last question. As far as the process, I think I hear you saying that there not be one table where representatives of First Nations, five or six people, go off somewhere and negotiate. You're saying you really want a community-based process that basically each community can tie in to.

Chief Hardisty: I believe it has to be community-based. When we work with the Ontario government, it has to be Moose Cree and the Ontario government working together. I really feel too, and maybe we're veering off in a different direction here, that certainly there's the issue of working with developers and companies too. That again is another issue. Those are two separate components.

The Chair: We'll now move to the government and Mr Colle.

Mr Mike Colle (Eglinton-Lawrence): Thank you very much, Chief. The first question I have is about the new far north emergency preparedness response centre that's being built here in Moose Factory. Who is taking the lead role in that, and where can I get some information on the centre?

Chief Hardisty: Actually, it is a community project, but it is a regionally based initiative in terms of the centre being an emergency services centre. It has been supported by the six other First Nations within the Mushkegowuk Tribal Council. This is just one of the initiatives we have taken as a community to ensure that we not only work within Moose Cree but we certainly work with the other First Nations. Before the end of the day, I probably can give you the information.

Mr Colle: If you could, please, because we have a committee reviewing emergency preparedness, and it seems like quite a unique centre there. I noticed the stainless steel studs that are being used, and the concrete floor. Anyway, I'd like to follow up on that with you.

The question I have is, we've heard from different communities, like Attawapiskat and Sioux Lookout, wherever we've gone, about the importance of the impact benefit agreements, that they be done by the First Nation, primarily, that's most affected by resource development. Do you think there is a potential for a corporate entity, like a mining company or a forestry company, to play one First Nations community off against another if these agreements are all made on a local basis? In other words, the mining company might say, "Well, perhaps we can get a better deal by dealing with another entity and putting our resources into developing another site rather than your site."

How do you mitigate against that on some kind of regional basis rather than put yourself in a position of being used by the mining company to get a better deal with another First Nations community? I wonder if you could explain that to me.

Chief Hardisty: If I can use maybe the De Beers project as an example, I know that today there is an IBA agreement between Attawapiskat and De Beers. As a First Nation, we've always had respect for their agreement. I really felt that it's between Attawapiskat and De Beers as to what kind of agreement they are going to sign. But in the same breath, I really feel it is necessary even just to share the basics of the IBA agreement so that we as a First Nation can learn from that process, along with the other communities. I really feel there should be some type of sharing agreement protocol, or whatever you want to call it, as we move away from the area. I really believe that each First Nation should be working together with those types of agreements.

I know in Moose Cree's case, the idea has always been that we shared a similar type of agreement. It was a much lesser agreement, where they want to call it an MOU, a memorandum of understanding. I really feel that whether it be an IBA agreement or an MOU, we need to

learn from each other. We need to learn how we can improve on the steps of the agreements, because in the end, whether you're going by royalties or revenue or some revenue-sharing type of agreement, we need to know where we can improve on it. I think as a tribal council we certainly need to work together too, and we are doing that, but certainly there's a lot of room for improvement.

Mr Colle: One final question. Is that protocol you mentioned in terms of the degree of impact and so forth—the direct impact on Attawapiskat and then the economic development impacts that sort of filter on down—something you see as necessary in this type of legislation, or is it something that should be worked out by the First Nations communities?

I'm just wondering where the best place to put these protocols would be.

Chief Hardisty: I've always felt that it would be as nation to nation. I really feel Attawapiskat is obligated to work with, as an example, the communities of Kashechewan and Peawanuck. I really feel that there should be understandings and agreements because, sooner or later, you're going to run into—in my presentation, I talked about the overlap of traditional homelands.

Rather than for this government or any tribal council or any external entity to come into the picture, I don't think there's really a need. It's between the two. If there is an overlapping issue, it should be dealt with by the two parties that are involved. Certainly, there's protocol in everything that we do.

I think you were referring to socio-economic impacts. Certainly, we all are part of that, whether we like it or not. It's there, and I think it needs to be addressed by each individual First Nation.

I mentioned in my presentation that Moose Cree First Nation will, in the end, define revenue-sharing. The government may say "5% here and there," but it's the government that will be saying that. We will have our own perspective of what we feel revenue-sharing is. It could be 50%; it could be 20%, 30%, 51%, depending on what type of agreements are in place.

There are various agreements. We will have agreements with development companies, directly with the province, at our First Nations, and other entities out there. So I think we don't want to get lost. When we talk about revenue-sharing, I think it impacts under a lot of areas.

The Chair: Thank you for your presentation this morning.

For the committee, the 10:30 deputant hasn't arrived yet, nor has the 11 o'clock, but he's expected to be here shortly.

Mr Toby Barrett (Haldimand-Norfolk-Brant): On a point of order, Mr Chair: I had asked you earlier this morning if there were any gaps. I just wanted to present to the committee a bit of a thumbnail sketch or a summary of some discussions that I've been having with respect to the southern perspective. These aren't

questions for any of the presenters here. It's based in part on a long phone call last night.

My riding is Haldimand-Norfolk-Brant, down on Lake Erie, about as far south as you go; next to the Chair's riding. Haldimand-Norfolk-Brant has two native communities, the Mississaugas of the Credit and Six Nations, the largest reserve in Canada. There are some concerns. Certainly, some interest has been generated and, as you know, these communities up to the present, to my knowledge, have not been involved in the consultation.

Just briefly in context, the Six Nations' traditional lands—and, again, when we talk about traditional lands, representatives of that community are certainly more knowledgeable than I—are New York state, Ohio, and certainly farther beyond than that. They fought on behalf of the crown in the 1700s in a number of wars and battles, and received land in southern Ontario.

Certainly in my area, the one perception is that, back in the 1700s, they were granted land on six miles either side of the Grand River from its mouth to its source, going down to Lake Erie. There are a number of agreements—the Haldimand Tract is one of them; the Simcoe Deed.

The Mississaugas of the Credit, as you may know, is a community, a mission, just outside of Hagersville and, essentially, arrived there in the 1840s. Traditional lands would include the greater Toronto area, the Credit River and much beyond that area. There was a fairly recent court case involving compensation.

1050

I'm speaking as an MPP. I'm not speaking specifically on behalf of Six Nations or the Credit or other native communities in the south. But I know that at the Six Nations elected council there has been some discussion; certainly one member I was chatting with last night is very supportive of these discussions, very interested in this initiative. I can speak on behalf of Six Nations. Six Nations is very supportive of native communities in the north.

Hagersville and Caledonia next to Six Nations are mining towns. The Canadian Gypsum Co—I think I mentioned this earlier; gypsum is mined right underneath Six Nations. I just mention that in the context of some discussions we've had on this tour with respect to mining.

Several points have been raised, as I mentioned, with respect to the consultation. The south has not been part of this. The question was asked of me, "Will there be further consultation?" That question has been raised in the last four days by a number of people who have testified as well before this committee.

The perception is that Bill 97 should be much more detailed, it should be fleshed out more. The questions with respect to this legislation:

Does it or will it take into account the diversity of native communities?

Will it take into account the diversity of resources throughout the province of Ontario, south and north—mining, as I mentioned, and certainly forestry, as we've

heard, and hydroelectric; resource tourism; and hunting and fishing? Those kinds of opportunities exist in the south as well as in the north. I think I've mentioned that I live in the south. I haven't hit a deer in five months now. There are a lot of deer in that part of this province.

Does this take into account a number of court decisions? One that was mentioned was Haida versus Taku River. I don't have the information on that particular court decision, but it was discussed in the context of, "Does this legislation have the capacity to deal with the obligations of the resource development industry?"

Another question: What agency or agencies or what ministry, for that matter, would spearhead or monitor this initiative?

Another comment that was raised was the issue of native governance, the importance of continuing with capacity-building with respect to governance.

Revenue-sharing: the perception that revenue-sharing is not seen as a free ride; it's not seen as just dollars or the transfer—

The Chair: Mr Barrett, are these opinions of yours or—

Mr Barrett: These are my opinions, as an MPP. As I mentioned—

The Chair: We would have an opportunity to discuss everything we've heard on this at some date.

Mr Barrett: Yes. I'm just presenting this as a point of information.

The Chair: You state that it's an opinion of yours as to what we have heard. We will be discussing that at some future date as a committee. So I would suggest that your opinion could be heard at that time and not necessarily today. There may be people on the committee who would like to rebut what you're saying. That's not our purpose today.

Mr Barrett: Yes. Well, if there's time for further discussion, by all means. I'm just summarizing a telephone conversation of an hour and a half last night from an elected councillor.

The Chair: I understand that. Some of what you're saying is what you heard in a phone call last night and some of what you are saying is an opinion of your own. So I have trouble understanding which is your opinion and which is the opinion of your phone call.

In fairness to the rest of the committee, which might want to discuss what we've heard in the last four days, there will be another time for that.

Mr Barrett: OK. That was a question that had come up last night. When is the other time? I'm not clear myself.

The Chair: We were charged by the Legislature to have hearings on Bill 97. By agreement of the House leaders, we were charged to have summer hearings. We can only do that with the agreement of House leaders of all three parties, which your party agreed to. Beyond what we do here in these four days has yet to be determined. That includes whether we travel again or whether we have completed our duty. Our charge now is to visit four locations in the north and listen to the people that are deputants. That is our job for the moment.

Mr Bisson: Just two things: First of all, this is a work in progress. This is not the end of the road today. Obviously, there's going to have to be a fair amount of work as we continue on this. We've already had some chats about how we do that on a nonpartisan basis so that we don't get party politics mixed up in this whole thing. I think we all recognize that this is a pretty important endeavour, a very complicated endeavour. It's filled with all kinds of questions that I haven't even thought of yet; you know, what does it mean for all kinds of people?

So to Mr Barrett: I'm very conscious of the stuff that you raise. We need to figure out how to deal with that stuff, and this is just a first attempt to start getting our heads around it. From there, I've got some discussions that I've already had with the government House leader and your deputy House leader around what we do this fall with charging the committee some time to sit down and discuss what we've heard up to now so we can decide where we want to go from there. So there will be further opportunities.

The second thing, Mr Chair, on another matter entirely, is that there seems to be a little bit of confusion this morning with the schedule, because I know two of the deputants—I ran across this this morning—thought they were presenting this afternoon, and I see that they're listed this morning. I'm wondering if anybody has taken the time to call Mushkegowuk Tribal Council or others. I'm not quite sure how that happened. I'm not accusing anybody of anything.

The Chair: The presenters were advised of the times previously, and this list is unchanged.

Mr David Zimmer (Willowdale): On a point of order, Mr Chair: Just for your information, I bumped into one of the chiefs this morning, who also presented yesterday. He just advised me that he was of the view that the hearings were going to be from 1 pm to 7 pm tonight. I just pass that on for your information.

The Chair: Advice was given by the Clerk to all presenters as to what the times would be, the length of time for a discussion. As you noted, our first presenter was here and understood that.

Our 10:30 and 11 o'clock persons have not arrived. We're advised that the 11 o'clock presentation—those persons are en route, so we'll recess until they arrive. I would ask committee members to stay in the building.

The committee recessed from 1057 to 1120.

MOCREEBEC COUNCIL OF THE CREE NATION

The Chair: The standing committee on finance and economic affairs will come to order. It is my understanding that the Mocrebec Indian government is present. Would you come forward, please. Good morning.

Chief Randy Kapashesit: Good morning, Mr Chair.

The Chair: It's my understanding there have been some regrettable errors, perhaps, in the timing of your

presentation today, so on behalf of the committee, I do apologize.

You have 30 minutes for your presentation. You might want to leave some time for questions within that 30 minutes. I would ask you to identify yourself for the purposes of our recording.

Chief Kapashesit: Good morning to everyone here, including members of the public and chiefs in attendance. My name is Randy Kapashesit. I am the chief for the Mocreebec Council of the Cree Nation. That is the official name. I am here in that capacity. We are a community of folks who live within the physical communities of Moosonee-Moose Factory. We're without a land base and are not recognized under the Indian Act as a band, per se, but for all intents and purposes function as a First Nation nonetheless.

I should begin by acknowledging that this particular bill has been brought forth by Mr Gilles Bisson, our MPP. I want to publicly acknowledge his efforts to address this matter. It's not the first time that this particular issue has been brought forward; it is perhaps brought forward in this particular format for the first time. I want to acknowledge his effort to address the inequities that are, I'm sure, quite obvious to everybody once they see the realities of the communities, especially farther north of us. So I thank Gilles for that.

In the way of introductory remarks or comments, I was initially planning on giving you a written submission—I still may do that—but for the moment I will rely on my ability to share with you the views that I have been formulating on this topic since I was aware that this was something that would be coming up.

One of the things I think we need to be very clear on from the beginning with regard to a bill like this and the discussion that ensues is that, on the one hand, I don't believe for a second that this was intended, but I do think it's a point that needs to be clarified and made more clear: Some people might think that municipalities, as governments, for example, are similar to First Nation governments. I don't believe that is in fact the case. I do believe that First Nation governments have a long-standing interest in terms of the land and ultimately the resources that would flow from those lands throughout Canada, and that when we're looking at a revenue-sharing discussion or bill in Ontario, we have to remind ourselves that, nonetheless, if we are hoping to find a solution, we are still looking at the bigger picture of Canada as well. So I think we have to acknowledge that.

For example, there are Supreme Court decisions that affect this kind of discussion, that have an impact on this kind of discussion, and we need to be mindful of that and bring that kind of knowledge forward as part of this dialogue if we're going to get anywhere and arrive at a point where we feel that there is some equity achieved for First Nation interests. If we don't include those perspectives, I think we're going to potentially sell ourselves short.

I believe that Ontario can be a leader in that capacity for the rest of Canada. I believe that Ontario has the

ability to articulate a relationship with First Nations that distinguishes itself relative to the rest of the provincial governments in Canada. It is my hope that this can in fact be achieved, and with the willingness of people such as yourselves and ultimately the government of the day, I do believe we can push this item further along.

Having said that, I would say that if there is going to be something called a revenue-sharing act or a revenue-sharing agreement, whatever the final wording may be, this is something we should be pursuing and finding ways and means to make a reality for a lot of the folks you've seen on this trip, I'm sure, in the native communities throughout northwestern Ontario. You would have to agree they need some particular measures to allow themselves to look after their needs, whatever they may be.

For the most part, those needs have been ignored or neglected by virtue of the way the table has been set up until now. If we're going to achieve a new reality, I think we have to factor in not just the interests from the private sector but clearly the interests that are there from a First Nation government perspective and treat those equally, as we would a provincial or federal interest in those lands. I say that very clearly because I do believe there is support for that with the various decisions that are made, as I said earlier, through Supreme Court decisions.

If First Nations' interests are going to be acknowledged and recognized, this hopefully will translate into our collective ability to see a transformation in the quality of lives currently being lived. All the support that could be available through government programs, federally and provincially, would be welcomed. But I think that if folks looked at this situation with a different perspective and a paradigm shift in the way they saw the problems, maybe we would see a different reality in our communities, because I do believe that each and every one of our communities has the capability of actually changing its reality. The question has always been, how do you achieve that and what resources can you count on to do that?

Up until now, it's been basically programs and services that may be made available through either federal or provincial government initiatives. As I say, all those are appreciated, but at the end of the day, if we're going to be treating First Nations as a government, I believe it requires a greater acceptance of the principle that a First Nations government has greater authority over the lands and resources that are found within its territories collectively.

If we're going to go down this road—and I think we all should go down this road, because this is 2004 and there are still realities that remind us of how much further we have to go to change the quality of life for First Nations people. It may be changing slowly, but in some instances it's not changing fast enough for a good portion of the people who are affected by this. If we want to empower and make a difference in our time here, I think we have to recognize that First Nations have to have greater authority and involvement in terms of the matters that come forward.

So when it comes to a discussion of revenue-sharing, I do believe the discussion and dialogue should be inclusive of anything and everything that actually does come up when we have that kind of focus. The rules of the game may be set in a certain way right now, but we have to also recognize that those rules need to be reconsidered if we're going to move in a direction of revenue-sharing.

1130

Just focusing on revenue-sharing in perhaps its basic or more limiting context excludes so much from the discussion, and I think that's an unfair outcome, if that's what we do. I think the whole idea of revenue-sharing, when you look at that concept, implies simply looking at financial resources specifically related to whether it's a mining, hydroelectric or forestry development—those kinds of resource-extraction possibilities that exist. I think that revenue sharing means much more than that. If we're going to achieve a consensus on this from a First Nations perspective, it would have to include much more than that, if we're going to feel some degree of satisfaction over something called a revenue-sharing act.

I know that in the world of business—in the world of the private sector—and in the world of government, certainty is critically important for any particular project to move forward or to feel it can move forward. First Nations are no different. They would like certainty as well. Collectively, I think that in our own way we have been trying to address that matter, whether it's an initiative in one part of the country or in another part of the country. But insofar as Ontario as looking at this question, I think certainty, from a First Nation perspective with regard to this particular dialogue or discussion, should allow us to explore all the options as they exist.

Some folks believe, for example, that the way a First Nation participates or benefits from a revenue-sharing arrangement is pretty much the result of an impact benefit agreement that may be signed with a developing company of whatever the resource may be, and it's usually left in that context. Now, in some instances, some people may feel that's satisfactory. But I do think that in the course of looking at this, there are other arrangements that may be brought forward and that the interest of the First Nation, as a government, puts a particularly different twist on this. If First Nations are treated as just another party in the process of a development, I think we're missing the point. Ultimately a First Nation government needs much more respect and involvement from the beginning, as much as possible, with regard to any initiative that might be out there.

Like yourselves, we have people who are affected by any development that may go on. But, perhaps more importantly, we're looking at it from the point of view of society actually hoping we catch up to the rest of them, in terms of development and in terms of the quality of life within our communities and around our communities. In our urgency to maybe level that playing field or deal with that inequity, I do believe you have the opportunity to

actually factor in the quality of life we have and how you can improve upon that in ways that perhaps you haven't even imagined. Preventive measures, for example, can be incorporated into development projects as they come forward, as opposed to limiting it simply to an economic equation. I think there are socio-economic, health and cultural impacts that are critically important when it comes to revenue-sharing and the discussion of revenue-sharing.

For the most part, if you look at development as it occurs in the world in relation to indigenous people, there are standard formulas out there for how folks are going to either benefit or not benefit from those agreements. The proponents of these projects understand those formulas quite well. They will tell you, as they've told many people in the world, that a 2% to 3% overall cost to pay out to a First Nation is really not that much. So they're quite willing to pay that out. But in reality, what is considered an acceptable level of funding for a First Nation to receive in terms of development, and in particular compensation monies, is rather insignificant when you consider the overall cost of a project. These are documented facts that I'm referring to, coming from international sources that look at these questions in relation to indigenous people.

If we're going to be having a discussion and dialogue on those points in a revenue-sharing agreement, I think we have to recognize that there are a lot of other indicators and sources we should be incorporating if we're going to get anywhere with any meaningful notion of equity for First Nations.

The other thing I need to say is that just recently at the international level—for years and years, the indigenous working group has been making the point, and hoping that nation-states would agree with them, that the right to self-determination is one that is held even within Canada. For the first time, this week—you may or may not be aware of this—the Canadian delegation has actually gone on record as supporting that. If, in fact, as a state, Canada is saying this internationally, how do you reflect that within your jurisdiction in Ontario?

These are points that I think need to be incorporated into any discussion we're going to have here if we're going to satisfy a First Nation interest with regard to revenue-sharing.

I'm sure there are many grey areas in our minds as we think about this, so I don't think anybody is going to say that we have all the answers as we sit here today. But ultimately, if we are serious about this, we need to be open to those sources and references that actually impact our discussion. I know that within Canada we have many examples of those, and internationally, with this statement this week, Canada is basically being a leader relative to other nation-states in the world. So I am mindful of that as I sit here, and I think it's something that is long overdue. Of course, the results of that are unknown, but if Canada is willing to say that for the first time, then I think we're making some headway. So, internationally, the principle of self-determination does in fact include

and allow for First Nations to participate in the development of their traditional territories, or otherwise, as needed for the purposes of becoming self-sufficient in terms of their own development.

In terms of closing remarks, I want to say that I believe this is a beginning of a dialogue. I don't consider this to be the end result. I am in favour of a continuation of this particular discussion simply because I think it challenges all of us to do better in our time here. If we go forth, either within your government and—why you were inspired and motivated to run for public office—if we would agree that we want to leave the place in a better position than we found it, this is a challenge to all of us to actually do that, and for First Nations folks as well.

Believe me, many of us who've been doing this all these years and who continue to be involved, in whatever capacity, recognize the need to change the reality, and we continue to try to do that as much as possible. But we need folks who are sitting in government like yourselves to take the matters seriously as they come forward and to be as open to the discussion as possible if we're going to see a change in our lifetime. If we don't have that kind of commitment, I and anybody else who would come forward to you might as well be talking to the wall.

I'll stop there, saying simply that I believe this is a beginning of a dialogue. I think we have a lot to talk about. There are other things that I think we should be incorporating into our discussion and review. If I can answer any questions, I'll try to do that.

The Chair: Thank you for your presentation. We have about five minutes for each caucus. We'll begin this rotation with the NDP.

1140

Mr Prue: I want to thank you. It was quite an inspiring talk you just gave. Yes, we all have an obligation to leave this place better than we found it.

This is a beginning-of-a-dialogue issue, as you so correctly put it. The bill sees a time frame, or a potential time frame, of three years. Do you think that the dialogue—is that too long a period? Is that too short a period? We've heard from some people that they don't want to be constrained, and from some communities that it may not be possible to pull all this together in three years, that we should leave it open-ended.

Then we have others who sense some urgency, that we need to start acting. As you said, this is 2004. We need to start getting our act together pretty fast. Where do you come on this at the beginning of the dialogue? Is this a long term or is this a short term to get this started?

Chief Kapashesit: If we're going to be serious about this, I think three years is sufficient. I do think that there are excellent resources that can guide this discussion and bring it to a logical conclusion if we consult the right sources for that and include those in our discussion. So I think three years, on the one hand, is sufficient. I know the time of government is critically important as well, and I think we have to take full advantage of that and work with that, whether we like it or not.

Mr Prue: Thank you.

Mr Bisson: I didn't catch something. You talked about it yesterday and then you mentioned it again today. I just want to be clear that I understand what you were saying in regard to the statement that Canada has made internationally. Can you explain that one?

Chief Kapashesit: There is an ongoing discussion internationally with regard to the right of self-determination for indigenous people. Over the years, the working group on indigenous people has been hoping to see a movement on this point from nation-states to be more open to the idea of what it might mean to be a self-determining people, and nation-states have more or less stayed away from that point. A breakthrough, as was reflected in the papers this week, was when Canada actually spoke in favour of that. Being the first nation-state to do so I think signals, at least federally, a recognition that there is validity and merit to the whole point of self-determination for indigenous peoples.

So I do believe there is a connection to this discussion. If, as a nation-state, Canada is willing to go that far, what does it mean in this context? If you look at the principles of self-determination as being espoused internationally and if Canada is supportive of that, then obviously it means a different dialogue and discussion internally or domestically.

Mr Bisson: The other issue is that of broadening or tightening the scope of the discussion that we're trying to capture with this bill. You indicate in your presentation that you think maybe we need to go beyond revenue-sharing. I'm just wondering how far you think we need to go. Are you including all issues of land management, permitting training?

Mr Kapashesit: I think the principle that is important here is that what the Supreme Court has decided upon, for example, in *Delgamuukw* in British Columbia, which is a significant decision in terms of indigenous people and the country of Canada—in that particular outcome, it's very clear to say that, if First Nation people have not been dealt with honourably, their pre-existing rights are recognized.

So the question in Ontario is, have Indian people been dealt with honourably in relation to either Canada or the province of Ontario? If we're going to have this discussion, I think we've got to be mindful of what that means or how it impacts our dialogue here. That's what I'd think.

The Chair: Thank you. We'll move to the government.

Mrs Carol Mitchell (Huron-Bruce): Thank you very much for your presentation. If there is a movement toward self-determination—this has two-parts. You started your presentation with the concern about equating it to municipalities and therefore municipal funding. Do you see that it would be natural, if you moved toward self-governance or self-determination, that a municipal funding formula would be applicable under those circumstances?

Chief Kapashesit: Well, not being familiar, first of all, with the municipal formula, I would say at this point

that I do believe those are two separate starting points, the First Nation government and the municipal government, for the simple reason that we are, as indicated through the press documents that I reviewed this week anyway, at a significant breakthrough in terms of the long-standing discussion and argument that First Nation folks have been saying for a long time, which is that we believe in the right to self-determination, and that ultimately Canada is coming through to say that they recognize that. So I do believe there is a distinction to be made between a historical indigenous presence as opposed to a municipality created under legislation, for example.

Mrs Mitchell: Yes, and I guess in my mind I liken self-determination and really was equating it to—what would you say?—recognizing the area or—my concern is with the municipal funding. You didn't expand on what your concerns were, but if that funding formula is applied, there are services that are applied for that formula, if you then tried to equate that backwards for revenue-sharing.

Just a quick question. The revenue-sharing part of the impact benefits: That could be part of the discussions with the actual developers. I'm just going to use developers as a starting point. That could be part of it, and is a part of it. If I use De Beers as an example, is revenue-sharing on the table as a point of discussion?

Chief Kapashesit: I'll give you a real out-on-a-limb hypothetical here. If in fact I was in charge of De Beers and I went forward to Attawapiskat and cut my own deal with them and I was very clear that I was offering not only revenue-sharing but royalties and other interests in the company, that would be my business, if I chose to do that. Yes, it's possible to do that, but is that happening? That's the question, in my mind. In reality, if in fact all that developers are going to do is what government tells them they have to do, then we've got to be pretty clear as to what they're supposed to do.

Mrs Mitchell: Thank you. That addresses my question.

Ms Judy Marsales (Hamilton West): I'm going to be very brief. I want to compliment you on probably one of the most articulate presentations on this particular issue that we've heard, understanding the complexity and the history behind some of these issues. My question is, is there agreement among aboriginal organizations about a structure or a mechanism to ensure maximum benefit for aboriginal people through all of this?

Chief Kapashesit: I'm sure that we're quite willing to achieve that, simply because it's in our collective interest to do so, but to say that it's there right now, I wouldn't conclude that. At the same time, I think we have to remind ourselves that this opportunity is rather significant in the history of the province of Ontario, to get into this kind of discussion and debate. So it's all relatively new, on the one hand, for everybody, including your colleagues as well as mine.

Having said that, however, I do believe that this is something that each and every one of us, throughout the native community at least, has had some discussion or

debate about, as to how we would like to achieve this. So I do believe we can pull ourselves together on this if there is a willingness on the side of the government to do that.

The Chair: We'll move to the official opposition.

Mr Miller: Thank you, Chief, for your excellent and thoughtful presentation.

You started out by saying that the Mocreebec nation doesn't have a land base and it's not recognized by the Indian Act. We stayed at the Eco-Lodge last night. I understand that the band owns that and also owns the cable company and, from what I see from a distance is one of the most successful First Nations—in the travels we have done, anyway. For many of the First Nation chiefs who have come before the committee, their goal has really been self-sufficiency and to try to improve things for their communities. You've obviously been very successful. How can other bands learn from your success, and what do you attribute your success to?

1150

Chief Kapashesit: One of the things that is, first of all, important to recognize is that many First Nations have a lot more obstacles than they would like even themselves to have to confront, whether it's with the Indian Act or other such pieces of legislation or initiatives that impact their ability to make decisions or to move in a direction that they would be much more comfortable with. So I don't think there's any great secret about that. That's been a big problem for a lot of folks.

As far as we are concerned with our particular initiatives, it's a matter of necessity to actually succeed and try to implement and achieve the end result of any project, simply because we don't get any core funding. So our ability to fend for ourselves really depends on our commitment to carry it through.

Mr Miller: Are you saying that core funding to other bands is actually hurting them?

Chief Kapashesit: No, I wouldn't say that. I would just say that in our case we have to be very careful with the resources we do have. In the years that we've been around—since 1980, basically—there have been some really dry periods and some not-so-dry periods. But it really has been dependent on the commitment that people have made to make it work as opposed to having resources available. There are times, I can tell you, when we have survived and kept the doors open despite not having the resources to do so.

Mr Miller: That is very interesting.

You've spoken about impact benefit agreements. Do you think they should be made mandatory? As well, should a definite protocol be set out for the implementation of impact benefit agreements between developing resource companies and First Nations?

Chief Kapashesit: So much of it depends on the attitude of a developer, and so much of it depends on the climate of the day, in terms of answering that. I threw out the hypothetical, but I do believe that any decent human being who went to a part of the world where people were

not necessarily having the quality of life that we would all think was possible can actually respond to that. It's really their time to show what they're made of in that moment. There have been people who helped us out, whether it was with a bridge financing loan for housing because we needed houses when we were in tents once upon a time. The government didn't do that; individuals did that. So it really does depend on who's coming forward to our various territories and what their interest and motivation is. In good conscience, I don't see how people could avoid coming up with a good deal for any community if in fact they saw the poverty that was there. If you have to legislate that, so be it, but I do believe that we've had more examples of people ignoring that reality as opposed to responding to it.

The Chair: Thank you for your presentation.

NISHNAWBE ASKI NATION

The Chair: I call on the Nishnawbe Aski Nation, please.

Good morning. You have 30 minutes for your presentation. You might want to leave some time, if you wish, for questions within that 30 minutes. I would just ask you to once again identify yourself for our recording. You may begin.

Deputy Grand Chief Dan Koosees: Dan Koosees, Deputy Grand Chief, Nishnawbe Aski. You mentioned about half an hour. I think this is the second hour of NAN's presentation to this group in the last two days.

Mr Chairman, I don't have any formal presentation this morning but, as you know, in Mishkeegogamang and Sioux Lookout as well as Attawapiskat yesterday, NAN made a number of presentations. It wouldn't be just by reading the material over again to you, but I think what's important, from my own information, I suppose, is that I've listened to a number of presentations yesterday at Attawapiskat and again here this morning, and what I think is important is that we can't emphasize enough getting the message across in terms of how we need to approach revenue resource-sharing. I think the important fact is that the First Nations of Ontario under Treaty 9 territory have an existing relationship under that treaty. I think we've mentioned that a number of times, and a number of presentations have mentioned that as well.

Yesterday I listened to a lot of comments made by the committee. We oppose the idea of having an arbitrator being appointed to work on revenue-sharing with First Nations. Basically, we have an existing treaty that simplifies an agreement to live in harmony together and share the resources or share mutual interests in whatever business we have together in this country.

One of the things I want to touch on this morning, which I think Chief Norman Hardisty touched on a little, is that the whole process of revenue-sharing has to be a dialogue presented at the community level. There has to be an internal process in terms of how we need to talk about governance, how we need to share the idea of equitable resource-sharing with Ontario. I think one of

the important things that we need to pass on as a message to our people is to make sure they understand the process and make sure they understand what needs to be done in terms of a collective process with other communities, with tribal councils as well as with the Nishnawbe Aski Nation.

The whole idea of taking the approach and also the perspective under the treaty is that there were certain promises made to our people in 1905, with the understanding that the government had a commitment to have that trust responsibility and also have a share of mutual interest in terms of how we need to do business. I think that has been talked about a lot by our presenters.

I want to talk a little bit about the community initiative, the First Nations grassroots process Chief Hardisty was talking about. I think for us to legitimize proper revenue resource-sharing, we need to identify and quantify resource extractions in our territory. That has to be emphasized and clearly understood by our people. For us to provide information statistically, we need resources. We need to provide information to our people and to the government as well. The First Nations' economy has to be put on paper. How we can legitimize proper information as well as process has to be taken care of by our own people.

I also mentioned yesterday that you cannot look at First Nations as special groups. We are a nation. We were a sovereign people when you signed a treaty with our people back in 1905. Like I said yesterday, a treaty does not make nations; nations make treaties with other nations. That has to be understood clearly.

1200

I was talking to Gilles Bisson, my good friend, here this morning. We talked about the time frame in terms of getting on to third reading of the legislation. I believe that legislation to recognize First Nation governance in NAN territory has to recognize the proper process that needs to be done by our First Nations on revenue resource-sharing. I do believe it has to go beyond just revenue resource-sharing. We need to manage. We need to provide information. We need to provide a process on how we can get to the point of dealing with shared jurisdiction of our lands and resources. I emphasized that very clearly yesterday. That is the process we need to take.

I think it's important that all parties understand exactly, when we say revenue resource-sharing, that in our language it's different. It connects spiritually, it connects us emotionally and physically when we talk about how we need to do business together. As you know, land, to our people, is spiritually connected. It goes back thousands and thousands of years. Our people practise medicine on land and resources. Water is very important to our people. In fact, in our spiritual teachings, water is the life of our people.

Those are the things we need time to dialogue about with our own people. We need time to dialogue with our young people about our treaty. We need time to talk about these things with the women representatives—we do have a voice for our women in our communities. I

think it's important to have that time, to give us that time to do our own strategies, to develop our own work plans, and then we can have something in place that we can share information on. But I do again repeat that it has to be a government-to-government process, nothing less. Meegwetch.

The Chair: Thank you. We have about six minutes per caucus, and we begin this round with the government.

Mr Colle: Thank you, Deputy Grand Chief. I said yesterday in Attawapiskat that I would ask you some questions today; we gave an opportunity to those very eloquent elders to give us their thoughts yesterday.

The recurring theme of Treaty 9 is most thought-provoking for some of us on this committee. Is the role the government of Ontario played in that treaty unique, that you know of, in terms of a provincial government playing that significant a role in the signing of a treaty across Canada? It seems quite unusual for a provincial government to play such a proactive role in a treaty of that magnitude.

Deputy Grand Chief Koosees: I never knew why Ontario had to be different, but they were involved in that treaty. It's the only province that has been involved. The other treaties are pre-Confederation treaties, but the province was very much involved in the treaty in 1905.

Mr Colle: It seems to me, in my casual reading, that it was quite unprecedented that a provincial government played such an important part.

I guess the question that is really coming forward in my mind is the constitutionality; in other words, if we as a committee of the provincial Legislature all of a sudden undertake a direct role, government to government, with the First Nations in coming up with a new piece of legislation, will that stand up to a constitutional challenge given the historical precedents in regard to treaties and relationships between First Nations and the crown federally? I'm beginning to think we almost need some kind of legal brief to this committee to clarify this whole issue of provincial powers, as obverse to federal powers, so that we don't all of a sudden get into putting forth legislation that is struck down as being ultra vires and unconstitutional because of the relationships with the federal crown and First Nations people.

Deputy Grand Chief Koosees: I understand where you're coming from, sir. When I say we need a government-to-government relationship, there's a lot of work that needs to be done in terms of how we need to approach revenue- and resource-sharing or any other agreements with the province of Ontario. I think at some point in time how we need to approach that will identify what needs to be a tripartite process and what needs to be a bilateral process. But at some point I think what all parties need to understand is that we are a government. We are a government; we are not a special group. So that's the approach that needs to be taken in terms of a government-to-government relationship. I understand the powers the province has under the Constitution. I also understand the rights we have under section 35, where they recognize our inherent right to self-government. That has to be clear. Also, the approach I think we need

to take is that the more dialogue we have as governments, the more you're beginning to understand that the realities we talk about are very legitimate, as government representatives.

Mr Colle: Yes. Again, going back to Treaty 9 and the unprecedented role the provincial government played in this makes this even more unique from a legal perspective, because with other treaties, where there wasn't provincial involvement, you could proceed in a certain way. But maybe Ontario in this case has more fiduciary responsibility than normal because we were, in essence, signatories and participants in this treaty in an unprecedented way.

Deputy Grand Chief Koosees: I think a number of presentations made it clear yesterday as well when they started talking about Rupert's Land. I think all we need is a dialogue. We need to clearly understand each other, where we're coming from, what is it that needs to be presented in terms of co-management, if you will.

Mr Colle: In conclusion, the very fact that you have a standing committee of the Legislature that has come to Attawapiskat and Moose Factory is I think a good beginning of that dialogue and government-to-government discussions, although informal through deputations. I think this exercise has been very positive in that regard as far as we as first-time participants are involved. Thank you very much.

The Chair: We'll move to the official opposition.

Mr Barrett: Thank you, Deputy Grand Chief. You made mention of co-management. We've heard the phrase "co-jurisdiction" with respect to resource development adjacent to communities: as I see it, something beyond just merely the transfer of dollars to a council. How do you envision co-management? What areas would you see as part of management? I know environment and conservation issues have been raised.

Deputy Grand Chief Koosees: One of the things I always talk about is that as a government of First Nations we need to legitimize the traditional laws of our people. It has a lot to do with the traditional knowledge of our elders and the teachings that they have. I think the more dialogue we have in terms of how we need to work together—our traditional laws and customs have to be recognized for us to coexist in terms of lands and resources. I see that happening through dialogue like this.

Mr Barrett: When we're talking about co-management, are we also referring to more involvement, in addition to government to government; government with, say, a company as a manager, as a board of governors? In my view, if they weren't listening to area people, they would be less successful, given the knowledge of the land, the weather, things like that. Do you see co-jurisdiction or co-management directly involving, for example, a mining company?

Just to summarize, does co-management also refer to, beyond government-to-government, government with a particular company?

1210

Deputy Grand Chief Koosees: I think in our conversation yesterday we tried to differentiate between what is

IBA and what is resource- and revenue-sharing. I think industry has stated clearly that they're not prepared to be part of any revenue-sharing but that they're prepared to work with the communities in terms of IBAs. I don't know if I answered clearly what you're asking. What I understood yesterday was that the IBA cannot be considered as revenue-sharing.

So in terms of management or co-management, whatever you want to call it, I think that process is long. It's something that we need to have a dialogue on. It's something that eventually will come up. Under the jurisdiction that I talk about, it's something, like I said yesterday, that has to be an ultimate goal, how we need to get there.

The Chair: Thank you. We'll move to the NDP.

Mr Bisson: Dan, I thought your presentation this morning was most eloquent. I'm finding that the longer we sit here, the better it gets. We need to continue this discussion.

Mr Colle: Let's extend the committee's stay up here.

Mr Bisson: Yes. Let's move a motion.

I originally didn't have any questions because I thought you were extremely clear in what you had to say. But what prompts this question is an answer to a question you gave here. I'm not quite sure I understood what you meant when you said that you need to legitimize your authority. What were you referring to? I didn't quite catch that.

Deputy Grand Chief Kooses: What I said was that we need to legitimize our traditional laws, that we have carried and that our elders have carried for as many years, in terms of getting a message across to the government and having them recognized through legislation, that it will be part of the process.

Mr Bisson: Ah; and do you see that as something that would fit into the scope of this discussion?

Deputy Grand Chief Kooses: Yes.

Mr Bisson: Thank you. Those are all the questions I have. It was very clear.

The Chair: Thank you for your presentation.

For the committee, the normal 12 o'clock deputation has cancelled.

TOWN OF MOOSONEE

The Chair: Our next presenter is Bob Gravel. Please come forward. Sir, I hope I pronounced your name correctly.

Mr Bob Gravel: It's close enough. I've been called that many times.

The Chair: You have 30 minutes for your presentation. You may leave time for questions if you wish. I would ask you to state your name for our recording Hansard.

Mr Gravel: Thank you, Mr Chair and committee members. My name is Bob Gravel. I represent the town of Moosonee. I'm a newly elected town councillor, less than a month now.

I just wanted the committee to know that Moosonee is an integral part of the area. We are a town; however, we

are an integral part of the First Nations communities on the James Bay coast. Our population is about 3,300 people, of which about 85% to 90% are First Nations people. Our town also suffers from socio-economic problems, as well as the First Nations communities in our area. Many of the northern communities do not have the economic engines like southern Ontario has. So we do need help up here. Although we are a town, Moosonee needs assistance as well. Therefore, I think that's why Bill 97 has been brought forward, to try and assist all the communities in the north, especially the First Nations communities.

We, in Moosonee, would like to know where we fit as a community, given our geography and our semi-isolation as well, along with the other First Nations communities. We all want to reduce the problems that we face in socio-economic areas. We have problems such as overcrowding and high unemployment as well. Again, with our population of 3,300 people—and about 85% to 90% are First Nations people—I'd just like to say that we should be part of the discussions and, if we're going to share, all the communities should share.

Just in relation to the bill: It's an awfully brief bill, I found, but under definitions, I just wondered if the committee would consider an additional definition, a non-First Nations community that would meet certain criteria to be able to be part of any discussions. That's basically all I had to say.

The Chair: We have ample time for questions, about maybe seven minutes per caucus, and we'll begin with the official opposition.

Mr Barrett: The involvement of a non-First Nations community—I'm not sure if that idea has been discussed in the last four days, to my knowledge. I suppose it gets into the mechanisms used for allocation of resources through elected people or, in many cases, hereditary people, challenges of how to allocate resources to off-reserve people—in that context, native people. I know with native communities, the issue of governance comes up.

You've raised a very good point. I'm sure a lawyer would have an opinion on that, but in my understanding, the initial thought behind this bill was a model somewhat akin to how a municipality presently accrues resources through property taxes. You don't, to my knowledge, get access directly to finances through the mining tax, for example. That goes into general tax revenues and then flows back.

Mr Gravel: No. In Moosonee especially, we don't have a broad tax base. So it's very difficult to run a municipality on the tax base that we have. Given, like I say, our geography, I think it's important to consider us.

Mr Barrett: I hear what you're saying too. I think there are many communities where you have a very large proportion of people working and, therefore, a very large proportion of people obviously paying income taxes, which goes into general tax revenue, but they have that income coming in, which gets spent locally on local businesses, commercial taxes, and that beneficial cycle con-

tinues, which we don't see in many other communities in the north or rural, whether they're native or non-native.

I'm afraid, from the input I've heard on this legislation, that it hasn't fleshed out a lot of the details with respect to specific mechanisms to allocate the benefits of new or neighbouring economic activity. I don't have the answer.

1220

Mr Gravel: I don't, either. I'm just offering what we in Moosonee feel would be a fair representation. As you meander through the process—I'm sure there must be other towns in northern Ontario that have the same situation—but that we are at least a part of the process.

Mr Barrett: We're certainly aware that there are a lot of towns in northern Ontario which are declining in population and economic activity. As you're suggesting, I think it's incumbent on this committee to come up with something that's fair and equitable.

That's the only comment I have.

The Chair: We'll move to the NDP: Mr Prue.

Mr Prue: I was a municipal politician for a long time before I did this. It seems to me that municipalities in Ontario, although they're underfunded, by and large—all of them are, even Toronto.

Mr Gravel: No.

Mr Prue: You'll see that in the paper—oh, yes.

Anyway, the difference here is that municipalities do have powers. You have the power to tax. You have the authority to take transfers from provinces or from other levels of government. You have the authority to set fees for planning, zoning and any number of municipal services. You can impose user fees. None of these exist in First Nations.

I am mindful and I agree that you need more money, but I'm wondering how you think that what we're trying to do with this bill is going to help Moosonee or any other northern community. I don't see how you think that the revenue-sharing is going to assist a municipality. It's beyond the scope, I think.

Mr Gravel: When I read "revenue-sharing," I look at it as not just dollars or money but also as jobs and maybe certain types of funding for housing, which, in Moosonee, we're sadly in great need of, and, I think, in some cases, in just as much need as some of the First Nations communities. Because of where we are and our semi-isolation, we have a lot of the same problems. Yes, we do have a tax base, but, yes, we are underfunded.

The town of Moosonee is fairly newly incorporated. I think we're completing our fourth year. So we're still learning a lot, but again, we felt that we should be part of the discussions.

Mr Prue: I am absolutely supportive of your need for more money. I'm just not sure that this is the mechanism to do it, but you've made your presentation well.

Mr Bisson: As the author of the bill, just by way of explanation on a couple of things: In drafting the legislation and coming up with a draft, it was fairly clear that there is no clear answer on the part of mining companies, forestry companies, First Nations governments or anybody what revenue-sharing should look like, because it's

a very, very complex issue. There's also no unanimity at this point, although I think we're starting to get a better sense about just how big this discussion should be.

All the bill attempted to do is establish a process—that's all we're trying to do; that's why the bill is fairly small—understanding that after second reading, if we were to get it passed, which we did last June in the Legislature, we would have some time for a committee to travel to listen to people and then go back and amend the bill to do the basic principle, which is, how do we, in this day and age, figure out a way where we're developing north of 51, for example? How do we allow communities to share? As Mike pointed out, in the city of Timmins, when we developed Falconbridge, or what was then Kidd Creek Mines—pretty simple. The city of Timmins annexed them. It wasn't their territory. Falconbridge was outside of their territory. Sioux Lookout did the same thing at one point.

Municipality after municipality has the right to go to the province and say, "I want to tax that, and I want to claim that into my community." More times than not, the province allowed them to do that, except in the case of Barrick Gold, which was a whole other issue with a couple of other communities.

I think, repeating what Mike is saying, we need to recognize that municipalities have certain rights that may be inadequate—that's fair game—but First Nations have none. What we're trying to do is establish a process to decide how we can get into this discussion and challenge ourselves in order to do better, to understand why it's the way it is.

You raise, however, a point that I think is fairly important, and I just want to hear you out a little bit more on it—that is, you find yourself, like Sioux Lookout, Pickle Lake and many other communities in what most would consider the far north, in a pretty unique situation, in some ways similar to First Nations. You may have activities happening in and around your community somewhere that are not part of your community. Annexing is maybe not an option. I don't think you could annex the Victor project; it would be a very big difficulty if you tried to do that. But how are you able to basically benefit overall? Some have argued trickle-down economics. If Attawapiskat does well, Moose Factory will do well and so will Moosonee. But you raise an issue, and I'm wondering if you had any thoughts and if council had any thoughts about how we include or should we include and how should we include communities, municipalities or LSBs in such a process?

Mr Gravel: I'm not sure of the actual mechanism to do it, other than to include all communities in some of these discussions. That's about the only way I can think of to include everybody and get everybody's opinion. You're right: Trickle-down economics is a way for everybody to share. But I think it's important for everybody to at least have a say or be able to have a discussion.

Mr Bisson: And what is unique and fun about trickle-down economics, in this case, is that it'll be reversed for a change.

Mr Gravel: Yes, it'll be the other way around.

Mr Bisson: Something we've never seen.

The Chair: We'll move to the government.

Ms Marsales: Thank you very much for your presentation. You've brought forward an interesting perspective from the municipal point of view, and I guess my question to you would be, how do you see the concept of discussions around the municipalities interacting with the First Nations being affected by this bill?

Mr Gravel: I suppose around the table with some discussions. From the presentations I've heard—I knew there were a lot of political feelings about how things should proceed. Again, this legislation covers all of northern Ontario, but I'm kind of focused on just our area. Again, it's just a discussion, being partners with the group of communities in the area, being part of that process. It's not a large map. It's just a process where we can be part of the discussions and work together at trying to come to an agreement.

Ms Marsales: Is there currently a structure in place at the local level for some discussions between the First Nations and the municipalities? I apologize, I'm not familiar with it.

Mr Gravel: To my knowledge, Moosonee is a little bit out on a limb. They have the Mushkegowuk Tribal Council, which includes all the First Nations communities, but Moosonee is kind of separate and apart.

The Chair: Thank you for your presentation and for accommodating the committee by moving up to the morning rather than this afternoon. We appreciate it very much.

The committee will recess until 1:30.

The committee recessed from 1230 to 1333.

NORTHERN PROSPECTORS ASSOCIATION

The Chair: The standing committee on finance and economic affairs will come to order. We will begin our afternoon session.

I call forward the Northern Prospectors Association. Good afternoon. You have 30 minutes for your presentation. If you wish to leave time within that 30 minutes for questions, that's fine. We'd ask you to state your name for the purposes of our recording Hansard.

Mr Michael Leahy: Good afternoon. My name is Michael Leahy. I'm here today wearing a couple of hats: I'm representing the Northern Prospectors Association and also the Prospectors and Developers Association of Canada.

Just a little background: I'm a prospector by trade but I've been involved over the last number of years in a wide variety of boards, commissions and committees, including Lands for Life and other committees that have looked at legislation and native issues etc across northern Ontario. So I've been very involved in all this for quite a number of years.

First of all, I'd like to thank Gilles Bisson for getting this whole process kick-started, although once you hear the comments that the Northern Prospectors Association

have, you'll find I don't agree completely with the direction that Bill 97 seems to be headed. Nonetheless, I know why Gilles has started this process. It's because he cares deeply about his constituency. He cares deeply about what's going on in northern Ontario, as I do. I think it's high time that we got a few members of provincial Parliament to do a tour of the far north, to have a look at the situation and to see for themselves what's going on up here, to see this part of the world as compared to downtown Toronto.

I'll read the Northern Prospectors Association presentation. I won't read the Prospectors and Developers Association of Canada presentation. Much of what is being presented by the mining industry is very similar. I've read most of the presentations already. I'll read the NPA presentation and then you can grill me.

The Northern Prospectors Association has grave concerns about the potential effects that Bill 97 may have on exploration in Ontario. If it results in an additional tax being levied on mining, it will stifle exploration and harm the economy. Any action contemplated to improve the northern economy should be designed to encourage exploration and mining, not stifle it.

The present situation in the north is also of concern to the NPA. First Nations communities, and other small communities, are struggling economically while the rest of the province prospers. We are the "have-not" part of a "have" province. There has to be a fundamental change in government policies if this trend is to be reversed. In the far north in particular there are many uncertainties, including treaty rights, that make it difficult for all parties to plan and proceed with development.

The concept of revenue-sharing is what government is all about. Governments collect taxes from individuals and corporations that can afford to pay them and then disburse these tax dollars to provide services and support for those who need them. This is usually done within a framework of clear rules, regulations and jurisdictions. At present, there are no clear rules, regulations or jurisdictions when it comes to resource development in northern Ontario.

There are several recent examples, however, of co-operation between First Nations and the mining industry in Ontario. These have resulted in educational and employment opportunities for First Nations, along with other benefits. We know how to work together, despite the above-mentioned handicaps.

Governments at both the provincial and federal levels have failed to provide the residents of the north or developers of natural resources with a clear framework within which they can plan or operate. For these reasons, we feel Bill 97 will fail to achieve its intended goal of creating prosperity if it proposes a solution that penalizes industry without addressing the underlying issues that have created the present climate of uncertainty and the cycle of poverty that exist today.

The hope, however, is that the discussions surrounding Bill 97 will act as a catalyst that will stimulate both the provincial and federal governments to address the more

fundamental issues that are now creating uncertainty and hampering development that could result in the renewal of the northern economy. Until these fundamental issues are resolved, the north will continue to suffer both socially and economically.

The Chair: We have about six minutes per caucus, and we'll begin this round with the NDP and Mr Bisson.

Mr Bisson: Mike, I've just got to say, I really appreciate your comments. At times, we've been on the opposite side of issues, but I think at the end we've both understood that we advocate for the same thing; that is, how do we make northern Ontario a more prosperous place? I very much appreciate your comments.

You raise, I think, what is the nub of one of the issues here, and I'm struggling to a certain degree on how to deal with it. That is, initially what we looked at doing in this bill was to set up a process only to deal with revenue-sharing, which is basically a government-to-government thing: Whatever revenue we've got now, how can we share that with our First Nations and, where municipalities don't exist, making up the room so that that money can go to First Nations?

People have come forward—and I guess I have two questions: one from an industry perspective and one from maybe a personal perspective. Industry is saying to us—initially in the bill I've included industry in part of the negotiations—“No, keep us out. This is really a government-to-government thing.” Do you agree? That's my first question.

Mr Leahy: I don't think we should be left out to the point where we don't comment, but I don't think the problems that you are trying to address are an industry responsibility.

Mr Bisson: Yes, I hear you, and I just wanted to know where our prospectors' association was coming from.

This brings me to a second question, and this is a tougher one. We're all going to have to wrestle with this thought as a committee, and all of us here in northern Ontario. Many people have come before the committee and have said, “Maybe what we need to do is develop a process that deals with the bigger issues, and that is, how do you deal with development prospecting—mining, forestry etc—on traditional lands?” As you know, there are good examples where things work well, but you and I and many people here can point to where things didn't work at all. Is that biting off more than we can chew, or should we at least attempt an exercise to start to try to get our heads around this thing?

Ah, he's got the document right there—all the answers.

1340

Mr Leahy: Just by coincidence, someone e-mailed me a paper that was recently released, A Case Study of Conservation in the Abitibi Region—Quebec/Ontario Border. This is a federal initiative that's looking at three case study areas across Canada. There's quite a bit of good information in this, and one of the pieces of information in it that is pertinent to today's discussion is recent developments across the border in Quebec. I don't

have details, but the paper cites that the Quebec government has recently negotiated a deal with natives from Timiskaming, where I live, right up through to the Baie James region. It seems to me that although Quebec doesn't do everything right, there are times when they have been able to take the bull by the horns and get things done.

Mr Bisson: Does it deal with development issues?

Mr Leahy: Yes, it does.

Mr Bisson: So to my question, should we try to get our heads around that, in addition to revenue-sharing?

Mr Leahy: I think having the native community and the government sit down and hash out how development can take place on traditional lands is a key part of establishing a predictable framework that we can all work in, and once we have a predictable framework, I'm sure there's room for the First Nations to gain benefits, as they did with the Baie James project especially. If I can just time-warp back about 30 years here to the early 1970s, when our illustrious former Prime Minister Jean Chrétien got off the dock up in Baie James, and Billy Diamond and—

Mr Bisson: I think it was René Lévesque. Was it Bourassa or Lévesque? I don't remember.

Mr Leahy: No, that was Jean Chrétien.

Mr Bisson: No, who was with them.

Mr Leahy: I'm not sure. It might have been Bourassa.

They basically told them to take a hike, because the federal government at that time was coming to a patronizing position, and that little incident on the dock, I think, transformed the whole direction of native-to-government relations in Canada. Since that time, that first big deal that was made over Baie James has been a catalyst that has catapulted the whole native community all across Canada forward, and a huge number of very progressive arrangements have been made with various governments. That has not happened here, and Ontario is lagging far behind British Columbia, far behind Quebec. It's time that Ontario took the bull by the horns.

The Chair: Thank you. We'll move to the government.

Mr Colle: It's intriguing, with the Baie James agreement. You think that would be a good model to be copied, obviously.

Mr Leahy: I don't know all the details of the Baie James agreement. I know that there was revenue-sharing from the hydro development at that time, and since that time, the recent deal that the Quebec government has made I think has expanded from that initial process. I'm just quoting a couple of lines out of this paper, but it has taken a great leap forward toward setting up a framework where resources are going to be developed within a set of rules and guidelines that everybody can write and everybody prospers by.

Mr Colle: Generally in your industry, where are we on the economic curve? Obviously we've got some promising news in Attawapiskat about the potential for the diamond mine there. What are the prospects—no pun intended—for mining and discovery?

Mr Leahy: The prospects of any single community having a mine found next to it are astronomically low. It's just by chance that a mine is found in the first place. Mines are few and far between. The far north has historically not been nearly as productive as my home territory down in the Timmins-Kirkland Lake area. Nonetheless, exploration is not quite in a boom time, but we've come out of a deep trough over the last few years and there's a lot of activity going on. When we do find mines near our communities, be they native communities or non-native communities, in recent years there have always been agreements between the mining companies and the communities whereby there are educational opportunities; there are employment opportunities provided. Companies are very active in the community. They almost always participate in community projects, funding various charitable organizations etc, and they've been very active even without a set of rules to force them to do that.

The mining industry has been very proactive in trying to do the best they can in a vacuum when it comes to what the guidelines are for consultation. Who do we consult with? Who do we have to or not have to consult with? Who do we have to fund, not have to fund? It has all been voluntary. I think they've done an admirable job under the circumstances, but it has been a very difficult process. Each time this happens, we have to start from square one and reinvent the rules all over again and then invent a new process all over again, which makes it very difficult. As the Victor experience is showing right now, it can be a long and burdensome process that so far has put the Victor project behind by almost a couple of years. If Victor had gone ahead full speed, we might be on the verge of production there today. But as it is, this coming winter they'll only be able to do a minimum amount of work and won't be able to actually proceed with development because there are roadblocks in the way. Those roadblocks are there because there are, in the first place, some cumbersome existing rules with the EAs, both federal and provincial, and then there are unsettled treaty rights and uncertainties regarding who's to share revenue and the relationships with various local communities. How far should De Beers be involved in community relations? Should it end at Attawapiskat? Should it come as far as Moosonee? These are all uncertainties that make it difficult for the company to predict and to plan and eventually to proceed.

Mr Colle: So that's why a bill of this type might be helpful, because it might start to set down procedures, protocols and rules so that everybody would know up front what the rules were.

Mr Leahy: From what I read in this bill, it deals with revenue-sharing, and yet if it deals with an additional tax on mining, I don't think this is a solution. If it deals with the provincial government sharing resource revenues—which all resource companies pay—with local communities, that's another story. But in order to do that, we need to establish jurisdictions. At present we don't even know what the jurisdiction of each community is.

Mr Colle: Where one begins and one ends.

Mr Leahy: Exactly. So in order to resolve that, we need to start getting deeply involved in constitutional issues and treaty rights etc. I'm not sure exactly how the Quebec experience worked with this recent deal, but I think it would be very worthwhile to speak with our Quebec counterparts and find out how that worked and see if we can learn something from that.

The Chair: Thank you very much. It was very informative. We'll move to the official opposition.

Mr Miller: Thank you for your presentation. I'll follow up on Mr Colle's point. Basically you're saying that for Bill 97, if it's a new tax, that would be a bad thing for mining and prospecting.

Mr Leahy: It will be bad for prospecting, exploration and mining. But also, if it applied to the timber industry—not that I want to speak for them—I am sure with softwood lumber tariffs etc they're struggling to sell their products into the free market as it is. As well, the mining industry is selling to a free market. We're not price setters; we don't set our prices. We sell into the world metal markets, so the prices are set for us. We have very little control over prices. In the miners' case, we have very little control over where we mine. A mine is where you find it.

1350

Mr Miller: You were talking about new developments without a set of rules, giving the example of the De Beers Victor mine. Following up on what Mr Colle was talking about, should the rules be mandated by government? Should impact benefit agreements be mandated by government and should a protocol be set by government? Would that be helpful in creating more certainty?

Mr Leahy: I don't profess to speak for everybody in the mining industry on this one, but if, for instance, a company like Placer Dome finds a very rich ore body and makes a very rich deal with the surrounding communities, does that mean the next company that finds a marginal ore body must make the same type of deal when they're operating very close to break-even?

Mr Miller: In that scenario, could it affect the viability of a mine?

Mr Leahy: Exactly. If Placer Dome sets a high benchmark, can anybody else live up to that benchmark and is that benchmark reasonable in all situations? What benchmark are you going to use? In the next mine that's found in a native community, the people there are going to look to Placer Dome.

Mr Miller: So you're saying a standard wouldn't necessarily work?

Mr Leahy: I'm saying that doing it in the ad hoc fashion it has been done could set dangerous precedents that set unrealistic expectations that are difficult to deal with, and perhaps something legislated would give a level playing field and give everyone a predictable set of circumstances to step into. As it is now, the situation is quite unpredictable. You don't know what you're going to run into. Every situation is different.

Mr Barrett: This legislation focuses on resource revenue-sharing, and many of the presentations seem to

focus on discussion of the transfer of money. We're also told that discussions over the years on the treaties did involve sharing. I'm wondering if this legislation is pie in the sky, that has something that's been broadened, where sharing in the sense of it being a two-way street is not solely focused on the transfer of money on a balance sheet to a band council but something broader—you made mention of employment and training. With companies coming into an area, there's a tremendous amount of expertise, experience, management skills and human resource skills.

You indicate the government has to make a fundamental change. Is it possible for companies to make a fundamental change in how they do business, in better keeping with the area they move into, for their benefit? I'm thinking of the example of a young guy who isn't working and isn't trained. Is there any potential for that sector to do something and benefit as well, rather than just transferring money or seeing the transfer of tax money?

Mr Leahy: The existing impact benefit agreements have all included training and employment. There are a lot of people in Attawapiskat who never had opportunities previously who have found tremendous opportunity working on the Victor project. In Kirkland Lake, where our flagship mine closed a few years ago and was just re-opened, the company that came into town has provided training and been very conscientious about hiring locally and using local contractors.

The Prospectors and Developers Association of Canada has a Web site called E3—I forget exactly what E3 stands for. It has a set of guidelines for working with communities and the environment, and within those guidelines are many pages of community relations-related topics. All mining companies are urged to follow the lead that Canadian companies are providing by being involved in the community and trying to maximize the benefits of their operations locally.

Mr Barrett: Benefits for all sides?

Mr Leahy: For everyone in the region of the mine there has to be consideration given for participation in the project. Rather than trying to import workers from elsewhere, they should be training local people and hiring local contractors. It should happen not only in the far north but everywhere, from Ulan Bator, where they're developing big deposits, to Kirkland Lake. The companies are all—I shouldn't say every one of them, but the majority of them are following these guidelines and doing their best to live up to the E3 principles.

The Chair: Thank you for your presentation this afternoon.

Are the representatives of Matawa First Nations here? I understand there are weather problems in Thunder Bay.

WAKENAGUN COMMUNITY FUTURES DEVELOPMENT CORP

The Chair: I call on Leonard Rickard. Good afternoon. You have 30 minutes for your presentation. You

may allow for questions within that 30 minutes if you wish. I would ask you to state your name for our recording Hansard. You may begin.

Mr Leonard Rickard: My name is Leonard Rickard. I'm the executive director for Wakenagun Community Futures Development Corp.

Thank you for the opportunity to make a presentation to the committee today. Wakenagun is a regional non-profit community economic development agency serving the western Hudson Bay and James Bay coast as well as three First Nation communities south of Moosonee/Moose Factory.

My primary goal here today is to share information relating to our efforts, on behalf of our 10 First Nation communities, to take a more proactive role in resource development issues.

In September 2003, direction was given at the Mushkegowuk council annual general assembly to undertake a multi-faceted endeavour. This included the need to (1) address the regulatory void surrounding First Nation consultation in relation to resource development occurring within the Mushkegowuk territory; (2) develop or identify a process by which we would define relationships between the First Nations, both levels of government and resource development companies; and (3) define geographically the Mushkegowuk territory.

By the spring of 2004, and with the financial assistance of Industry Canada and the Department of Indian and Northern Affairs, we were able to initiate a community-based consultative process. This process will lead to the development of a Mushkegowuk resource development protocol. To date, we have completed five community research sessions and met with over 200 individuals.

The message has been clear: Resource development is welcome in our communities. However, any process that would replace the regulatory void must (1) include the provision of First Nations with greater control over development; (2) ensure the protection of Cree lands and traditions; (3) address the improvement of living conditions; and (4) address self-government and self-sufficiency.

1400

Mr Bisson: Just a point of order: Do you have copies?

Mr Leonard Rickard: Yes, I do.

Mr Bisson: Could we have them distributed by the table? It's just because you're reading off points that I'd like to make notes on.

Mr Leonard Rickard: Sorry about that.

All of these points have a direct tie-in to Bill 97. Without a new revenue stream, First Nations will be unable to address the demands of a growing population. Control over development must include the financial resources to assert that control. Protection of Cree lands and traditions is primary. This includes support for native-language programs. Improving living conditions includes better housing, access to health care, and equalizing the cost of living.

For instance, I can buy a bottle of wine at the same price here in Moosonee as in Oakville, but trying to buy a litre of milk at the same price will not happen. The province of Ontario subsidizes equity in regard to the sale of alcohol but does nothing to ensure access to the most basic human requirement: food.

After reviewing the minutes of the legislative debate in regard to Bill 97, I highlighted several references to concern about the definition of traditional lands and what that entails. There is no confusion about traditional territory in the minds of our members. In fact, like many other facets of our culture, although it is not written down, it is clear to those with a connection to the land.

However, our leaders, having recognized the importance of written documentation, have initiated formal mapping exercises. The first of these was undertaken in the mid-1990s under the leadership of the Mushkegowuk council.

More recently, Wakenagun and Mushkegowuk have partnered to resume a formal mapping exercise of the Mushkegowuk region. We envision a process that would define geographically the Mushkegowuk territory in less than two years at a minimum cost of \$3.2 million.

This mapping process goes hand in hand with the development of the aforementioned Mushkegowuk resource development protocol. Both projects add weight to the collective position of the Mushkegowuk First Nations. They provide a clear answer to the questions of the provincial Legislature, this committee, and the resource development industry.

In regard to the protocol, we anticipate that the consultative process will be complete by early November of this year. We are targeting the development of the final protocol no later than March 2005.

As for the mapping exercise, our only obstacle at this point is project financing. We will be unable to commission the mapping until adequate financial resources are identified—and let me make it clear: First Nations do not have the financial capacity or flexibility to undertake this initiative on their own. The financial participation of both levels of government is necessary.

In conclusion, the Mushkegowuk First Nations recognize the role that resource development can play in the health and well-being of their communities. At present, the benefit that they receive is ad hoc in nature and, more often than not, unsupported by the province of Ontario.

Having long benefited from our relationship to the land, we stand in the dawn of a new era. Our First Nations have proactively undertaken processes to build upon the relationship laid out in our treaty. Now is the time for the province to reciprocate that goodwill.

Bill 97 provides opportunity to share in the wealth that our resources contribute to the economy of this province. It is my hope that we can move forward together.

The Chair: We have about seven minutes per caucus, and we'll begin this rotation with the government.

Mr Colle: That analogy that you refer to, that we've referred to in our discussions on Bill 97 about the fact that in Moosonee you can buy a bottle of liquor, a bottle

of wine for the same price as you can buy a bottle in Toronto because it's provided by the government-operated store, the LCBO, yet, if you look at the price of, as you said, milk or vegetables, as we've gone through the Northern stores, we can see it's almost five times what it is in Toronto—has any thought been given to how you might solve or get toward solving that discrepancy in pricing and the high cost of basic nutritional food that you have in northern Ontario, and what the government may be able to do in that regard?

Mr Leonard Rickard: I really can't comment directly on that particular point. I know that some of the First Nations have undertaken studies or provided some work to address that particular issue, the cost of food in the communities. They've looked at concepts such as co-ops or bulk purchasing. Like I said, that's something being undertaken by them directly.

This bill will provide, I hope—if it goes through—additional revenue streams for the First Nations which may assist in the undertaking of those projects which they have looked at and are looking at.

Mr Colle: Just to follow up on that, you mentioned that your organization is involved in economic development for a number of First Nations communities in this area of the James Bay coast. Are there any food co-operatives among First Nations that have ever tried to establish this type of affordable food or milk? Have any organizations or groups of First Nations ever tried this? Do you know?

Mr Leonard Rickard: I can say they've looked at the problem. Obviously, there's a gross monopoly in regard to the sale of food in this area. Several of the First Nations have tried to open up their own grocery stores to hopefully reduce the cost of groceries in the communities. In many cases, the monopoly has simply tried to drive them out of business or has done their best to minimize the impact that these First Nations-owned operations would have.

Mr Colle: So at present there isn't an operational First Nations joint venture co-op selling basic food necessities or some other nutrition that you know of?

Mr Leonard Rickard: No co-operative endeavour, no.

Mr Colle: So you're basically left at the prices set by the monopoly, as you call it—the Northern stores.

Mr Leonard Rickard: Yes.

Mr Colle: Can anyone else, as an individual, bring in food, milk and products into—in Moosonee, I could import food products. Could I then sell them to compete with another store? Could I do that?

Mr Leonard Rickard: You can try to compete with the monopoly.

Mr Colle: But they would essentially drive down their prices and drive you out of business.

Mr Leonard Rickard: Most definitely, yes.

Mr Colle: So they're jealous of guarding that stranglehold on the economy, you might say.

Mr Leonard Rickard: You might say that.

Mr Colle: OK. Thank you very much for that information.

The Chair: We have time for a quick question from Mr McNeely.

Mr Phil McNeely (Ottawa-Orléans): Thank you for the presentation, Mr Rickard. You mention in here that identification of the traditional lands has been started—the definition of traditional lands. I think it was Deputy Grand Chief Dan Kooseses who said this morning that it's important that we get an inventory of the resource revenues that might be available. Has there been anything started yet to identify what resource revenues might be available for some agreement, if it were to come about?

Mr Leonard Rickard: That hasn't been specifically included in the scope of the project which we're proposing, but I know more broadly we're looking to identify areas of interest that would be exempt from resource development or areas that the First Nations would be willing to work very actively toward developing.

The Chair: We'll move to the official opposition.

Mr Barrett: Thank you, Mr Rickard. You indicated that additional resource development is welcomed, that you need more control over that. One thing you mentioned is the demands of a growing population. In many parts of Ontario—I think of my rural area in the south—we have a growing population, in many communities, of old people. I'm assuming you're talking about a growing population of young people. I see that as a real plus, especially in the area of economic development.

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I'm in a primary agriculture industry area where we need young people. I make the superficial assumption that new resource enterprises—mining, for example—need that kind of labour, that kind of work. I used to work in construction when I was much younger—I don't think I could do it now—so I see that as a real plus. However, there are obviously some big barriers for young people to get involved, say, in a neighbouring resource activity and perhaps still be able to hunt and fish at the same time. It may not work in with the shift work or holiday times and things like that. Do you see that as a plus, and how can we perhaps get this growing population of young people more involved?

Mr Leonard Rickard: First of all, I don't think we should fool ourselves by saying that a growing young population is necessarily going to be a benefit to us. Obviously there are other issues that have to be looked at. A growing population means increased demand on things like education and health care transfers from the federal government. We'd be fooling ourselves to say that those costs are increasing year by year. They're not.

Having worked in human resource development for several years, I can tell you that it's not the desire of our First Nation communities for young people to turn the region into another Mexico. We don't want to be a source of cheap labour. We want to be a skilled workforce providing significant contributions to the economy of this region and to the province, and that costs money.

There probably will be an argument somewhere, sometime over whose responsibility it is to educate First Nation young people. At present, I know the federal government covers that cost, but certainly I think the province has a role to play in that.

In regard to the development of our communities, I think the resource development industry has made it abundantly clear that they want skilled labour, that they want people who know what they're doing, and unless we're able to provide skills, education and training to the future young people of this area, there will be no point in saying that we'll benefit from it. We have to benefit from it by educating and training our young people.

Mr Barrett: Is there any merit at all—I've certainly done an awful lot of unskilled labour, then I went back to school, and down the road I was able to get an awful lot of training on the job. Do you see that model working as well or do you feel it's strictly education first, and then walk into a high-skills job? I'm not sure where the unskilled labour would come from, then, under your model.

Mr Leonard Rickard: Can you repeat the question or your point?

Mr Barrett: I got the impression that education and training are very important, and there may be the perception that some people don't want to do a low-skills job or a low-paying job. To me, a job is a job. I've done that kind of work. Later on I went back to university and got a better job. I just wondered, do you see the flexibility there?

Mr Leonard Rickard: Definitely. I'm not trying to say that low-skill jobs aren't valuable. They are, but I don't think we should be selling ourselves short here. We should be targeting the high-paying, high-skill jobs.

Mr Barrett: I see this sharing business as a two-way street for the benefit of native communities, for the benefit of companies. Should the companies and government be doing other things beyond much of the discussion here, which seems to be heading toward a mechanism to transfer money? Can companies be more flexible? Can they be doing more to make it easier for a young person to get involved in their company?

Mr Leonard Rickard: Certainly I think industry has a role to play. I was on a flight to Toronto several months back and met a chairman or president of a large mining company on that flight. He told me, essentially, "This is between you and the government. Whatever happens between the two of you needs to be worked out by you guys. We'll buy into it once you've settled what you need to do."

Mr Barrett: It suggests to me that there could be a lot more discussion, a lot more dialogue, rather than people getting into boxes.

The Chair: Thank you. We'll move to the NDP.

Mr Prue: I'm somewhat intrigued about the mapping exercise that you spoke about. You said, and I believe rightly so, that most First Nations communities know where their land is. From history, from tradition, I guess, they know that it goes over to this lake or to this area of the muskeg or whatever. They know.

Do any of the communities, to your knowledge, claim similar pieces of land, where at some point they say, "Well, no, that lake, that area, is ours," and another First Nations community will say, "No, that one's ours"? Do any of them share it jointly, or is there any dispute about any of these lands?

Mr Leonard Rickard: I think it would be unrealistic for any First Nation to state that there is a definitive line between A and B. My impression or my understanding of what's occurring in regard to these boundaries is that there definitely is overlap. Actually, it's interesting that you bring this up. I just met outside with several individuals, and they had brought up the concept of that overlap and the sharing of that overlap for particular purposes: Group A would use it for one purpose; group B might use it for another purpose, traditionally.

In regard to modern resource development activities, further discussion needs to occur on that, but we're certainly more than aware that First Nations' traditional territories do overlap. That's the reality of the situation. But it had been communicated to me previously that it's not, "Either I'm in or I'm out." It's more about having a collective interest in the well-being and maintenance and stewardship of that land, as opposed to, "It's mine and not yours."

Mr Prue: All right. That's what I was hoping you would say.

In terms of revenue-sharing, do you foresee this being difficult? Say a mine was developed on lands not that are under dispute—I'm not saying they are disputed, whose they are—but that two communities have co-owned or co-used. Do you see that being a problem, or do you think this can or should or would probably be worked out amicably, just as it has, I guess, for generations, in terms of one group using it for fishing and another for hunting?

Mr Leonard Rickard: Well, I can tell you that with the Mushkegowuk resource development protocol, the project which we are currently undertaking, it's our desire that it will lay out a framework for First Nations to relate to one another, to define the relationship to one another, to put together a process by which they will be able to address such issues. I think First Nations will cooperate and maximize benefits from development.

Mr Bisson: Thank you, Leonard. I'm aware of quite a bit of the work that you're doing in this area already. I guess the first thing I want to ask is in regard to part of the direction that you got from Mushkegowuk Tribal Council to deal with developing this protocol. Can you maybe share with us some of your thoughts about what you think needs to happen vis-à-vis protocols between the provincial government and First Nations in allowing development on your traditional lands? How far down the process are you? Maybe you could share with us a bit what your thoughts are up to now.

Mr Leonard Rickard: Obviously I think in undertaking this process we wanted to put forward a First Nation perspective on what we'd like to see occur. There's a general consensus among the communities that we've been left out of the process. Certainly I know there

are discrepancies between requirements related to mining and forestry, the levels of consultation.

The notion of revenue-sharing has actually come up during the community sessions we've done to date. We have been in five communities and, like I said, met with over 200 people. We've met with chiefs and council, elder groups, youth groups, women's groups, and they've all pretty much said the same thing: "Yes, development is valuable for this region, but we must not sacrifice everything that's valuable to us culturally and traditionally."

We're not done with that process yet. We're midway through the process. Like I said, we still have remaining communities to look at. We have a regional resource development forum that we're going to bring everybody together to complete, and we still have to draft the final document. We're nowhere near done.

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Mr Bisson: I guess that brings me to my question. What we're dealing with in this committee and in this bill is trying to develop a process which we initially thought would only deal with revenue-sharing, but I'm hearing more and more both industry and First Nations say overwhelmingly that we need to look at some of the broader issues that you're talking about. Would it be appropriate for us in some way—obviously, if we bring the money and fund you, we could. But is there some kind of role that we can play together in the work that you're doing—we're trying to set out a process and I'm a little bit worried about reinventing the wheel. You've already started this. Any thoughts about what the process should look like and what role Mushkegowuk can play in that? You are the leaders in this area.

Mr Leonard Rickard: Certainly for the process, what role can we play? What role can the province play? I think the clear statement there is that we want to participate. Far too often we're left on the sidelines. I'm glad to have the opportunity today to bring this forward, and I think more of this needs to occur. In regard to the work that Mushkegowuk is doing in relation to resource development, I think this needs to occur for other First Nations across the region. This can't happen in isolation.

Certainly for ourselves, in relation to this bill, I see a tremendous tie-in. It has been explained to me that the protocol which we're working on will be an umbrella resource revenue-sharing. Resource development will just be one component of that umbrella or come under it. So there's a lot more work to be done. Regulatory consultation requirements covered by provincial regulations need to be addressed. I could go on and on. I'm sure you've heard the arguments made at many other forums. There is much to be done.

Mr Bisson: I'll ask a very quick question: Have you gotten any money from MNR or anybody in the province in order to assist with that, or has it all been federal?

Mr Leonard Rickard: In regard to the protocol itself, it has all been federal. At present, we're looking to initiate a mapping process and we're hoping there will be broad support from both levels of government.

Mr Bisson: Just by way of comment, it's interesting because resource development falls under provincial

jurisdiction and they're forced to go to the feds to get the money. It's kind of an odd system.

The Chair: Thank you very much for your presentation.

WESLEY GROUP

The Chair: I would now ask the Wesley Group to come forward. Good afternoon. You have 30 minutes for your presentation. You may allow time within that 30 minutes for questions if you wish. I would ask you to state your name for the purposes of our recording.

Mr Norm Wesley: Norm Wesley. Thank you very much. I appreciate being given the opportunity to speak here on Bill 97. I'm a member of this community of Moose Factory. I was born and raised here. I'm a member of council as well. I'm a member of the board of directors of the Moose Band Development Corp and I'm an associate of the Wesley Group, which is a consulting group here that is headed by my son. I actually work for my son.

I wanted to speak a bit on Bill 97 and the whole notion of revenue-sharing. Before I do that, I think it's important that I take time to reflect back, just in case, to set a foundation in terms of the mindset of where I'm coming from and how I understand things in the past, and perhaps ending with some notion of a vision of the future, if you will.

When I look back in the oral history of our people, I hear much about the relationship that we have with the Creator and how the Creator has put us here. There is a legend that goes on in that regard. I'll spare you the time, if you will, in not talking about the legend, but rest assured that it is there.

This legend essentially says that we were placed here with all other creatures to live and survive and to be sustaining, just as the moose are sustaining and the fish are sustaining and the birds are sustaining, and all creatures, and for us to thrive from that land. That's essentially the understanding we have, and that, in my mind, is so key and fundamental in terms of who we are as First Nations people. How we interacted with that land and the environment shaped us to be a very distinct people in the way we lived, the way we hunted, the way we dressed, the way we spoke and the way we articulated with one another, the way we understood nature as we saw it, and the relationship we have with the Creator. Everything was there. Everything was there for us to sustain ourselves through countless generations, through time immemorial, as they say. Everything was there. It was all in place. There was harmony.

Yet there were times when our people spoke of strife, hunger, starvation. Inasmuch as we thrived off the land, there were hills and peaks and valleys, if you will, in terms of the manner and the degree in which we were able to sustain ourselves as a people, just as the moose and the goose and the fish do as well. They have peaks and valleys in terms of their sustainability. It's a natural course of life, isn't it? But we sustained ourselves and we grew as a people, right to this very day.

But as the European came along, it quickly became evident that our sustainability was being affected considerably, and you know that. Everything that we needed to sustain ourselves, we had, prior to the European. As I said many times over the course of the last three years, there was no core funding from government. None. Not one penny. Everything that we had was in the land. That was so fundamental. Now, today, our sustainability from the land has been eroded dramatically. Treaties were signed, development took place, and you know the history perhaps as well as most other Canadians do. But we know it best, because right now we have no sustainability of land within our resources. All we have is core funding. The core funding that we have right now is something that we were able to use to the extent that we were able to manage and sustain ourselves as a people, if you will, over the course of the last 40 years, in this community anyhow, in managing the kind of monies that the government would provide for us through the promises they made in the treaties.

I'm reminded of not only the treaties; I'm also reminded of the promise that was made by John A. Macdonald at the time, when he went to the King or Queen of England and said, "If you transfer that part of Rupert's Land over to the Dominion of Canada, we will ensure that the well-being and interests of the people will be taken care of. We make that promise."

As I look today, I say to myself, "What was our interest? What was our well-being?" Well, it's very fundamental, isn't it? Our interest and well-being was the land that we lived on and the resources thereof. We believe that the governments of the time and of today have not lived up to the promises they made to the King and Queen of England in transferring that land, some of which belonged to us here in the Mushkegowuk area. They haven't.

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I had a chat with my brother-in-law, Bill, just before lunch. He said something to me, and I said, "Now, that's a really profound statement." I'm going to repeat it to you people. What Bill said was that he said to an individual at one time, a non-native person, that we are the most heavily taxed people on this continent. Although we do not pay GST or PST or any kind of tax, we are the most heavily taxed people in this country. If you look at the social conditions, the economic conditions that we live in, we have been dearly taxed by this country, by the federal government and the provincial government, in the course of time.

We've shifted, then, in terms of who we are, and with the core funding that we do get, I would probably say, as a First Nation member of Moose Cree, that we have done well. We have done well with the resources we've been provided, the core funding, if you will, and have proven to be good managers. Yes, there have been hills and peaks and valleys, if you will, in terms of how we've been able to manage over time, and we will continue just like anybody else, but overall we are a progressive people. We are a very progressive people.

My desire for the future, my vision of the future, is to get back to that fundamental principle of sustaining ourselves as a people from our God-given right to the resources of this land.

As a former grand chief and chief of this community, I had many dealings politically with the federal and provincial governments and one individual in particular when the development of hydro by Ontario Hydro was being considered a number of years ago through the demand-supply plan that we fought vigilantly. In the course of that and our fight to settle past grievances on hydro development within our traditional lands, I said to one of the government officials at one time, "Though we have not come to an agreement in terms of how this is going to pan out because there is such a gap between you people and us—we will leave it at that—you can rest assured that I will see you again." That was probably in the 1980s somewhere; 1983, I think it was. Eleven years later, in Fort Albany, I ran into him again. I said, "David, so we meet again," and he laughed at me, not because he thought it was funny but because I knew exactly what he was remembering. I said, "We're still here and you're still here." And he says, "What is it, Norm?" I said, "Do you know what this is? This is all about our sustainability, and not only our sustainability but the growth and wealth and prosperity of this province and the prosperity of this country."

That is what this is all about. We can continue to fight and be reactive and be confrontational, especially in resource development, but if we can come together, we can build and rebuild our First Nations to be a proud people again, as we were prior to the Europeans coming to this land. We can help build the economy of this province and the economy of this country, and together we can stand proud worldwide and we can demonstrate to all others worldwide what we can do. But there has to be a political will. That's the message you take back to the people in Toronto, and that's the message I want to deliver here today. I can easily say right now before this committee that this resource revenue-sharing is a red herring and criticize it up and down and say no, because it's going to destroy our land. But I think back and I say, "Where did we come from and where are we going?" We've got to go back to the land, but go back to the land in a slightly different way, where we begin to reap the benefits of the resources of our lands in a sustainable way. One of the key elements is, of course, revenue-sharing. So I welcome Bill 97 in terms of revenue-sharing as a concept. I think we're clearly headed in the right direction. In revenue-sharing, we've already had quite a number of agreements, if you will, impact benefit agreements, across the province and indeed across this country between resource development proponents and First Nations where there's been a sharing of some revenue.

I'm not exactly sure how Bill 97 is going to pan out. I understand that within X number of days, the parties—the provincial government, the proponent, First Nations, other parties that may be invited and so on—will sit

down and talk. When we talk about resource revenue-sharing, we're talking about the revenues that will be generated by the proponent, a share of that, and revenue, the taxes, that will be imposed by the province, and a share of that as well. Clearly, that's my understanding of revenue-sharing.

To some extent, I have a bit of a fear or an apprehension, if you will, for some First Nations which might not have the capacity to sit down and negotiate. If you don't have the capacity to negotiate, there's a tendency to become rhetorical, perhaps, and negotiations break down, an arbitrator comes in, and the arbitrator decides. It's really critical that consideration be given to capacity-building to enable First Nations to negotiate on a level playing field for resource revenue-sharing. It is critical.

Bill 97, I think, has the potential of pitting resource developers, First Nations and the province in a bit of a fight, if you will. But I think it's critical that as First Nations we have the capacity to do that. Certainly within our First Nation, I feel very confident that we have the capacity to do these types of things, and indeed we are. As I speak, we are doing things with Tembec and so on. We have the capacity to do that, but I think it must be said that not all First Nations have the capacity to do that. I think it's important that the members of this committee and Bill 97 consider capacity-building as being critical; capacity-building in terms of education as well to enable our people to participate in resource development.

When we look to the future, we see something happening that's probably not common across this province. I'm the chair of the Weeneebayko area health integration committee, and we've undertaken a review of health care services in the area up and down the coast.

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One statistic in particular that I found rather revealing was that we have a total population of 10,000 people between Moosonee, Moose Factory and Peawanuck. I forget the percentage, but a very high percentage of these people are young people, as was pointed out in the last discussion previous to my presentation. By the year 2020 there will be 20,000 people between Moosonee, Moose Factory and Peawanuck—that number. In some ways we say that's good, but the real scary part of this whole development, if you will, is that if the status quo remains, we'll have a problem that's going to be nothing like the problem we have today.

We must be proactive as First Nations peoples in our relationship with governments, federal and provincial, to strike various types of accords and agreements and to ensure that government lives up to their promise of treaty rights, aboriginal rights, constitutional promises they made to get this land from the King and Queen of England in 1870 and to ensure that our interests and well-being are taken care of. These are critical elements.

At the Moose Band Development Corp we've undertaken substantial work in what is now known as the Moose Cree management unit to undertake baseline studies on the environment in preparation for forestry operations that could take place. I'm hopeful that in the

next two or three years we, as Moose Cree, will have a sustainable forest licence. That sustainable forest licence, I understand, will give us the ability to manage the forest production within our area. It's something that I find is a real opportunity for us. This whole notion of resource development and revenue-sharing is one thing; it's another thing to be able to say how resources will be developed, and it's critical that there be some movement toward enabling First Nations to manage the resources, and to co-manage the resources, if you will, with the government. It is critical we do that.

If Bill 97 were to say that revenue-sharing would enable First Nations to enter into an accord with the province of Ontario to co-manage traditional lands, I think we would be bumping Bill 97 up to a higher step, if you will, because that's really critical. So co-management is a critical part of resource development, as most developers will know.

As I've been experiencing over the last few years, forest companies and mining companies have been vigilant in considering environmental impacts and there have been vast improvements, as I understand it. But I think it's important we move that critical step forward, not only in just revenue-sharing, but in managing the resources together, hand in hand.

There is one other item that kind of lingers in the back of my mind and that's the past relationship that First Nations peoples had with the provincial government. That's true with us as First Nations peoples.

In running a scenario of having the proponent, the province and First Nations sit together and talk about revenue-sharing, you can rest assured that one of the things that will come up will be past grievances, by previous developers, if you will, on traditional lands, and settling that score.

One in particular, of course, with us, in terms of the Moose Cree First Nation, is the development of the hydro sites in the Moose River basin. That is unsettled. It's outstanding. It's something that needs to be settled, and it has to be done in an expedient way.

I think there has to be a demonstration of the political will, not only to get into this business of revenue-sharing, but to settle those outstanding past grievances that government has with First Nations peoples in a way in which we can move forward together. We will not be able to move forward together hand in hand if we always have past grievances.

It's like an individual who tries to grow and become a better person, but back in the recesses of their mind, there was an incident that took place that made things very difficult for him or her to grow—the dark cloud, if you will, the blotch.

If revenue-sharing is to go anywhere, in the context of having parties sit down to come up with an amicable agreement, I think it's going to be critical that these past grievances be settled and done in a way in which we can move ahead, because without that, it's going to come back to haunt us, and when I say "us," I mean us as First

Nations peoples, as resource developers and as government. It's critical that we do that.

I really welcome Bill 97 because it points government in the right direction. I want to applaud people like Gilles for being a sponsor of this bill and pointing us and pointing government in that direction.

There are a lot of things that have happened in this world today that have created conflict. We only have to listen to the National at 10 o'clock and it's usually the first or second story, isn't it, where there's conflict?

As I look ahead, I would say to myself, it would be a real shame, wouldn't it, by the year 2020, when there are 20,000 of us here and we're starting to throw rocks at you guys, like they do in Israel. That's because there was no political will. There has to be political will on our part, there has to be political will on the part of government, and there has to be the business will of resource developers to move ahead, to have a sense of vision of building this country, this province. It would be a much better place for all of us to live.

Thank you very much.

The Chair: Thank you. You have used almost all of your time, but we can perhaps have one question from the official opposition. Mr Miller defers to Mr Bisson.

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Mr Bisson: I want to make the first part of your analogy, of looking at the past and the oral history and teachings of the past, mandatory reading for most people. That was the clearest I've heard that enunciated in all my life, working with the Mushkegowuk Cree. I applaud you. That was phenomenal.

The Chair: Thank you for your presentation.

PETER NAKOGEE

The Chair: I would call on Peter Nakogee. I'm compelled to repeat myself, but you have 30 minutes for your presentation. You may allow time for questions, if you wish, within that 30 minutes. I would just ask you to state your name for the purposes of our recording, Handard.

Mr Peter Nakogee: My name is Peter Nakogee. Thank you, Mr Chairman and the committee, for coming here today to Moose Factory. I welcome you to my territory.

This territory is our traditional land. In your understanding, it would have been farmland. That is our traditional territory—a definition of your understanding. Traditional territory is farmland, provided by the Creator. He provides the beavers, birds, fish and our farmland. That is for us to survive from. That's so you understand that.

Today we are here because of the awakening of Bill 97, sponsored by Gilles Bisson. He is going to be our hero of this Bill 97. He will be well known in generations to come.

My great-great-grandfather signed a treaty with the federal government—and the provincial government was missing from it—John Nakogee, here in Moose Factory,

way back in 1905, in the summertime. In his teachings about the treaty, it says we had signed with the government, with the Queen, that we are going to share this land. We are going to live together with other people, like the white man. In those days there was just only white men that we had seen. As of today, there are white men in front of me, as those in 1905. It is a privilege to be here today with you guys, who remind us of 1905.

Revenue-sharing, from that time to the present, wasn't equal and wasn't fair. I learned that when the Mushkegowuk council—they go for the surface co-operation from Indian Affairs. All the budget that was given to Indian Affairs when they administered our communities—25% of the budget was cut out when it was transferred to Mushkegowuk council, all the revenue budget that was given. There, right away you see there was not an equal but an unequal revenue-sharing. That's the problem. Lucky people went to OSAP and got their doctorate degrees and went through their colleges and universities, because they cannot get money from their band because there's a lack of funding and there are lots of people on the waiting list, 50 to 100 people who want to go to college and university after they finish high school. Continual reminders have been given to Indian Affairs, but there is no hearing toward it to increase the funding for education. Today, out of 630 reserves in Canada, there are only six or seven doctors. That tells you right away how the federal government had treated us, how unfair sharing revenue, how unfair they treat us.

But we benefit in some areas, like health. Some people benefit from their education funding. Myself, for instance, I went to elementary school. It was all provided freely, but it is never free money. It is the wages of our grandfathers who signed the 1905 treaty. My leaders—local, regional and national—had to remind you of the Rupert's Land agreement. They had talked about the 1905 agreement.

This awakening, Bill 97, should be a government-to-government relation. It should have been, but I am the grassroots of this First Nations government. I'm the grassroots; I am not representing any organization. I'm just a part of the Fort Albany band, a community citizen.

Out of that, I had enjoyed some of the sharing that Indian Affairs had provided to us—I enjoyed it, I benefited. But when it comes to education, that's where it failed me. After I completed grade 8, they told me, "There is no more funding. You will be on the waiting list." So I had no alternative but to find myself a job, and that's what I did. An old Scotsman called me if I wanted to work as a gas boy and I ended up owning his business afterwards. For 15 years, I was in business.

Out of that, things that we are doing here that we're talking about, Bill 97, I call it an awakening thing for the provincial government, because in 1905 they were witnesses, and legally they were not involved with this in 1905, but my grandfather thought they were involved. I see it has educated less, as myself.

I want this First Nation revenue-sharing to be understood. The way I define traditional territory, it's our farmland. When other people come to our farmland, it

interrupts the animals that are there, the trees, the environment that is my traditional territory and my farmland. The forestry will cut down the trees. The mining will put a hole in the ground. The goose hunters' companies will interrupt the flying patterns of the Canada geese, ducks and the fowl. The moose hunters will interrupt the moose population in my farmland. The caribou will be interrupted. For all of those things that interfere with my farmland, I think there should be an equal—not a fair, but equal—revenue-sharing.

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For example, the mine that's going to be in Attawapiskat: There should be a separate Attawapiskat First Nation revenue-sharing because that's their territory; that's their traditional ground that is interfered with. The environment will be disturbed: The air, the water and the land will be disturbed. That's what I call an equal revenue-sharing. When we look at that mine, once it's open, it still interferes with the other communities; communities like Cochrane, Moosonee, Fort Albany and Cache are disturbed. Transportation of those things that are required for the mine, that's how it's disturbed. I think there should be a fair share of revenue out of the equal revenue-sharing that the Attawapiskat band is going to get from the government. This is a fair sharing and understanding of the native people.

Before the contact, we, the aboriginal people in the James Bay-Hudson Bay coast, shared our winnings with each other. That's how we survived. That's how my grandfather understood the 1905 treaty: to share the land, to use it equally, to benefit equally. But it didn't happen. One side didn't understand the other side; they didn't really understand each other at that time because the interpreter wasn't fluent in Cree to really understand at that time, in 1905. So there were misunderstandings.

The Indian Act came in to control the native people, to be assimilated. Policies were created by the federal government to start to assimilate the native people through the residential schools. Things rolled and rolled to negatively impact us. Some of my grandchildren have lost their Cree because of that policy, the federal policy to assimilate—to assimilate me into a white man. Some of it was good, but some of it is very bad.

I want it to be understood that revenue-sharing is not only to be limited just to mining, not just to look at hydro; you we also get revenue-sharing from the tourism area, from snowmobile clubs that are interfering with our farmland, from municipalities that are interfering.

In Moosonee, for instance, there has been a brand new municipality. The native people wanted it to be considered as a native community but it didn't work that way. That community is sitting on indigenous land, on native farmland. None of the revenues that are generated from there have ever been shared by them. There's no sharing in the snowmobile clubs that generated revenue from there. Tourism, from 1932, has never been shared. So these are the things that have to be looked at.

The reason I say that is that I know in the south there's a hydro line crossing this farmland. The hydro company entered into an agreement with this farmland and some

sort of revenue-sharing agreement. That farmer never had to work for his life because the hydro line on his land was running through it.

It has been told and retold. Finally, somebody from Ontario legislation sat down with the native people, listened carefully and saw the unfairness under revenue-sharing. He came from the south and looked at the mining revenue-sharing that's been happening through the federal government, provincial government and municipal government. There he saw that when it comes to the native people there's this unfairness, this unequal sharing that's happening. He had heard the cries of this for a long time.

Other parties, like the Liberals and the Conservatives, had heard this and did not understand it. Why does it have to be the New Democratic Party to understand it? Do you know why it took so long, 99 years? Why did it have to be a person born under the name of Gilles Bisson to understand this unfairness? It has been heard. We did blockades on highways like Oka but the unfairness has never been understood.

Today, Bill 97 is an awakening. Today, government-to-government relationships from the First Nation grassroots direct our leaders to tell them that this is what we want. You are government members. We have voted. My great-grandfather didn't have that right. He never voted for an Ontario member. He never voted for a federal government member. He wasn't a Canadian citizen. But my time is totally different from his time because we started to be recognized under the Canadian Constitution and the Charter of Rights that have been established. Today I voted for the person who brought this awakening bill, Bill 97, and I thank him very much for that.

It will create lots of changes once it is finalized at third reading. It will create changes. But what I want from this equal revenue-sharing is that it be given not just to people who live on the reserve of that band but also to the members of that band who are living off reserve and should also benefit from revenue-sharing. Those people are borrowing money from the Ontario government to further their education, because the band that was given money for education funding from the federal government through Indian Affairs hasn't given them the increase that is required. There are lots of people who owe OSAP to this day, and that should not be happening. But, hopefully, revenue-sharing will create a betterment of housing on the reserve and off reserve, of health care on and off reserve, of social services on and off reserve etc. It will create employment, because I'll have access to money to go and get the proper education to become a doctor or even the Prime Minister of Canada, once this happens. I doubt I'll be Prime Minister, but I'm just saying that. It's the reality of what this money can do if it's equally and fairly shared.

1510

I guess that's why you are here today. We'll get to share revenue not just from industry that's now in place and that will be in the future, but from tourism, from snowmobile clubs, mining, factories, forestry and

everything, and give it to the communities equally and fairly distributed.

Who's going to administer this money? The Ontario government will have to collect from them once it becomes law. How are they going to funnel the money? Is the Ontario government going to forward it to the federal government for the federal government to distribute it fairly to the beneficiaries—the bands—and enter into an agreement and understanding of how to use this money with the same agreements that are in place today? How it's going to be done is to be discovered.

That's why it's important to have a native working group and a non-native working group jointly working together. Put this working group in place for the three years that are ahead of us, dialoguing from the grassroots to federal and provincial government leaders. I enjoy reminding you that one head is not good; 10 heads are much better. Some people are more intelligent and some people are less intelligent. There is a variety. They have certain knowledge in different areas. One person is not intelligent in all ways. That's why it's important to have this working group established.

Bill 97 is something new to me. I had never heard of it before; I had never seen it before. It is a strange thing to me, a brand new thing. We always thought that the only people we had to talk to was Indian Affairs. When you talk to Indian Affairs, it goes in one ear and out the other ear. That's what happens.

This bill is to establish a federal and provincial government-to-government relationship with the First Nations in Ontario. There have been other provinces that had a similar act to the one that is going to be created, but Ontarians are different people. Saskatchewan is different, BC is different and the territories are different. Each of the provinces is different. I guess this is why we are here today.

It will create employment, better social services, better education funding, better housing, better roads and ditches, a better water system—better everything that we need and that is not here today. In at least one house there are five families. Two families in that house live in a makeshift tepee. This couple, newlyweds, have one baby and live in a tent beside their father's house because of the scarcity of housing. I didn't have to read any of this. Six or seven doctors in this district of 630 people, a reserve, tells the whole story. It's just like taking a picture that tells thousands of things just by seeing it.

I'd like to thank you for this opportunity to talk to you about what I have on my mind. I'm pleased to be here today.

The Chair: We have time for one question. The past question was deferred, so in rotation it will go to the NDP. Is there a comment?

Ms Marsales: Thank you very much for your presentation with respect to the various issues you're struggling with. We very much appreciate that. With respect to the reference to education and so on, could you explain to me a little bit more about educational—you referenced OSAP loans and so on. Is there a difference

between what a non-aboriginal individual would face relative to aboriginal young people?

Mr Nakogee: People from the reserve who applied for OSAP went to their local education office to get sponsored and were turned away and asked if they wished to be on the waiting list. This waiting list consists of 50 or more people, and that person would be the 51st person who is going to be waiting to be funded and sponsored by their local education authority. The person, who is a band member and didn't live on or wasn't raised on that reserve, is sometimes told, "Sorry, you are not from here, even though you have the same band number as us. So we cannot give you any funding because you never lived on the reserve, you're not from here." So that person ends up having to borrow money from Ontario OSAP, they call it in the short abbreviation.

1520

The difference is, a person who borrows from OSAP has to pay back the money that he borrowed for his education purpose. That's the living expenses and school supplies that he has to pay. But when you look at the treaty, he's supposed to have a free education. He didn't have to suffer borrowing money from the Ontario government. The difference is, for the person who has the band, the federal government has the obligation to provide that funding for that person because it is under the treaty agreement. As for a non-native, it is understood that money borrowed from Ontario OSAP is paid back because he had not entered into any treaty agreement with the federal or provincial government. He is the taxpayer, and when he borrows he goes under an agreement to pay back that money. That's the difference.

The Chair: Thank you very much for your presentation this afternoon. We appreciate it.

ERNEST RICKARD

The Chair: For the committee and members of the audience, we have, as we did yesterday, three people who would like to speak. They will have up to 10 minutes each. The first person I would ask to come forward is Ernest Rickard.

Good afternoon. As I mentioned, you have 10 minutes, and I would simply ask you to state your name for the purposes of our recording Hansard.

Mr Ernest Rickard: Thank you, Chairman. My name is Ernest Rickard. I'm a Moose Cree First Nation member, and I appreciate this opportunity to address the committee.

I too would like to say that I welcome this legislation. It brings the issue to light that we have seriously hoped to gain some revenues from any natural resources. What that means at the end or how it's going to be realized—I think there's more work that needs to be looked at in trying to identify what form of compensation that will be.

I'd just like to, first of all, mention that—I know it has been said many times, but I think we have to always reflect and remember that—we as aboriginal people, the First Nations, have always used our natural resources. In

those natural resources we make reference to the river that sustains the life of the fish that very much provided our diet; also, the lands, the forest where the animals, the moose, the rabbit, the ptarmigan—these, the forest and natural resources, sustained our livelihood. We also must remember that we use these natural resources to provide warmth to our families, to provide shelter. This was done many years ago, and we continue to do that today, but not to the scale where we say it's our livelihood. We no longer spend time in the bush, as we once did, but that doesn't mean that we don't have that tradition. We still practise that tradition, we still recognize those natural resources, and we have brought that forward and identified that within our treaty of 1905, which means we still have the right to hunt, fish and trap. That will remain with us until time immemorial.

I just wanted to share also that my father was a veteran in World War II, and before he went to war, he did some trapping and hunting. Once he completed that war, when it was over, coming back home to the reserve, he was out for five years. He's no longer with us today, but what he did is that with the benefits he received—which were not the full benefits like other Canadians, non-aboriginal people, received—he purchased a tent, a boat and motor, a stove and anything like that that would assist him to go back to his trapline and try to undertake where he used the natural resources. These natural resources have housed, have provided a livelihood from those animals: the fish, the birds, the geese. That was our way of life.

Today, when we talk about natural resources, we too have grown, and now we want to look at those things on a bigger scale. We no longer have the hunt, as we once did. As aboriginal people, we like to sustain our livelihood, whether it's in the community, such as our local utilities, our local infrastructure, to get some financial resources from it, like any other municipality that gets funding to sustain its own communities through the federal or provincial government—I guess in this case the provincial government, whatever formula or legislation may apply to it. So those are the things we have to keep in mind.

I just wanted to bring this issue forward to you. When we started to lose our way of life, we had no alternative but to take social assistance, since the 1965 Canada-Ontario agreement. That social assistance is universal, and it's not a treaty right. It has been causing problems within our communities simply because the cost of living up here in the north is high. The rates, what Mike Harris implemented, certainly didn't help us at all, because he reduced it by 22%, the social program. It really affected us up in the north.

When you also take into consideration Ontario Hydro, recent changes since April 1, 2004, they charge us—and Toronto has also identified this. Imagine us in northern Ontario, up in our communities, where the first 750 kilowatts are 4.5 cents—that's your minimum—and then whatever costs beyond the 750 are at 7.5 cents per kilowatt. That is extremely high. We're talking about the north here; we're not talking about Toronto, and Toronto

is already feeling the problem. Previously it was 4.3 cents. No one even considered this, yet our river has been dammed, Moose River. We also experienced the blackout in Toronto—well, right across northeastern Canada. We experienced that too. The question that we ask is, our dams are so close in our territories, and yet the lights went out in our territory. All of us hoped, in our understanding, that such a thing wouldn't happen.

The point I'm making here is that when we try to look at revenue-sharing and I guess our culture right across the board, it has affected us. Those things have to be addressed at some point, that we have to really take this into consideration, and anything we want to put forward for the governments to look at—in this case this legislation, Bill 97—has to have some meaning, has to somewhat work. A lot of consideration has to be given.

1530

We hope that the idea of revenue-sharing—it's not clearly defined yet. It has to come in some form of financial cost. I think in our communities we like to look at the local infrastructure, how we can offset our own costs, that we can look after the water and sewer lines, all these other utilities that we have to deal with, because the funding we get to date comes more in the form of a grant from Indian Affairs under the contribution financial arrangement. That's in the form of a grant on a per capita basis that has not met our needs. I think anything we have to identify in terms of revenue-sharing, we have to take a look at what it's going to mean for us in the community that would give us the comfort and the life we need to sustain within our communities, a comfort zone. Hopefully those things can be further defined in how we need to look at it.

When you talk about your Bill 97 here, the arbitrator, I'm not certain what that role will be. I think it may have to be clearer if it's going to mean something to First Nations, what its terms of reference would be, what type of legislation will be there for this person to deal with this. When you talk about the revenue-sharing agreement—if concluded, we'll say—what role will the Speaker of the Legislative Assembly have? It is not clear, I guess is what I'm saying. I'm not a lawyer by any means, you know; I'm just an average member of my community here, trying to understand this. If it's not clear to me, how clear will it be to any other person? I certainly hope these are better defined.

When we say "First Nation," there doesn't seem to be any clear definition, except the fact that we aboriginal people are calling ourselves First Nation. That could change, because in Cree we are Innu. We are Innu, the Cree. That's how we are as people. The federal government might have a different interpretation under the Indian Act. That can change too because of the self-government negotiations that people are having. This may have an effect in Ontario. Also, we don't know what the interpretation will be at the end of the day with the province of Ontario in terms of its aboriginal policy. This has to be clearly defined, in my opinion.

When we say "traditional lands," the federal government always makes reference, even within the treaty; for

example, Treaty 9. Historically too the aboriginal people still identify their own traditional lands. That has to be understood as the discussion moves forward in talking about revenue-sharing.

This legislation is only a two-pager. This can be a very enormous issue and undertaking when we start talking about multi-million dollar corporations and the federal government, how it's going to play with this whole concept of revenue-sharing in light of its fiduciary responsibility.

Again, in terms of welcoming this legislation, this certainly opens the door and has brought this forum that we are able to address forward to us. I think we appreciate it. I certainly do, anyway.

Like I said, we the aboriginal people have used our natural resources, maybe not on the scale of how those interpretations are today, but how those resources were used back then had sustained our social, economic, cultural and spiritual way of life. That hasn't changed where we are today, but it's going to be in a different format, as you see in this community, the way we are trying to sustain our livelihood and have those resources today from a different perspective. What I'm saying is that any monetary value to those resources today—we need to be able to sustain and provide a life of comfort for our future children and our children today, in the fields of employment, training and economic development and to finance our own local institutions in terms of trying to support our needs.

I just want to say too, but not to—I guess for lack of a better term, I don't want to sound prejudiced or anything like that. But when you look at Cochrane on Highway 11 west, and you see communities like Hearst, Kapuskasing, maybe even as far as Thunder Bay, you see trucks hauling lumber, hauling wood. One can believe and one can draw conclusions that this harvesting of lumber and the forest sustains those communities, and any mining that may be happening in those areas. So they benefit from those natural resources; they benefit to maintain their community. I think what I'm saying here—it's not prejudiced—is that if we First Nations also would have that opportunity to offset some of our costs by having the use of our natural resources to that extent, we would certainly have a better lifestyle, with comfort, and even probably bring in McDonald's, like Kapuskasing and Hearst have. That's just a comment I'd make.

I guess the point I'm making is that the natural resources today, in terms of revenue-sharing, are important. It's an important issue. I hope that consideration for the benefit of our First Nation would be positive at the end of the day in this legislation.

The Chair: You're almost at 14 minutes now, so I'm going to say that we appreciate your comments to the committee. Thank you very much.

Mr Ernest Rickard: I appreciate it. Thank you.

RICK CHEECHOO

The Chair: Our next presenter is Rick Cheechoo. Come forward, please.

Mr Colle: On a point of order, Mr Chairman: If anyone wants to have a sausage or some bread, they're available on the table. Help yourself.

The Chair: That's an important point of order for some.

Sir, you have 10 minutes for your presentation. I would simply ask that you give your name for our recording.

Mr Rick Cheechoo: Thank you for the time that's been allowed for me to speak. My name is Rick Cheechoo. I am a Moose Cree First Nation band member. I am also elected as a band councillor.

I, like many others, am supportive of this Bill 97, but I hope that it doesn't interfere with or hamper any of the existing benefits that we have from the treaties.

1540

I also believe that our entitlement to the land should be demonstrated in our way of life, our livelihood, our living conditions, because entitlement to that land, which a greater part of Ontario is on, is rightfully ours. We should be treated as a nation, the Cree nation. I believe that we are different from other people, from different-coloured people. We are different. Our language is different. We have different interpretations of what we see, what we hear. The grass, the trees, the rocks and the animals mean something that non-native people don't know. We interpret what we see and hear differently, and it's proven.

I'm not going to say anything about the nasty history, when settlement started to occur from overseas, but I wanted to mention the type of scenario I can think of that you might be able to understand. Take your house, your backyard, and the government issuing a permit to somebody you don't know to come and erect a building right in your yard. That's the type of impact, the style of provincial government practices; that's how it affects us. The MNR issues building permits, staking rights to companies and individuals who'll come and do this sort of activity right in our—we call it our homeland. I believe that First Nations have the authority to authorize any activity on our homeland, such as staking claims and building permits.

The three-year process is going to be a long one; therefore I think it shouldn't hamper or hinder any of the existing things that do happen presently.

One of the questions I had about Bill 97 is—I don't know who would like to answer it—are there any thoughts or suggestions about revenue-sharing for existing developments that have already occurred? Are there any thoughts or suggestions? What do you see coming out of the hydro dam or any of the logging that has happened in this area, or is there a chance we're even going to touch that? Or is that dollar amount too enormous?

The Chair: Mr Bisson, and then this will be the final comment.

Mr Bisson: As the author of the bill, what we are looking at and what will happen may be broadened in scope. I think that's what we're trying to wrestle with here.

Originally, Rick, we looked at sharing the revenue that the province now collects from existing and future projects that are basically north of the French River. That means hydro dams, dumping, all that kind of stuff. But we were talking about the provincial share that the province already collects and any project that would normally have to pay municipal taxes but is not in a municipality.

What's becoming clear to us as we listen to this—and the committee has not had a chance to discuss this, so it's a hard question to answer. Do we go any further? Do we go beyond that? We're not quite clear. What's really clear is that we're hearing that injustices have happened over the years and we need to address those. I think we're all unanimous on that.

What we need to do is develop a process that's driven on a government-to-government relationship to deal with the issue of revenue-sharing on existing and future projects, but maybe expanding it to deal with issues you've raised, such as land use planning. How should we make sure, when giving permits for mining and forestry and prospecting and all that, that they're consistent with the values of the Mushkegowuk Cree and other First Nations, and give you a role in that? I'm not clear on where we're going with that yet, but we're hearing that as a recurring theme. I hope that answers your question.

The Chair: The time has expired. We thank you for your presentation—

Interjection.

The Chair: Oh, we have a question.

Mr Colle: Yes. Mr Cheechoo, I see you raised a very intriguing question.

Right now we have a resource called Highway 407, which is a toll highway north of Toronto, whose contract the government now is trying to revisit because the government feels that it's an unfair contract. The revenue from that highway is going to Spain rather than staying with the taxpayers here in Toronto or the people who pay the toll. So the government right now is in court trying to find ways of renegotiating parts of that contract, and it is extremely difficult.

So far, the courts have even blocked the government from changing any terms of that contract or getting extra revenues or more revenues from that contract. So it's an extremely complex and difficult issue, trying to go back and recoup some revenues which you felt were unjustifiably taken from you. So we're experiencing that right now with Highway 407.

The Chair: Thank you again for your presentation this afternoon.

Mr Cheechoo: Thanks, Mr Chair.

JAMES SUTHERLAND

The Chair: Now I would call on James Sutherland to come forward, please. Good afternoon.

Mr James Sutherland: Good afternoon. Thank you for allowing me to speak.

The Chair: If you'll just state your name for the recording, and then we'll be all set.

Mr Sutherland: My name is James Sutherland. I'm a member of the Moose Cree First Nation.

I've been listening to this prospector who was here this morning, and I can imagine that the words "revenue-sharing" are scary. When you say "revenue," you're thinking of dollar amounts, like money, to be handed over to somebody. So I was just thinking to myself—I used to fly helicopters for a living and I know a lot of prospectors and geologists. I've worked with Cominco, Noranda mines and Lupin up in the Northwest Territories. So I know what economic development in the exploration site does to the land, how much damage it can do to the land and animals. I've seen drillers spill hydraulic fluid when they're drilling. I've seen Caterpillars wasted, drums of fuel all over the land.

1550

When we talk about economic development, we're not necessarily talking about just revenue-sharing but what the mining companies leave behind. That's the part that I'm a little concerned about. I have four children and eight grandchildren. If the way exploration companies harm the land they get their revenues from continues, it's just not going to work. It trickles down from the person who discovers, say, gold, copper or zinc, or from a hydroelectric project, to everybody who's involved, like the prospector. He doesn't want to give out. I can see that. I had an inkling that he was against Bill 97 because he has to share his money with others: the government, the native people. There's got to be some kind of model of how we are going to handle revenue-sharing. Are you talking about dollar amounts? There are other ways. Benefits would be better for the native people in a way. I know that development brings benefits: maybe new roads or new schools. It doesn't necessarily have to be money. That's one thing I want to touch upon.

The other thing is the James Bay Treaty, and that's where we have to start, right from the treaty. I'll just read an example. I don't know if you have read this. It tells you right here, "Increasing settlement, activity in mining and railway construction in that large section of the province of Ontario north of the height of land and south of the Albany river," which is what we're talking about right now, "rendered it advisable to extinguish the Indian title." Remember the word "extinguish." Let's not extinguish Bill 97; let's work on it.

There's another section that says what the native people on one of the reserves are going through economically and socially, whom we put aside on land that is not—there's no agriculture on it. It says, "As the band could not hope to depend upon agriculture as a means of subsistence ... hunting and fishing, in which occupations

they were not to be interfered with, should for very many years prove lucrative sources of revenue." We no longer have trapping; we can't live on trapping. So in my opinion we have to welcome development up here. Most mines will last for 30 years. Figure it out: A young guy who's educated makes \$30,000 a year. That's \$900,000 in 30 years. That's a lot of money.

I'd like to read this. This is from the government. You guys are from the government, eh, provincial or federal? I want to read this: "Throughout all the negotiations," like we're having right now, "we carefully guarded against making any promises over and above those written in the treaty which might afterwards cause embarrassment to the governments concerned." You guys have to be cautious with Bill 97, or it might turn out to be an embarrassment to the corporations, to the people who work in the mining industry. Also, when you're sitting here—and I'm looking at you people—it goes back to 99 years ago: "It was gratifying throughout to be met by these Indians"—these people who are sitting back here, but this is the present—"with such a show of cordiality and trust...." So we trust that you guys will work with the developers and with the First Nations.

I just point out that it took 99 years and you still haven't settled our treaty and the obligations you committed to. We're always fighting against the government.

There's another one here. These are just reminders of what we face with the government or any developer: "And further, that no site suitable for the development of waterpower exceeding 500 horsepower shall be included within the boundaries of any reserve."

Why would they put us away from dams where we could have our own hydroelectricity? There have got to be some open forums of dialogue with the First Nations, based on this treaty that the government signed 99 years ago. If you don't go by our treaty, then this gathering, this information, is useless.

It was mentioned here about how education involves people. There was a councillor in 1905 who mentioned that it would be nice to have native people educated. If we weren't educated, we wouldn't be sitting here talking to you.

So treaty rights are, by far, the most important thing we have to base on, the grassroots for Bill 97 to come through. Work on it and live up to the obligations you signed back in 1905 with our ancestors.

The Chair: Thank you very much for your presentation. That concludes the hearings here in Moose Factory. This committee is adjourned.

The committee adjourned at 1557.

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