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**Official Report
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Wednesday 22 September 2004

**Journal
des débats
(Hansard)**

Mercredi 22 septembre 2004

**Standing committee on
finance and economic affairs**

First Nations Resource Revenue
Sharing Act, 2004

**Comité permanent des finances
et des affaires économiques**

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**

Wednesday 22 September 2004

Mercredi 22 septembre 2004

The committee met at 1403 in the Parish Hall, Attawapiskat.

**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 please come to order. On behalf of the committee, I would like to say to our guests here this afternoon how pleased we are to be in Attawapiskat. The committee members have been here for a few hours now. We've visited the local store and we've been out behind looking at the waters and your lands. We're just very pleased to be here and to meet with you and to hear from you.

So we'll begin the hearings and I would—

Mr Gilles Bisson (Timmins-James Bay): Chair, if you could indulge me for a moment on somewhat of a point of order; really, it will be a point of information.

The Chair: On a point of order, Mr Bisson.

Mr Bisson: Just as the sitting member for Timmins-James Bay, I first of all want to say to the committee that it means a whole lot to the people of James Bay and other communities that we've gone to, that the committee has taken the time to come into the communities, because I think what you're starting to appreciate is that there are many issues that challenge us in these communities, and the fact that committees actually come and listen is, I think, a very important thing.

The other thing you should know—I may stand corrected and Chief Mike will maybe clarify it, but I think this is the first time ever that a standing committee has been in Attawapiskat, so this is somewhat historic. As the member for Timmins-James Bay, I just want to thank the government and thank the Chair and members of the subcommittee for allowing the committee to travel.

The second thing is that I just want to say to my friends who are here from Attawapiskat and others, don't

be intimidated by the process. If you're sitting there and want to have an opportunity to speak and you've not had one—

Interjection.

Mr Bisson:—there you go; Mike is not shy, we know that—just identify yourself to Trevor at the other end—he's waving—and we will certainly accommodate you.

With that, Mr Chair, thank you for the indulgence.

The Chair: We're very pleased to be the first to come. We've enjoyed our tour across the north and I'm sure we're going to enjoy our next day in Moose Factory.

ATTAWAPISKAT FIRST NATION

The Chair: With that, we'll begin with the Attawapiskat First Nation, if they would come forward, please. Whenever you're speaking, the microphones will come on automatically from the people at the desk beside us.

Welcome. You have 30 minutes for your presentation. You may wish to leave time within that 30 minutes for questions from the committee members. I would just ask you to identify yourselves for the purposes of our recording, and you can begin.

Chief Mike Carpenter: Can I ask a question first?

The Chair: Sure.

Chief Carpenter: There are some community members here who don't understand English. Maybe we should have asked for a translation. I don't know whether we want to translate for ourselves.

The Chair: Do we have someone present who could do that?

Mr Bisson: Is there somebody who could translate? If somebody from the community can provide translation, that would be very useful.

Mr David Zimmer (Willowdale): Father Vezina from next door has offered to do that, if he could be of any help. He said he was coming over.

Mr Bisson: I think we just got a taker. Just for Chief Carpenter to know, this is something we try to deal with, to provide translation services. I don't know what happened. It got kind of mucked up. So we apologize on behalf of the committee.

Chief Carpenter: I'm not sure who made the arrangements for you. I figured there was somebody looking after you. So I never took the initiative to find out what was going on.

Mr Bisson: Our apologies.

Chief Carpenter: I apologize for that as well.

Mr Bisson: Well, between the two of us, we're very apologetic.

Chief Carpenter: So how do we proceed?

Mr Bisson: Go ahead. If you want to do Cree and English, Mike, you're more than welcome.

Chief Carpenter: I think I will just do my presentation in English and maybe try to translate into Cree.

We were supposed to do two separate presentations, one from me and one from—it was supposed to be Rick Hendriks, but Rick Hendriks had to go home for personal family reasons. So Myron is here to replace him. I'm just wondering how you're going to—do we get an hour or do we get half an hour and maybe a few minutes extra?

The Chair: The committee's quite flexible. We have discussed that if persons other than the names that are on this list would like to speak at the end of the day, we would allow a half an hour for that. Is that satisfactory?

Chief Carpenter: Sure. Good enough.

Mr Myron Barr: If I could advise the committee that Thomas Tookate is not going to be able to make it. I think he's listed at four o'clock, so there will be time.

The Chair: We want to accommodate you as best we can. So, at the end of the formal presentations that are on the list, we can come back and have more discussions and questioning for half an hour and hear what you have to say. You can begin.

Chief Carpenter: OK. I will start my presentation, then.

I first want to welcome everyone here. I appreciate you taking the time to come and visit our people and hearing our concerns. I just want to welcome all of you. I want to welcome the visitors from outside the community, our elders, our youth and community members. So I'm going to start my presentation now.

Thank you for giving me the time to speak. My name is Mike Carpenter, chief of Attawapiskat First Nation. On behalf of the Attawapiskat First Nation, I would like to thank the legislative committee of Ontario for coming, and we welcome you to Attawapiskat, our traditional territory.

We are here to talk about Bill 97, a proposed act to share resource revenues with First Nations. This discussion has been long overdue, and I want to congratulate the Legislature for starting this process and working toward reconciliation between your government and our First Nation.

Our First Nation is wealthy. We have diamonds in our lands over which we have not yet signed a treaty or resolved our aboriginal title. It is in this context that the largest diamond company in the world, De Beers, has come to us and commenced negotiations for an impact benefits agreement.

We have a clearly defined negotiation process under a signed negotiation agreement which states that De Beers will not build or operate a diamond mine without written consent from us. We negotiated this provision because of our land rights under Canada's constitution. We feel that our rights to our land are a strong reason why we are here today.

As First Nations, we want a meaningful share in what the companies and Ontario get, and a serious say in decisions as to how the lands, including the environment, and the wealth in lands are managed.

1410

Some may say that we have slowed down the Victor project. We cannot apologize for that. We have at all times exercised our legitimate interest in our lands and the development process. We must do this for the betterment of our members and our children.

First Nations will no longer accept a few jobs as resource companies bulldoze our lands. We live here. This is where our rights exist, not in a courthouse in Toronto or Ottawa.

I'll make a few remarks about Bill 97 and my legal counsel will provide more detail. My main concerns about Bill 97 are threefold:

(1) Bill 97 might jeopardize the potential IBA with De Beers and future IBAs;

(2) The bill must focus on a government-to-government relationship concerning true resource revenue-sharing, which is sharing the crown revenues with First Nations; and

(3) The enforced agreement of an arbitrator is completely unacceptable, as the bill seeks to impose a so-called solution determined by one person.

There are several compelling reasons why IBAs need to be left out of this bill and separated from resource revenue-sharing:

(1) Government should not intrude into private contractual agreements with industry and aboriginal groups. The flexibility and creativity that has developed between industry and First Nations should continue to develop and flourish and not be limited or frozen to a one-size-fits-all formula decided by one single arbitrator who thinks he or she knows what is best for every First Nation.

(2) These private agreements bring honour and dignity to First Nation communities. First Nations truly bring value to the table: certainty in light of aboriginal and treaty rights, significant political support, valuable traditional knowledge concerning lands slated for development and a local and motivated workforce. These agreements are a result of fair and good negotiations with compromise from both sides of the table. These agreements are not given or handed out, but negotiated.

(3) Governments should support negotiations of IBAs or similar agreements and not force the outcome.

(4) The current mining tax and royalty regimes permit a significant tax holiday—as much as 10 years—for many developments so that crown royalties, if shared with First Nations, may not be significant. For example, the Victor project is scheduled for 12 years, with the majority of kimberlite mined in the early years. It would not be wise to place all confidence in a potentially small royalty share without maintaining certainty of benefits in an IBA. IBAs need to be protected from the tax planners and the government insiders within the resource sector.

I will defer to our legal counsel to elaborate on the other main concerns, particularly the proposed arbitrator clause.

In conclusion, the Attawapiskat First Nation supports the concept of the bill. However, I also believe that directly impacted communities like Attawapiskat must be given the right to negotiate their own IBA, which will be over and above the proposed revenue-sharing bill.

I also want to remind the Legislature about the Rupert's Land protection pledge, which recognized that our First Nations owned the land and that the resources belonged to us. It states that when development happens on First Nations lands, government must share its revenues with First Nations. To this day this has never been honoured.

Therefore, my recommendation for your Legislature is to hold off third reading to give First Nations more time to talk about this new bill and also avoid having an arbitrator saying what is good for our First Nations. I believe these kinds of discussions should start at a grassroots level and not from the top down.

Thank you for giving me the time to express my concerns.

1420

Mr Bisson: Do you want to do yours as a separate presentation?

Mr Barr: I just asked Chief Carpenter whether he wanted to make a few remarks in Cree. I left it to Chief Carpenter. Otherwise, I would commence my presentation.

Chief Carpenter: *Remarks in Cree.*

Mr Barr: Thank you, Chief Carpenter, and good afternoon, Mr Chairman and members of the committee. I'm Myron Barr, legal counsel for the Attawapiskat First Nation. I'm pleased to have some time to address Bill 97.

I'm a member of the Law Society of Upper Canada, and I should say at the outset that I trust the members of the committee have the written submissions that I have. I don't propose to go through all of it, because of time constraints, but I would invite members of the committee at the end of the session, if they have any questions—certainly I respectfully request them to review the written submissions when there's a break.

Chief Carpenter: Excuse me, can I have the English translated for the people who can't speak or understand English? So I think you've got to make it short when you talk.

Mr Barr: OK, I'll make it short.

Mr Bisson: Chief Mike, are you prepared to translate for the whole session? We still need another translator.

Chief Carpenter: I'll go and look for him.

Mr Bisson: If you have a translator, the committee will pay for the translator.

The Chair: What we need to happen is, when you say something, you'll have to stop and let him speak.

Mr Barr: Yes, exactly.

Interjection: We'll give you part-time wages.

Chief Carpenter: Yes, just until we get somebody else. We're looking for Gerald Mattinas to do the translation.

The Chair: I assume you would need to use—not read a whole page.

Mr Barr: No, I'll very briefly sort of hit the highlights, if you will.

The Chair: Very good.

1430

Mr Barr: Good afternoon, Mr Chairman and members of the committee. I am Myron Barr, legal counsel for the Attawapiskat First Nation.

I must say that the intent of Bill 97 is a breath of fresh air for those of us working with First Nations in Ontario. After years in the wilderness the Ontario government is beginning to take its first serious steps in its fiduciary duty to First Nations.

As Chief Carpenter made clear this afternoon, the Attawapiskat First Nation supports the general intent of this bill but has serious concerns about the specifics.

My submissions take the form of constructive criticism intended to assist the committee to focus the positive intent behind the bill into meaningful legislation that truly brings about revenue-sharing between Ontario and First Nations governments. Resource revenue-sharing between Ontario and First Nations is long overdue. I believe one of the reasons we are having this discussion today is a result of Attawapiskat raising the issues of aboriginal jurisdiction in resource development.

The Attawapiskat First Nation believes that Bill 97 is intended to ensure that northern Ontario First Nations receive a baseline of revenue-sharing from resource development on their lands. It is important to appreciate that this bill is not a gift to First Nations, nor does it create an entitlement for bands to resource development compensation that does not already exist in Ontario and Canada. Bill 97 is a first step, with much legislative drafting work to follow, in formalizing the Ontario government's legal obligations to First Nations.

At schedule A of my written submissions, we have suggested revisions to the legislation. For example, the preamble would clarify that the legislation is designed to ensure that the crown's duty to First Nations is met, instead of the current wording, which is well-meaning but which suggests the bill is a gift to impoverished and helpless aboriginal communities.

The major concern the Attawapiskat First Nation has is the potential jeopardy to the IBA negotiations which are currently taking place. It is absolutely vital that the committee appreciate and maintain the distinction between an IBA and the Ontario government's duty to First Nations within a bill like Bill 97.

Ontario's fiduciary duty to First Nations includes a duty to consult meaningfully regarding resource development and, importantly, to provide compensation for infringement.

Without greater clarity, it is quite possible that resource companies will enter the proposed process instead of negotiating IBAs. The three-year window could become a delay mechanism, during which time resource development would continue, absent the ability of First Nations to take the companies and government to court.

The proposed arbitration process that ends with an imposed settlement is unacceptable in the context of aboriginal and treaty rights protected by the crown's fiduciary duty. The concerns are detailed in appendix A.

1440

Bill 97 should not be directed at resource companies and their relationships with First Nations. The bill should serve to create a mechanism for direct negotiations between Ontario First Nations and the Ontario government for resource revenue-sharing such as royalties, taxes and rents that the government already collects. A bill that establishes a medium for Ontario to fulfill its fiduciary duty to First Nations would be a tremendous precedent in aboriginal relations in this country. Bill 97 should focus directly on the First Nation-government relationship, not on the First Nation-resource company relationship.

As I've said earlier, our recommendations are at appendix A. I do not want to take up your time in my oral presentation. Chief Carpenter and I would be happy to answer any questions you may have at the end of our presentation.

I just want to end this presentation and state that the Attawapiskat First Nation does not support Bill 97 as currently written. The primary concern is that the proposal to have three parties at the table will dramatically alter the current landscape for private resource company negotiations. The definition of the proposed revenue-sharing agreement, traditional lands and even "First Nation" is far too vague to withstand serious scrutiny and legal challenge. The 90-day negotiation ramp-up would prove completely unfeasible for most First Nations, who lack the financial and technical expertise to prepare for this type of negotiation.

I want to leave the committee with a strong reminder that the underlying intent of the bill is worthy and long overdue. I ask that you retain the name of the bill and the underlying principle in it, ensuring that Ontario First Nations share equitably in the government of Ontario's resource bounty and focus on preparing legislation that will work. Attawapiskat is committed to helping this committee make that happen.

Thank you. Meegwetch.

The Chair: We're over your half-hour, but as agreed, you will come back to the table and members can ask questions at that time. Thank you, gentlemen.

MUSHKEGOWUK TRIBAL COUNCIL

The Chair: I'll call up Grand Chief Stan Louttit. While the Grand Chief is making his way to the table, I'll remind you that when we are asking questions later, it will all be translated. So keep that in mind as you formulate your questions.

Good afternoon. You have half an hour for your presentation. You may allow time for questions within that half-hour. We will give copies of this to all the members. If you would just state your name for our recording.

Grand Chief Stan Louttit: I'm Stan Louttit, Grand Chief of Mushkegowuk Council. With me here is the

Deputy Grand Chief of Mushkegowuk Council, Jonathan Solomon. I would like to thank you for the opportunity to present some thoughts and ideas on revenue-sharing to this committee on behalf of the Mushkegowuk Council. As well, I'd like to welcome you to the Mushkegowuk region and territory and homelands of the Cree people of James Bay. And in particular, as Chief Mike Carpenter said, "Welcome to the homelands of the Attawapiskat First Nation."

1450

The deputy grand chief, Jonathan, and I will be presenting this report in two parts. First, the deputy grand chief will start off with a background and some history and some examples of what revenue-sharing is in the Mushkegowuk territory.

Deputy Grand Chief Jonathan Solomon: Good afternoon, ladies and gentlemen. I'm Jonathan Solomon, Deputy Grand Chief, Mushkegowuk Council. Let me begin by speaking about the Mushkegowuk region in which you find yourselves this week.

The James and Hudson Bay lowlands are perhaps one of the biggest wetland complexes in the world. They occupy more than one quarter of the surface area of Ontario. It is an area that has a diverse and unique ecosystem that is particularly well-suited to the extreme temperatures of the local climate. It is rich in wildlife species that are found in no other parts of Ontario. The shores of James Bay also provide one of the most significant continental breeding grounds for a wide variety of birds and waterfowl.

The Cree people have lived in the James Bay lowlands since time immemorial. We are the Omushkego, the people of the muskeg, the people of this land that you are visiting. Over many years, we have adapted to the environment and changes to the region.

With the coming of the Hudson's Bay Company more than 300 years ago, our people adjusted their lifestyles to take advantage of the new economy of the fur trade. For many years, the Muskego Cree were the principal suppliers of the fur clothes for much of Europe. We also used our knowledge and skills to ensure not only the enhancement of trade, but the very survival of many of the resource developers of that era.

We are not pointing this out for historical interest, but rather to show that we have a long record of being able to use our knowledge, skills, as well as the riches of our traditional lands to be part of a larger economic system.

The context of revenue-sharing: In 1869, the new nation of Canada, including the province of Ontario, petitioned Great Britain to have the Mushkegowuk region added to Canada. In 1870, in exchange for the transfer of Rupert's Land, Canada made the following protection pledge: "That upon the transference of the territories in question to the Canadian government, it will be the duty of the government to make adequate provisions for the protection of the Indian tribes whose interest and well-being are involved in the transfer." This protection pledge was incorporated into the Rupert's Land order and became part of Canada's Constitution in 1870. We, the

Mushkegowuk people, are still asking for protection of our rights and well-being.

In recent years, the loss of fur-trapping has resulted in a difficult economic situation that has also led to cultural and financial hardships which our First Nations have struggled to overcome. In the last 10 years, the province of Ontario has prospered, but our communities have not benefited from that prosperity.

1500

As provincial average unemployment rates dropped from 9.1% to 6.1% between 1996 and 2001, the rates in our First Nations did not change. In some communities, there is an average of 80% unemployment. At the same time, the proportion of First Nation members as a part of the regional population continues to grow as many of the smaller towns in the region continue to decline. There are numerous other examples that we could present, including average income and people living below the poverty line, but the message is the same: The people of Mushkegowuk First Nations wish to participate more fully in the economy of Ontario.

We are now at the beginning of a new economic era for the region. In recent years, the southern portion of the traditional lands of New Post, Chapleau Cree and Missanabie Cree First Nations have seen the widespread impact of forestry, mining and other activities with little or no benefit to those First Nations. These communities are now working toward becoming actively engaged in these sectors, not only for employment but as equity shareholders, managers and planners. We are also looking for new opportunities to make better use of the resources available, including value-added products, new resources and environmentally friendly energy production.

At the same time, there are now an increasing number of opportunities for natural resource development in the northern part of Mushkegowuk First Nation territories, including the lands of Moose Cree, Fort Albany, Kashechewan and Attawapiskat First Nations. This part of the region is seeing increased interest by many outside investors in our potential wealth of metals, minerals, gemstones, forests, wind and water power. Much of the region has not been examined in an extensive method for the wealth that might be hidden under the muskeg.

It is the desire of the Mushkegowuk First Nations that the development of resources in their territories occurs in ways that are sustainable, environmentally responsible and from which they receive a fair share of the economic benefits.

As such, we have already begun work on a Mushkegowuk resource development protocol. The protocol is a framework for the Mushkegowuk First Nations, federal-provincial governments and industry to work together on developing and managing natural resources in Mushkegowuk Council territory. Mushkegowuk Council hopes that the protocol will receive the acceptance of the Ontario government and that it will lead to greater clarity of First Nations expectations for future development.

Through the protocol we hope to provide industries and governments with a clear and consistent process for dealing with First Nations on resource development issues; standardize a process of communication between First Nations, industries and governments regarding the development of resources; and identify the terms under which First Nations agree to the development of resources.

Grand Chief Louttit: Mushkegowuk interest in revenue-sharing: Over the last few years we have also become very interested in the potential of revenue-sharing from natural resources. In December 2002, we had a motion introduced in the Parliament of Ontario, calling for a discussion of revenue-sharing. That motion received the support of many members at the time, including many of those now in the provincial government.

More recently, Mushkegowuk Council was pleased to see that Bill 97, the First Nations Resource Revenue-sharing Act, passed second reading in the provincial Parliament and has been referred to this committee for discussion.

1510

We see this as an opportunity to dialogue with the provincial government about this important matter. We see great potential in the idea of revenue-sharing and its possible role in building prosperity not only for First Nations, but for everyone in Ontario.

Revenue-sharing cannot be seen in isolation, but as one tool that can affect many different issues. It could be a step in a broader process of addressing and resolving aboriginal and treaty rights and working toward a broader goal of building a healthy, respectful relationship between First Nations and the province.

Mushkegowuk Council believes that revenue-sharing could also be part of an effort to develop a stronger and more comprehensive system of managing natural resources in the far north. Better management could include a bigger role for First Nations. Aboriginal peoples are the traditional caretakers of the land, and they must become more involved in the planning, permitting and decision-making over the development of resources.

In order for development to occur in a predictable and orderly manner, First Nations must have their voices heard in all decision-making, from land use planning to project pre-development, through the environmental assessment and permitting processes and on to project implementation. If the First Nations are not an integral part of every step, then projects will face greater uncertainty and unnecessary delays.

Revenue-sharing must be seen as an opportunity to bring stability and co-operation to the future development of northern Ontario, leading to increased investment and more sustainable development. It also must be broadly based so as not to affect or impact any one industry or sector above another. Discussions need to address all resource use and development, including mining royalties, forestry stumpage, water power royalties, resource-based tourism taxes and permits and other resource-use revenue streams, including hunting/fishing permits, land use permits etc.

The way forward: The implementation of any form of revenue-sharing is something that should be negotiated between the crown and First Nations. Mushkegowuk First Nations and the province of Ontario are signatories to Treaty 9 and thus have a unique relationship. As part of the process of developing and implementing revenue-sharing, we recognize that it may be necessary to provide forums for the participation of other interests, including resource-based industries, but the negotiations must be conducted in a bilateral process that will begin to build a long-term and healthier relationship. We believe revenue-sharing should be based on a regional model, which will allow for the management of collective interests and concerns. Local concerns for any project, including the mitigation and compensation for impacts, will best take place at a local level with the negotiation of impact benefit agreements between First Nations and resource developers.

Mushkegowuk Council has had a long interest in the topic of revenue-sharing and has made our voices heard for many years. As a result, we are willing to begin the negotiation of revenue-sharing with the province of Ontario as soon as a process and scope for negotiations can be mutually agreed upon. We already have a strong regional structure in place that can be used to negotiate an agreement and begin to ensure that the benefits of revenue-sharing can be implemented in a way that works co-operatively for First Nations, the province of Ontario and the resource industries.

1520

Thank you for taking the time to listen to our thoughts on this important issue, and we hope that this will be the first step in a strong and healthy dialogue. Meegwetch.

The Chair: Thank you for your presentation. We'll allow for one question per caucus. I ask members to recall that it needs to be translated.

Mr Toby Barrett (Haldimand-Norfolk-Brant): Thank you, Grand Chief Louttit and Deputy Grand Chief Solomon, and thank you for that translation. I very much enjoyed spending some time in your area.

There is so much to discuss. I'll just focus on one small area. You made mention of the decline of fur-trapping and 80% unemployment in many areas. As we discuss revenue-sharing and better management, planning and permitting of, say, the mining activity, I guess my question is in one area, not only revenue-sharing—and maybe I'm asking this in part on behalf of young people I've seen in this community today. Is it possible for communities to work with mining companies to create a better arrangement, where young people and adults can be part of the economic activity and have jobs, essentially, where the company operates its business perhaps in a different way, perhaps an arrangement where they operate on a seasonal basis, where a community achieves or accrues not only revenue but also more employment, where a company operates in a different way, more in keeping with how people operate here, given other traditional activities?

Grand Chief Louttit: I'll respond to your question in three ways.

If in fact communities are able to benefit from revenue-sharing, that will be a tool to assist the communities in developing programs, building capacity and gaining employment and training for their people, and in how to impact benefit agreements.

First Nations can and should negotiate some elements of their agreement to enhance opportunities for their youth and for the cultural and traditional development of their young people.

Finally, such an example would be a program patterned after something similar to what the Cree of Quebec have, something they refer to as an income security program. Basically it is subsidizing individuals, particularly youth, who wish to go out on the land, because I don't know how feasible it is right now for an individual to make an adequate income from living off the land and trapping and harvesting. If there were a subsidy or some assistance to provide for those families and individuals who want to go out on the land, it would be an incentive for them to go out and to also develop that part of their culture and identity.

1530

The Chair: We'll move to Mr Bisson. Try to keep your question as direct as possible.

Mr Bisson: First of all, a very quick comment and then a question. The comment is that I think you appreciate we're in a process to try to develop legislation that responds to revenue-sharing. Many of the recommendations that we're getting from people who present will result in amendments to legislation in keeping with what you're looking for.

My question is around the arbitrator section. It's simply this: Are you suggesting that it be open-ended negotiations with no arbitrator, or are you suggesting another mechanism to force the government to deal with you more seriously?

Grand Chief Louttit: First of all, I am supportive of the position taken by Chief Mike Carpenter of the Attawapiskat First Nation, in regard to their position on the arbitration clause. If we are truly going to be discussing this issue on a government-to-government basis, then surely we should be able to find a common understanding in terms of how we might be able to resolve those differences and disputes and that kind of thing.

Mr Mike Colle (Eglinton-Lawrence): Again, thank you very much. There are so many issues and so many questions to ask and so much information we require that I think the important thing, as you have stated and as Chief Michael Carpenter said, is that you are willing to dialogue government-to-government and to work with us. That's the comment I had.

The Chair: Do you care to respond?

Deputy Grand Chief Solomon: I'll respond first. In regard to your comments, thank you very much. I think this is what we've been saying all along, that we want to have a relationship with the governments at both levels on a government-to-government basis. It is an opportunity. As the grand chief said, if people are willing to work in the common sense, why do we need somebody

on a third-party case to arbitrate? I think that's very straightforward, to state that we are very much in support of working together.

In regard to this bill, there may be other things in the future.

Grand Chief Louttit: There seems to be some support within the Liberal cabinet of Ontario for this proposed bill. One such supporter of this bill is the Minister of Natural Resources, David Ramsay. I had an opportunity to meet with Mr Ramsay yesterday in Moose Factory and I presented this issue and, on the record, he is very supportive of this particular issue and wishes to champion the cause.

The Chair: Thank you for your presentation.

JOHN "CHARLIE" WHITE

FRED WESLEY

The Chair: I would call on Chapleau Cree First Nation. Good afternoon. You have 30 minutes for your presentation. You may allow for questions within that 30 minutes. I'd ask you to state your name for the purpose of our recording.

Mr John "Charlie" White: My name is John "Charlie" White. One of our esteemed elders had asked me to share my time with him. Could we arrange that? I will not exceed maybe 15, 20 minutes, and then he could—

The Chair: That's fine. I'm sure you're aware that we're translating everything.

Mr White: I know how Gerry works.

The Chair: Very good. I thought you would. Go ahead, sir.

Mr White: The gentleman beside me is Mr Fred Wesley.

I'd like to begin speaking as a First Nation person and one who is probably known as one of the grassroots people in the community. I would like to first of all take the opportunity to thank the committee for the opportunity to share some of my thoughts and concerns with you regarding Bill 97.

My name is John "Charlie" White. I'm a member of the Chapleau Cree First Nation. It's just down the road a bit. I've been over here from Thunder Bay since 1980.

Currently, I'm working as an independent consultant here in Attawapiskat for AMEC on the Victor diamond project.

1540

Speaking to the bill, first let me say that it is my belief that this bill will be a positive step in what I see is a long process in building trust with First Nations.

Historically speaking, First Nation peoples have not been recognized as equals in this country. In areas such as health, education and economics, and in many of the basic needs of life, we are far behind the general population.

When one considers northern Ontario and the vast amount of natural resources that have been developed

over the past hundred years, I think it's fair to say that the original inhabitants from whose lands these resources were developed did not benefit to any great extent. If anything, this phenomenon we call resource development has been detrimental to many of the First Nations over the years.

One example of this that I would like to share with you is in the Chapleau area, where I was born and raised. The provincial government created a game preserve called the Chapleau Game Preserve. This caused the removal of one entire First Nation. This area was and still is the traditional land of several First Nations, including my own. As a result of this being a game preserve, the governments of the day made it illegal for our people to harvest food or furs from this 100-square-mile preserve. Many of our people went to jail for trapping and hunting in this area in the 1940s and 1950s.

We still see this game preserve as our traditional land, and while we have to break provincial game laws to continue to do those activities that are supposedly guaranteed in the treaty, this has special meaning for me personally, because one of the signatories on that treaty was my great-grand-uncle.

Many timber company owners got very rich by harvesting the timber resources in this game preserve and they continue to do that today. It should be noted that in the western quadrant of this game preserve there is a large amount of land owned by the Algoma Steel Corp. I'm sure that this too has an interesting history.

My points here are not to complain so much about the past and ongoing injustices; however, I feel I have an obligation to present the side of the First Nations in this story. The legacy we leave to our children would not be complete if we did not speak out on these issues.

I do believe we should move forward in attempting to put in place a process that will be of some benefit to aboriginal peoples, resource companies and the government. We should always try for win-win solutions.

I have read most of the Hansard record regarding Bill 97. Some of the more interesting points made are issues like "the cycle of dependency." This situation is so true, and to break this would be a formidable challenge for anyone.

It is interesting to note that the question of vaguely defining traditional lands seems to be the determining factor in voting against this bill. There is a statement to the effect that designated lands would be supported, and yet there is no definition of designated lands. My definition of designated lands is all lands identified in Treaty 9.

Many comments were made, while debating Bill 97, concerning the high cost of goods and services in First Nation communities. This morning I spoke with Chief Eli Moonias of the Marten Falls First Nation on these issues and the need for road transportation to his community. The quality of life would surely improve with the availability of an all-season road, not only to Marten Falls but to all communities.

1550

I realize there are some complications and roadblocks that continually come up in getting a bill through the

Legislature, and I am hopeful that such visits as this are helpful, not only by showing the high cost of goods and services but in getting to understand the issues that must be addressed.

The next few comments I make with all full respect to the people they address. In terms of protocol and process, it is my position that individual First Nations must take the lead in whatever protocol evolves from this bill. I say this because of the cycle of dependence. This is of the utmost importance, because the needs of individual First Nations are as varied as the First Nations themselves, and to insert another political level in this process would not be in the best interests of the First Nations.

Aboriginal political organizations have a role to play in the overall scheme of aboriginal community, but the sovereignty of each First Nation must be respected and remain intact. To do otherwise would establish an environment that would not be democratic; it would become bureaucratic. We, as First Nations people, are very familiar with bureaucratic kinds of systems.

The system in place today, or the process used today, for our First Nations to share revenue from resource development is one that appears to be overloaded with legalistic processes under the guise of “protecting your rights.” The only people who are served well in this process are the lawyers who become rich, and I find this approach very costly and very close to being immoral. Our rights are protected in the Canadian Constitution. I personally will hang my hat on my rights as guaranteed under the Canadian Constitution.

No one can speak for a First Nation with any understanding and passion other than its own people. That is why I support the individual First Nation approach to this very important initiative.

Getting the parties together to establish a process of revenue-sharing with resource companies is a good start, and if nothing else, it will shed some light on many of the economic hardships currently being endured by First Nations.

Perhaps the provincial government will consider recognizing and respecting First Nations as legitimate governments. If this is done, then perhaps they should consider sharing the taxes they are receiving from the many resource development activities taking place on these traditional lands. There are many ways they can work this out without adding more costs to development.

In summary, I would like to congratulate Mr Bisson for having a vision, in terms of aboriginal issues, in putting together this bill. I would also like to extend my thanks to the members of the standing committee and the secretary, Trevor Day, for their time and help in making this brief presentation.

The Chair: Thank you.

Mr Fred Wesley: My name is Fred Wesley. I'm a former chief. Just recently I was a deputy chief for the last three years.

I would like to thank the Chair and also all the committee members. Welcome to Attawapiskat.

I just want to start with a document I presented at Severn council. At a later date I guess I'll forward it to

you, Mr Chairman. It's entitled Compelling Megaproject Resource Development, about the potentially serious adverse impact of the diamond mine on land claims, which is of interest to the Attawapiskat First Nations Cree people.

1600

I'll just start off by saying that we, the Cree band members of the Attawapiskat First Nations, located on the western coast of James Bay in northern Ontario, Canada, are asserting our right to a pre-colonial land base claim. Claim to this land is heavily substantiated by (a) the Canadian federal government's INAC records, which document membership of the Attawapiskat band, including Attawapiskat band identification numbers and other statutory recognitions that are enshrined by the Indian Act; and (b) documentation of Cree cultural and other relevant details by anthropologists and other scholars who have worked in this area since the late 1940s and, more recently, research, equally documented by the law firm, on the status of all unfulfilled treaty land entitlement surrounding the circumstances of the 1905 treaty and the subsequent adhesion treaty of 1929.

Attawapiskat Cree people, since time immemorial and from generation to generation—our forefathers—have maintained that our traditional nomadic culture justifies pre-existing direct ownership of the land, present-day claim of its ownership, which was never relinquished, and this confirms our inherent rights of entitlement to the revenue shares by resource development as the original owners of the land. Furthermore, we as Attawapiskat First Nations, as a distinct society, claim that our traditional Cree culture expands traditional rights and the title to our land base to the existing boundaries historically identified, in particular a trademark of cultural significance, to the area of the potential diamond mine site and activities that take place.

I just don't want to take time with that; I'll skip some of the areas. But just to give you an example of the issues that have been outstanding in terms of the land issue, in 1961 the unfulfilled Treaty 9 entitlement awarded to Attawapiskat its original legal survey reserve land. The population of Attawapiskat in 1961 was between 500 to 800 on- and off-reserve people. These were registered band members. Approximately 100 family heads were given a land entitlement of 1.5 square miles of reserve land that we are now sitting on. The formula of 1.5 square miles of reserve land that was used in 1929 was meant for a family of five. The 1929 Treaty 9 adhesion created an outstanding land entitlement of 170 square miles. Furthermore, the current population of Attawapiskat exceeds 2,000 on- and off-reserve registered band members, which includes more than 470 family heads. The interest value of this outstanding unfulfilled treaty land entitlement of the Attawapiskat First Nations Cree people amounts to more than 700 square miles.

I want to get to the research documentation. The work of John Honigmann substantiates a joint venture between the Attawapiskat Cree and the Hudson's Bay Co where beaver were captured live in cages on the mainland and

introduced to Akimiski Island, where the beaver population rapidly multiplied with sustained fur trade and harvest activities for years that followed.

Also, research of documents shows that when the Hudson's Bay Co was dominant in the Dominion of Canada, the king and queen of England awarded the HBC a large tract of land in Canada without proper acknowledgement and respect of the rights and ownership of the Attawapiskat Cree people.

1610

Land is a critical resource for the Attawapiskat Cree people, who depend on it for physical and spiritual well-being. Protection of pre-existing Cree land rights and title to this land must have the blanket ministerial coverage of an agreement under the provisions of the Canadian Environmental Protection Act of 1999. The provisions under CEPA will empower, as a leverage, demanding INAC to speed up the land-claims process for a speedier settlement of the outstanding unfulfilled treaty land entitlement and, in the wake of that, a compelling resource development.

The goal of the Attawapiskat Crees is a fair win-win situation based on an effective communication of understanding which copes with cultural differences. The Attawapiskat Crees prefer options and not ultimatums. With this proactive and progressive thinking, De Beers initiated reaction to provide the Attawapiskat Cree people with expert advice on a viable economic development that will ultimately expand to the commercial arena for Attawapiskat band members.

By contrast, it can be said the government of Canada is presenting ultimatums over land claims, insisting on an outstanding welfare dependency mentality, instead of a modern viewpoint to provide guidance to the commercial arena of opportunities which would ultimately result in lasting benefits from compelling mega-project resource development.

I just want to conclude by saying that Bill 97 that is presented by you before us—I don't know if it's a blessing in disguise, but on the anniversary of 100 years of the treaty of 1905 that will take place next year, I hope this committee will bring optimism rather than the pessimistic view that we've had the last 100 years.

I just wanted to say to the committee members that we need the resources to make this a legal—as participants, for section 97 to be effective, we would need the resources, the funding and the full capacity. Without this financing, we will look at it as another assimilation policy that was always inconsistent with the 100 years of existence with the treaty.

Before I conclude, I just wanted to thank Gilles Bisson for initiating this resource development process that is taking place right now. Thank you, Mr Bisson.

Mr Chairman, I'll send you all of the information that I have, in consultation with my chief and council, to substantiate the reference material that I used to guide me to make this statement.

1620

The Chair: Thank you, gentlemen. We'll have one quick question in rotation and we'll begin with the NDP.

Mr Bisson: There is a whole bunch, and I don't know where to begin. What I'm hearing is that what you want is an open process that at the end does not arbitrate a decision on to the First Nations. My only question is, how open-ended does it need to be? Do we need to put a timeline?

Mr White: My experience with timelines, in terms of discussions with First Nations peoples, is that they are not quite the same as we in the non-First Nation community see them. I think to put that in might not be in the best interests of the First Nations.

The Chair: We'll move to the government.

Mr Colle: Just a question of clarification, Mr White: Are you speaking on behalf of the Chapleau Cree First Nation?

Mr White: I'm speaking as a grassroots, independent, freethinking Chapleau Cree band member.

Mr Colle: OK, thank you. We like freethinkers around.

Mr White: I might add that I did discuss it with my chief. I did discuss it with Grand Chief Stan very briefly. Other than that, those are all my thoughts.

Mr Norm Miller (Parry Sound-Muskoka): Thank you for your presentation. Earlier I was happy to have time, before the session started, to walk around the community and I bumped into Mr White, who figured I must be lost.

The other thing I noticed, walking around the community, was that Gilles Bisson has his election signs up already.

Mr Bisson: We have a fantastic sign crew, I must say.

Mr Miller: On a more serious note, Mr White, you work for a company that's working on the De Beers project.

Mr White: That's correct.

Mr Miller: You are very successful and I think a role model for the youth of aboriginal communities. We've had a number of resource companies like Placer Dome and Buchanan Forest Products, and also the Ontario Mining Association and the Ontario Prospectors Association, come before the committee. They are concerned that Bill 97 will mean extra costs for business and will negatively affect business. Do you think they are correct?

Mr White: I have some knowledge of Placer Dome. I did a contract for them a few years ago. I was in their employ for a short period of time. I've worked with aboriginal youth for several years, so I know they're there. Quite often I get accused of speaking like a white man, but I don't think the white people are going to go away.

Mr Bisson: You certainly can't take down our signs.

Mr White: No, we can't take your signs down.

But quite seriously, I do feel like an aboriginal person some days and some days I feel like a non-aboriginal person, especially when I go out with my French-Canadian wife.

Quite honestly in business, in answer to your question—and I run an independent consulting business—there are only so many dollars to go around that make a

business viable. To increase that amount would be detrimental and it would not be good for business; it would not be good for anyone. If it's not good for business, it's not going to be good for anybody. I believe that. If I were a lawyer, I might think differently, but I'm not a lawyer.

The Chair: Thank you for your presentation.

NISHNAWBE ASKI NATION

The Chair: I would ask the Nishnawbe Aski Nation to come forward. Good afternoon. 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. You may begin.

Deputy Grand Chief Dan Kooses: Thank you, Mr Chairman. I want to ask you something. Did you ever find out how French people ended up in Ontario or Manitoba? They were playing hockey and they were on a breakaway.

1630

I'd like to thank the committee for giving me the opportunity to make a presentation. I believe Grand Chief Stan Beardy made an extensive presentation with Sioux Lookout and Mishkeegogamang, so my presentation will be short and sweet. But I also have an opportunity to address the committee in Moose Factory tomorrow morning. So I'm pleased to be here to provide my comments today.

I want to present a bit of a different perspective and provide you with a little more to think about.

Nishnawbe Aski Nation, as an organization, has been following these hearings very closely and has noted the interest in making it appear that resource development is an issue of attracting investment and further building their economy. For First Nations, it is an issue of implementing the treaty, a treaty of sharing, and the need to deal with some of our socio-economic conditions so that we can provide a better future for our youth. So you have before you the perspective to consider and decide maybe what is more important and what is fair and just.

We have hammered down our socio-economic statistics. I think, at this point, it is very clear to you that we are in a very bad situation. We all know the numbers. There is no question that this has been established and that you, as a committee, sympathize with our situation.

Today, I want to move you a step beyond this and talk about how we see a future revenue-sharing relationship with the province.

Over the course of these hearings, industry has made it clear that they believe that it is inappropriate for them to be negotiating agreements with First Nations that contain aboriginal and treaty rights, and that it must be left to the fiduciary, which is the province. We are in total agreement with this. We agree that revenue-sharing must be done: a government-to-government relationship. Revenue-sharing goes to the very heart of aboriginal and treaty rights.

Industry was not a party of the treaty, as such. After the hearings are over, this must be applied. We have

already received the industry positions on how they would like to see a future revenue-sharing agreement play out, such as not having to pay their dues to Ontario twice or having revenue-sharing applied solely to new projects in the far north.

The important point is that First Nations and industry agree in principle with revenue-sharing. Where we disagree is on the parties at the table and the details of the new bill.

It is time to take that agreement in principle and proceed government-to-government. We no longer need industry input. As a matter of fact, they have already said that these discussions must be government-to-government.

Communities will continue to discuss and negotiate with industry on economic and business opportunities, but we prefer to keep revenue-sharing a separate issue between the crown and First Nations.

I know that a lot of you have asked questions about how the bill will impact on the current economy, and if it will create any kind of uncertainty for future investment and economic growth. We know it is your responsibility as a government to be concerned about these things, but we really must provide you with our views and realities on this.

1640

Industry has been saying that the proposed bill will risk increased costs and discourage investment in industry. The real risk is that First Nations will not allow these kinds of activities to take place without revenue-sharing.

What revenue-sharing actually does is it very much works to provide more certainty. We want an orderly mechanism at our disposal, rather than a disorderly one where First Nations have to resort to other activities. Without just and equitable revenue-sharing, we will have to resort to challenging industry's social licence to operate on our land in the markets and stock exchanges of the world by encouraging boycotts and other activities. We will no longer allow industry or the Ontario government the opportunity to compromise our indigenous rights in a socially irresponsible manner. In short, "There will be no more lives lost of our youth for diamonds, gold or two-by-fours."

Yes, we know that the bill as it stands now contains a lot of unknowns and that revenue-sharing is a complicated exercise, but let us not let that stop us. We need and support Bill 97 in principle. Let us now start a process of talking about its mechanics through a bilateral table.

I don't believe that we are being unfair or are asking for something that is unreasonable. We need your cooperation in order to make things work. Meegwetch.

The Chair: Thank you. We have time for questions, and we begin this round with the government.

Mr Colle: I think we'll ask questions of Deputy Grand Chief Dan Kooses tomorrow in Moose Factory. I think some elders want to address the committee, so we'll look forward to asking questions tomorrow.

The Chair: Mr Miller?

Mr Miller: Thank you for your presentation. Bill 97, as it stands right now, starts geographically at the French River. Should Bill 97 apply to the whole province or just the area north of the French River, as it currently does?

Deputy Chief Kooses: I certainly cannot speak for people—to me, Timmins is south.

Mr Chairman, I do want to comment regarding some of the questions that were asked earlier in some of the presentations. I wanted to comment on the issue the gentleman raised earlier about revenue-sharing with industries. I think the problem with establishing legislation that covers revenue-sharing with industries is that we all know the global economy controls and dictates these industries. If you limit the revenue-sharing process with the companies only, you understand that is based on economy, on how the business world operates from time to time. I think the important thing the committee needs to understand is that you're here more often talking about the treaties that were negotiated by the federal government, as witnessed by the Ontario government. Those are the government-to-government relations we're talking about, because many times over the years, native people have experienced, when dealing with the companies, that at the end of the day it's Indian people who get laid off when a business goes bad. So we can't limit ourselves to that position.

The other thing I want to make a comment on is the question that came out around arbitration. We are not Ontarians; we are Mushkegowuk people who have nationhood. Treaties do not make nations; nations make treaties, and I want you to understand that. For us to establish a reasonable agreement with the province or maybe even with the federal government, I think the ultimate goal for all parties is to reach a shared jurisdiction on resource development. That is the ultimate goal we need to reach. It's very important that we understand the benefits we're talking about. It's all about mutual interest, mutual benefits. Thank you very much.

The Chair: Thank you. The NDP?

1650

Mr Michael Prue (Beaches-East York): I have a question. We are starting to see, not only in Canada but around the world, many indigenous people refuse to put up with poverty or their station. Whether it be in Australia or Brazil or Mexico or Canada or the United States, it's the same thing. You are suggesting that we ought not to listen to industry telling us that they will fold up their tents and go away or not come here at all if we try to have revenue-sharing. The reality is that a legitimate cost of doing business is dealing with you fairly.

You have suggested that you as a people, as a nation, are prepared to take them on in the markets and the stock exchanges etc. Is this widespread? I'm hearing this from other people, but is this a firm, widespread view of your people?

Deputy Chief Kooses: I think I mentioned earlier in my presentation that [*inaudible*] is going to be com-

plicated. I think we can flesh out the idea of revenue-sharing by having more dialogue with the Ontario government as well as industry, which will clear up a lot of the stuff we talked about.

I don't necessarily know too much of what's going on in other countries: if they have a colonial government or if they made treaties with other indigenous people. But in our country, in Canada, I think revenue-sharing is overdue, and it's something we understood when our forefathers signed the treaty that we would share resources in our mutual interest as well as [*inaudible*] the questions that you talk about.

Mr Prue: I don't either, but we'll talk later.

The Chair: Thank you very much for your presentation.

ATTAWAPISKAT FIRST NATION

The Chair: As agreed earlier in the afternoon, we will now have the Attawapiskat First Nation.

Interjection.

The Chair: I was calling on the Attawapiskat First Nation to come forward. You have another half-hour.

Interjection.

The Chair: We have other names on the list as well.

Chief Carpenter: Were you calling me?

The Chair: Yes.

Chief Carpenter: I think there are elders who wanted to speak.

The Chair: Yes, we have them on the list as well, but we said that you would have another half-hour for you.

Chief Carpenter: Me? I don't have anything further to say.

The Chair: Chief, if you don't mind, when you presented the last time, there was no opportunity for questions. Would you mind 10 minutes of questions?

Chief Carpenter: Sure.

The Chair: Is that OK? And then we will talk with the other people, yes. So is that fine?

Chief Carpenter: Sure.

The Chair: Very good. We will begin with the NDP. We'll have about three to four minutes for each caucus.

Mr Bisson: I've got three questions, Chief Carpenter, and I think part of it has been answered, but I want to be clear. On the issue of arbitration, I'm prepared to take that out of the legislation, but do we need something to hold the government's feet to the fire? Or do you believe it should be open-ended, that if it takes three years, if it takes five years, so be it?

Chief Carpenter: I guess when it comes to arbitration, I have concerns with it because of the time frame, and three years is what you mentioned in your bill. As you know, First Nations have a lot of issues to discuss among themselves. I'll give you some examples: maybe territorial issues, overlapping territories. To me, that's going to take more than three years to resolve. So that's why I'm concerned about the arbitration clause, where the government will step in and they decide what's good for First Nations. I disagree with that. There are many

other examples I can use, but I think you get the understanding of what I'm saying.

Mr Bisson: I guess the tougher question is—and I haven't come to terms with this myself—if we remove the arbitration and the timeline, should we expand the scope of what we're trying to negotiate beyond revenue-sharing to some of the other issues, or should we leave it specifically to revenue-sharing?

Chief Carpenter: As I stated in my report, I recommended that maybe you hold off having the third reading. I don't know how long that would be. Because I didn't really agree with the process that you went forward with with this bill. I believe that First Nations should have the power to discuss these issues between themselves first, and then, if you're ready, we should come to you and move this bill forward. As part of our traditional culture, we intend to work with consensus, where all people agree to a certain issue or issues.

1700

Mr Zimmer: In his presentation, your counsel, Mr Barr, makes the point in his summary that you're not supportive of the arbitration process. Then he gives a number of reasons, one of which says, in the last bullet on the last page, "First Nations would be wiser to trust the Supreme Court of Canada than an arbitrator appointed in this process." I just want to hand it to Mr Barr or to you, as to why you feel you're better off in the Supreme Court of Canada than going through an arbitration process.

Chief Carpenter: Are you referring to his report?

Mr Zimmer: Yes.

Chief Carpenter: Maybe he should answer that question.

Mr Barr: The concern we have with the arbitration process: It is too broad, too wide-ranging. There's no discretion in there whatsoever. With the Supreme Court of Canada, we know what the rules are. We know what evidence the court will receive and, generally, what law will apply. So I guess you can say that we would rely on or trust the Supreme Court of Canada with its well-defined body of rules and evidence.

Mr Zimmer: But you could go through the arbitration process, and the Supreme Court of Canada would still have a final say on what the arbitrator said. So you could get both.

Mr Barr: If that's what the rules of the arbitration are.

Mr Zimmer: Arbitration subject to judicial review would be OK with you?

Mr Barr: I guess, with the overall supervisory jurisdiction of the Supreme Court of Canada, maybe. But it's just that this legislation doesn't say anything about that.

Mr Zimmer: Thank you. I just wanted to nail that point down.

Mr Barr: Sure.

The Chair: I took note that the lawyers didn't want to wait for the translator. We'll move to the official opposition.

Mr Miller: Chief, thank you for welcoming us into your community today. You said in your initial pres-

entation that Bill 97 might jeopardize potential impact benefit agreements and future impact benefit agreements. Can you expand on that idea?

Chief Carpenter: Since this bill is new, there seems to be confusion within the public in regard to revenue-sharing and impact benefit agreements. When Gilles Bisson came to the Mishkeegogamang assembly, I told him to make the people aware that IBA and revenue-sharing were two different issues.

As you know, IBA is an agreement between two parties. In our case, it's De Beers and Attawapiskat First Nation. It's because of the fact that we are the most impacted communities with this development [*inaudible*] of loosing use of that land and probably the possibility of contaminating our waters.

I use the words "negative impact" for one reason, because there is that possibility. Other First Nations may say they're also impacted, but I more or less look at their impacts as beneficial to them and they lead to economic development and things like that.

[*Inaudible*] and revenue-sharing—my understanding is that when First Nations first raised this issue, they were asking for a share of the profits from developments in our traditional territories. How that's going to be shared, I'm not sure at this time. Anyway, what we're saying is something about the IBA and so on.

The Chair: Thank you very much.

1710

GABRIEL SPENCE

The Chair: I'll call on Gabriel Spence to come forward, please.

Mr Gabriel Spence (Interpretation): I just wanted to let the standing committee know that it's been seven years since I last worked, since I had a stroke.

There are two things that I want to talk about regarding this community. Since the standing committee is here, I wanted to bring this problem that we have within the community. It has been four years since they closed down the school, and we rely on portables. Since you're here, I guess you should get a chance to go and visit what I'm talking about, to see it first-hand. There are 400-plus students going to the school that I'm talking about.

The other thing I want to talk about is this development of De Beers. What I want to talk about before you, since you're here as the standing committee, is sharing the revenue, whatever they get from the lifetime of the mine and once they leave. I wanted to go to [*inaudible*] since they're somewhere in our territory. We had a mine and they had something like 375 million [*inaudible*] the First Nations and the Inuit people, 75 million to them once they pulled out of the territory.

That is all I wanted to say to you in regard to revenue-sharing.

The Chair: Thank you very much. We will take that as information unless the committee has a question.

Mr Colle: Could we get an update from research on the status of the school mentioned by Mr Spence?

The Chair: We will do that.

Mrs Carol Mitchell (Huron-Bruce): Further on the school, could you even just tell us, as we're heading back to the plane, what school it is? Then, when we have the update, we can have the location so that it's clear in our minds what school you're talking about—and the information. That would be very helpful.

Chief Carpenter: Perhaps I can answer that question. I don't see the education director here. I think he flew out today. I don't know if Steve was here.

Interjection.

Chief Carpenter: Steve was here. Anyway, the school he's talking about is J.R. Nakogee Elementary School. I'm flying out tomorrow with the LEA. That's the first step toward working toward a settlement for a new school and also for the cleanup of the contaminated areas. I can't give you the full details, but if you want to find out more, perhaps you can call the education authority here. The person to call would be Mike Gull. He's the director. His number is 705-997-2232.

Mr Colle: You know the number well.

Mr Bisson: Everybody knows everybody's number here.

Mrs Mitchell: Thank you for that information. Walking over here, I did notice the school. It's right behind the high school, right?

Chief Carpenter: Yes.

JOHN HOOKIMAW

The Chair: Two elders have asked to speak. I would ask elder John Hookimaw to come forward. Good afternoon.

Mr John Hookimaw (Interpretation): I was asked to speak, but I don't know what I want to say.

Mr Bisson: Neither do we.

Mr Hookimaw (Interpretation): Hello. This is the first time that I have appeared before the standing committee. I welcome the committee to Attawapiskat.

I have listened during the hearing, and I have heard the leaders and the people who represent us talk about revenue-sharing and the things that have been said throughout the process. I have listened to the different leaders who have talked. I agree, and I thank them, because it's a good way of going with the bill, in terms of what they talked about, that they should continue to talk to each other in that direction.

1720

Yes, we, the northern people, are unique in some ways but we are poor people compared to southern Ontario.

It's been many years since the trapping industry has died down. The time Greenpeace was initiated by the European people was the time we decided—because they told us that we were harming and hurting the animals that we depended on. After they did that, this is when they banned trapping techniques and there were not new techniques of catching your beaver, your wildlife, for fur. They have not provided us any other method or techniques and so we just never bothered doing it, because I

know we have to stop doing that. We, as native people, never felt that way, but other people who had seen us from overseas thought we were taking and hurting the animals we relied on for our survival.

We, as people of the land, live off the land to survive and never thought that way. Our forefathers and grandfathers taught us that was our way of living, off the land. As you travel up north, the more muskeg you'll see in the open country, open tundra. Along the coast you'll see that there's open tundra. There are hardly any more trees around. This is the land that our forefathers have relied on since time immemorial, and still do today.

It was the government that came to our country when they came with the treaty to see our forefathers. This is why the native people of our country—many people talk about treaties but they haven't seen what the government has promised to our forefathers.

It's true when you hear a story about a trapper who goes out year-round and gets what he needs in order to provide for his family, because our land in the bush behind us was our supermarket.

Although the commissioners came in the name of the Queen to come and sign treaties with our forefathers back in 1905, we never got to see those right away, in that time. Our forefathers really depended on the land and they struggled with the hardships that they went through in terms of trapping and hunting for their survival.

Our family says that when I talk about the—I want to talk about the 1965 agreement, like when I see the notice of assistance coming into play in our area. I began to see this welfare come into play in our community in the early 1970s. That's when everybody got into the welfare system. Somewhere in 1966, the Department of Indian Affairs started to develop some housing on the reserve. The houses that you see were built by the department. That's what you see today. It's been quite a while since we built houses on our reserve. I don't know what happened. Maybe the Department of Indian Affairs doesn't build houses on the reserves any more. Although a community may be unique in a sense, somehow there are some problems with it, like the hardships. You may picture that a house has a good structure, but we are very poor. Because of the population growth, some houses are overcrowded. Living conditions are not as suitable as they should be. I want to share this with you today.

I see on the map that developers and prospectors are doing their activity. I don't know how that goes, whether those companies come to see or talk to the chief when they want to do some activity in the traditional territory. The first company that came into contact with us was De Beers because they came to talk to us about their plans when they did the exploration.

I know there are other companies out there that are staking, companies that are building or prospecting on the river. I think that's enough for anyone. Any developer who comes from the outside world should come and meet the people who are original owners of the land to tell them what they want to do in terms that we can understand, what their plans are.

I have to mention next that we have a treaty with the government that they should look at. I feel that a developer that comes without meeting the First Nation violates in some way my rights. I think they should meet with the chief and council as the leaders of this community. That's all I wanted to share with you. Thank you.

The Chair: Thank you. Mr Bisson has indicated he has a question.

Mr Bisson: First of all, Mr Hookimaw, thank you for presenting to us. This is very important to us. I have a question that probably only you can answer because you were here at the beginning, at the forming of the community. Initially, did the government provide enough housing for all the families that came into the community? And has it gotten worse or is it the same?

1730

Mr Hookimaw (Interpretation): I can't really say that the government has provided housing the way it should have. I mentioned a little bit about the problems we have with overcrowding in the family house. This creates problems with the morale, as well as the health issues that come with it.

In my presentation to your standing committee I mentioned that the government signed a treaty with my forefathers. At least they had an obligation to do something which they have not fulfilled. Yet the promises are empty and we're still waiting.

That's all I have to say. Thank you.

The Chair: Thank you for your presentation.

JOHN MATTINAS

The Chair: I had a request from elder John Mattinas, who also wants to address the committee. Please come forward.

Mr John Mattinas (Interpretation): I would like to say hello to the standing committee members even though I feel uncomfortable coming up before you. I'm afraid of this. Every time something goes on, I've been asked to speak on behalf of the community. I talk a lot, and I sometimes get the feeling that people don't listen to me when I want and I never get to what I want to say.

One may wonder why I pushed the microphone away. I feel uncomfortable using it because, after all, once you're gone, you'll be laughing at me. That's what they've said.

We have people coming in here, different government representatives that come and go, and other people who come and work for us. The elders think I'm getting stressed and tired from hearing and talking, because often studies and research are done and often they don't come back to us with the outcome. They just collect dust, I guess, back there.

However, there's a lot that I want to say, that I could talk to you about from the teachings of my elders. My elders of the past never put a pen or anything to paper. They only talked to me the way they were. They did not have the opportunities, the technology that your people use to talk to us. When I was living off the land, my

elders showed me the things that I could survive on and things they wanted me to know. Once I started to follow the footsteps, I started to go on the land with the elders, and that's what I grew up on. Although my forefathers are gone, there is a lot they taught me that we, as native people, can do to use the land. To me, the way I see things, the modern way of doing business that I see since I came to the community—people come here and say that's what they want to do and they show the figures and numbers. To me, it's not good for me.

I'd like to say a little bit about the 1905 treaty that came with the commissioners. My forefathers, who signed the treaty when the commissioners came, have gone on their journey back to Mother Earth and never saw the things that were quoted within the treaty. They were witness when the commissioners came, when they said that the treaty was going to be like the grass that grows and the river that flows—the treaty was going to be like this; that's the kind of wording they used when they came to my forefathers.

Mr Chairman, I have to talk this way to tell you what I want to say. I'm not talking for myself. I'm not complaining about the past. I just want to leave something behind for the future generations to use, that will be here after I am gone.

The thing about the treaty, what was written in the treaty—they talk about education, they talk about housing and whatever they included at the time when the commissioners came to our forefathers. Today you see a community in houses, but that's not enough, because the houses we get are not of the standard that other people get, and all the things that come with it. You heard about the school, as mentioned earlier. We have a school we can't use, and we're still looking for a new school.

I happened to be in a meeting one time in Timmins, and they talked about getting a school going. I shared my ideas, because this was something that I wanted for the young people, to have a place where they can go to school and further their education. That's what's needed, and it was within the treaty when the commissioners came.

1740

I served as a councillor in this community for the past 20 years. During my time as a councillor, the things we talked about, about community affairs and trying to plan the community—there were times that I feel I was not as satisfied or that I made a failure of what we talked about.

As native people, we never had a chance to say, "This is what we want, this is what I want, this is where I want to be," because there's always someone making the decisions for us. They have to go back when the mission and the Oblates came to this country, to our territory, as well as the Hudson's Bay Co. They only did it the way they saw things so they could help to better themselves.

I'll get to my point. Bear with me. Be patient with me. The building where we're sitting right now is where the boundaries were set when the Department of Indian Affairs came along the riverbank. This was where they gave the portion of land for us to use.

I know the level. We have a higher level here, and there's less eight feet down, when you get down below. This is why I said there are a lot of things we never had a chance to be on our own as native people, because there was always someone doing something for us.

So many times I wonder as I look at this community, when I see the youth walking around the community, and I see the middle-class people walking around. We're faced with this problem every day, and yet they never say anything; they never talk about it.

I have to talk to you this way. I know it's maybe something you're not looking for in regard to your Bill 97 regarding revenue-sharing. However, I know what Mother Nature conferred rights for us native people and for those young people for their future.

Yes, I do know there's a lot that comes with the land. Developers come into our area knowing that there's richer resources, in terms of mineral and other resources, speaking about resource development, whereas my people only took what was on the land. Yet our forefathers told us that someday strangers would be coming to interfere with our way of life.

I have seen people, strangers, coming to my area, because I know they were looking for something, seeking their own studies. I've seen them studying all the rock, looking at the timber and others—you name it—that Mother Nature has to offer.

I have begun to see and understand things since I've been involved with De Beers, who one day came and consulted with the First Nation. I have heard De Beers talk about the importance of the environment and the protection of the land. Even though he wants to take the diamonds out, he says that he's planning carefully what will impact the land on us.

As I mentioned to you, I was taught by my forefathers. One thing that they have taught me is to keep the land and to care as a keeper of the land.

As a youngster, I used to take a bird out of a nest. Back then, I was a youngster. I used to take it home as a pet for myself. My late grandfathers told me, "Go and put it back where you got it. It belongs to Mother Nature."

To me, since I live in this community, I have seen some of the things that I talked about as being a keeper of the land, the way that my forefathers have taught me. As I began to live in the community and TV came to interview us on our way of life, I saw the sportsmen who go out and fish for sport and throw the fish back in the river. This is something that my forefathers would not let me do if I was living off the land.

I have talked to you differently because I want you, as the standing committee members, to listen and understand what I'm trying to get at.

1750

I know you have some questions in your minds that you may want to ask us, but with the short time that we are coming to the community hall, it's impossible to hear what we have to say in one short trip. I hope there will be another trip so that we can speak with you.

I have a question for one of the representatives here, Gilles Bisson. It's a question or something that I may laugh about; something that you can laugh about. I wanted to ask him if he can afford a razorblade. I keep seeing him like that every time he comes.

Mr Bisson: I am trying to emulate the mother beaver.

Mr John Mattinas (Interpretation): I've known Gilles Bisson for some time, and every time I run into him, we always joke with each other. So I wanted to share that with you.

The other thing, too, is that when I was growing up, my father had taught me to respect the wolf like we respect other people, no matter who they are, and talk to them, try to understand their way of understanding.

Therefore, that's all I have to say. If anybody has questions, he'd be willing to answer.

Mr Bisson: I have a burning question, in turn, as an avid fisherman. Michael and I have been throwing fish back in for a long time. Do they die or what?

Mr Prue: No, they don't die.

Mr Zimmer: Just on a point of order, so to speak. Mr Chairman, I've been here for the afternoon listening to the fine job the translator's been doing. For a number of years, I was the deputy chair of the Immigration Board of Canada. I sat through many hundreds, thousands of translations, languages all over the world, and I can say that the translation that you provided this afternoon was one of the best that I have heard in the many years that I was at the immigration board. So my congratulations to him.

Mr Bisson: Keep in mind, Mr Zimmer, I now have to negotiate the price.

The Chair: That concludes our hearings today in Attawapiskat.

Part of my closing remarks were that I want to thank you, Gerald, for a fine job. You sat there all afternoon and did a very good job. I also want to thank Father Vezina, who worked along with our clerk, Trevor Day, to help us in our visit here in Attawapiskat. I think all of the committee members have met Father Vezina, and we certainly appreciate all the help that he provided for us in our visit here with you today.

The chief has some remarks. Quiet, please.

Chief Carpenter: I just want to say thank you to the legislators for coming to visit our communities. I want to also say thank you to the people that attended the meeting, the presenters. I'm sure you learned a lot from the presentations that were made.

I want to talk about one thing from when the elders were talking. If the treaty was signed in 1905, how come it took 65 years for welfare assistance to reach our people? Also, in regard to housing, it took 61 years before they started building housing. I think the government owes us a number of houses.

Again, I just wanted to say thank you. I hope we have more meetings like this. I was listening to the elders yesterday when they were being interviewed about the Victor project. One thing they said was, "Life changed. Our people can no longer survive on the lands by trapping because of the market value." They said that

they had to accept these new ways of forestry and mining. But one thing they made clear was, they're not willing to give up a few jobs for contamination of our land. That was very clear. I just wanted to say that.

Again, thank you for coming. I hope we will see you again in the future.

The Chair: Thank you very much, Chief.
The committee adjourned at 1758.

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