



**Second Session - Thirty-Sixth Legislature**

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

on

**Economic Development**

*Chairperson*  
*Mr. Peter Dyck*  
*Constituency of Pembina*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

**Members, Constituencies and Political Affiliation**

<b>Name</b>	<b>Constituency</b>	<b>Party</b>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
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DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
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ENNS, Harry, Hon.	Lakeside	P.C.
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GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
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McINTOSH, Linda, Hon.	Assiniboia	P.C.
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PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
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TWEED, Mervin	Turtle Mountain	P.C.
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WOWCHUK, Rosann	Swan River	N.D.P.

## LEGISLATIVE ASSEMBLY OF MANITOBA

## THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Tuesday, October 22, 1996

**TIME – 10 a.m.****LOCATION – Winnipeg, Manitoba****CHAIRPERSON – Mr. Peter Dyck (Pembina)****VICE-CHAIRPERSON – Mr. Marcel Laurendeau (St. Norbert)****ATTENDANCE - 11 – QUORUM - 6***Members of the Committee present:*

Hon. Mr. Praznik

Messrs. Ashton, Dyck, Jennissen, Lathlin, Laurendeau, Pitura, Rocan, Struthers, Sveinson, Tweed

**WITNESSES:**

Mr. Jerry Primrose, Chief, Nelson House First Nation

Mr. Marcel Moody, Director, Nelson House Trust Office

Mr. Eric Saunders, Chief, York Factory First Nation

Ms. Valerie Matthews Lemieux, Legal Counsel to Nelson House First Nation and York Factory First Nation

**MATTERS UNDER DISCUSSION:**

Bill 52–The York Factory First Nation Northern Flood Implementation Agreement Act

Bill 53–The Nelson House First Nation Northern Flood Implementation Agreement Act

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**Mr. Chairperson:** Good morning. Will the Standing Committee on Economic Development please come to order.

Before the committee can proceed with the business before it, it must elect a new Vice-Chairperson. Are there any nominations?

**Mr. Frank Pitura (Morris):** Mr. Chairman, I would like to nominate the member for St. Norbert (Mr. Laurendeau).**Mr. Chairperson:** The member for St. Norbert, Mr. Laurendeau, has been nominated. Are there any further nominations? Seeing none, Mr. Laurendeau has been elected as Vice-Chairperson.

This morning the committee will be considering two bills: Bill 52, The York Factory First Nation Northern Flood Implementation Agreement Act; and Bill 53, The Nelson House First Nation Northern Flood Implementation Agreement Act. We have just had four walk-in presenters on the bills this morning, and the names are: Chief Jerry Primrose, Chief Eric Saunders, Councillor Marcel Moody and Valerie Matthews Lemieux in that order.

Are there any other persons wishing to present? If not, was there a wish for the committee to determine time limits?

**Hon. Darren Praznik (Minister responsible for Native Affairs):** Mr. Chair, I have had some discussions with the presenters, and I understand that, representing the two communities that these bills deal with, they have a proposal for some change. We have had some discussion. I understand that they have brief presentations to make, so I would suggest we just hear them. They have come a fair distance to be here. I think members will find that the issue is not of a major controversy, but I would suggest we just allow them to present.**Mr. Chairperson:** Okay, then we will proceed on Bill 53.

Chief Jerry Primrose, will you please come forward to make your presentation to the committee. Yes, right there, please. Do you have written copies of your brief for distribution?

**Mr. Jerry Primrose (Chief, Nelson House First Nation):** Yes.

**Mr. Chairperson:** You do. Chief Primrose, please proceed with your presentation.

**Mr. Primrose:** Good morning, ladies and gentlemen—I guess, so I do not make an error here, I will cover all the bases—Mr. Chairman and members of the committee. I am pleased to be here today on behalf of my community and all members of the Nelson House First Nation. I have with me Marcel Moody, our lead negotiator, a former councillor, Nelson House First Nation; and Valerie Matthews Lemieux, our legal counsel.

Our people have lived off the land in northern Manitoba for thousands of years. When the European settlers came to our land, we agreed to share its bounty with them. Prior to the establishment of our reserve, our people migrated through our traditional territory for sustenance and livelihood. The Nelson House Indian Reserve was established in 1908 as a result of adhesion by the Nelson House First Nation to Treaty No. 5. The current band population is approximately 3,300, but only 1,800 people actually live on the reserve. There are approximately 800 people who reside in South Indian Lake and the rest of the population is scattered throughout the country.

Nelson House First Nation has evolved over the years from an isolated community which depended fully upon the surrounding land and its resources for sustenance to a fixed settlement accessible by road and impacted immeasurably by a multiplicity of modern conveniences, values and structures. Whereas as recently as the 1940s, the Nelson House First Nation remained closely associated with the traditional lifestyle dependent upon trapping, hunting, fishing, gathering and living on the land. Requirements for schooling, health delivery, significantly reduced the traditional lifestyle of our people. As a result, the Nelson House First Nation began to permanently locate to the reserve.

During the 1940s, some members relocated to another traditional activity area, South Indian Lake. The Nelson House First Nation members who relocated to South Indian Lake are in the process of severing their ties with Nelson House and are currently negotiating with the federal government in an attempt to establish their own reserve.

Prior to 1977, the people of Nelson House continued to depend on that traditional economy, but the massive Churchill Diversion project displaced and disrupted the way of life for the people of Nelson House. The people could not hunt and fish the way they used to because of the massive flooding affecting their traditional territory. Social problems resulted because a way of life was lost. Suicides in epidemic proportions were experienced as well as an increase in alcohol consumption which resulted in total social chaos. Outside influences that modern-day society offered did not help either.

In 1977, when the Northern Flood Agreement was signed, it brought hope to the people of Nelson House. The government of Manitoba and Manitoba Hydro promised that things would be better for the people. The promises that were made to the people were not satisfactorily implemented. An unemployment rate of 90 percent exists in Nelson House. The promises that were made in the Northern Flood Agreement have never been fulfilled. As a result, people are still frustrated and basically have nothing to look forward to except welfare.

From 1977 to 1992, our people negotiated several small agreements but never received the major benefits promised by the Northern Flood Agreement. Most of the money was going to lawyers and consultants, and our people received little or nothing. We have tried negotiating with the governments, Hydro and all other First Nations who are signatories to the NFA but could not reach a successful agreement.

In the fall of 1992, we felt we had no other choice but to look for a new approach in order to try to bring the benefits to our community. We entered into negotiations for a comprehensive implementation of the NFA for our community alone. There were many ups and downs and frustrations during the negotiations.

We finally started making inroads when the community took charge and appointed a local negotiator and

negotiating team, hired local community consultants and worked with the people to find solutions.

There were numerous meetings with the community. Many newsletters were provided along with other written and audio-visual material about the agreement. Copies of the draft agreement were provided to our people before the referendum so they could ask questions. It is a complex agreement and is sometimes hard for most people to understand. This is why we want the legislation implementing our agreement to reflect the language used in the agreement. It is hard to explain many of the concepts in the agreement in Cree; therefore, we want to make sure that our people see the connection between the agreement approved and the legislation passed by Parliament and the province.

We want our people to know you have listened to us, even though this Legislature is many miles from Nelson House. While support of the agreement was not unanimous, 64 percent of our members on- and off-reserve voted in the referendum held December 6. Of those voting, there was an approval rate of 77 percent with an approval rate on-reserve of 80 percent. While the agreement is not perfect and we did not get everything we wanted, we believe that it is fair and will benefit our community. We want to move forward and become economically self-sufficient. We want our children and our children's children to live in prosperity and happiness. We must break the cycle of poverty. We believe this agreement will allow us to take steps towards self-sufficiency and self-respect.

I would like to get Marcel Moody now to speak to you about the benefits of the agreement and how it has already started to make a difference to our community and our people. Valerie Matthews Lemieux will deal with the legal issues.

Thank you.

**Mr. Chairperson:** Thank you for your presentation.

I will then call on Marcel Moody. Do you have written copies for us?

**Mr. Marcel Moody (Director, Nelson House Trust Office):** I think they are in the package that Jerry passed out.

**Mr. Chairperson:** Thank you, Councillor Moody. Please proceed.

**Mr. Moody:** For the record, I am not a councillor. I am an ex-councillor for the First Nation.

Good morning, honourable committee members. I am appearing before you to explain the importance of this agreement and the proposed legislation to my people. When the negotiations first started in the fall of 1992, I was a member of council appointed to work with the negotiator we hired to help us achieve a comprehensive implementation of the Northern Flood Agreement. In the summer of 1994, I became the Nelson House negotiator, and following the signing of the agreement in March 1996, I was given the responsibility of establishing a trust office as part of the operations to oversee the implementation of this new agreement.

The years from 1977 to 1995 were very frustrating for our community as we waited for the other parties to fulfill their obligations under the Northern Flood Agreement. We saw many consultants and lawyers come and go and receive the financial benefits of the NFA while our community remained mired in poverty and social problems, seemingly unable to recover from the massive social and economic change forced upon us by the hydroelectric development project.

Our pristine lakes and beaches disappeared. Our food supply disappeared or was contaminated by mercury. Our water was bad and there was no hope for the people. Social problems were severe. We had no control over our own lives and no hope of moving our people into the 21st Century. Finally, after three long years of negotiations and many long hours away from our community, family and friends, we concluded an agreement we can live with, one which we hope will help break the cycle of poverty and social problems our people face every day. We know that this agreement does not provide all of the answers, but now we can start to control our own lives.

I thought the committee might like to know that, since this agreement has been in place, we have been able to build better roads in our community. We have built many new houses and plan to continue building more. We have started a home ownership program so that people who want to can own their own homes and obtain

loans from the banks. We have a log building training program started. We hope log homes can be used to help eliminate the housing backlog and provide training and jobs for our people. We are considering the purchase of a hotel and are looking at a casino operation to provide long-term economic development. Small businesses are starting to develop, and we hope to obtain a bank on reserve as well as an RCMP detachment. Each year we go through a process called a community approval process, which allows our people to decide how to spend the \$4 million a year. These funds are then administered locally with investment and record-keeping assistance being provided by a corporate trustee.

We have started developing some of our own laws incorporating our own traditions, although this is difficult and time consuming. It is also sometimes hard for our people to remove the yoke of the Indian Act from our necks, but slowly we are trying and we are succeeding. We are proud of our achievements in the short time that the agreement has been operating, and we want others to know that, when all parties co-operate, agreements such as ours can be reached and that we can successfully implement these agreements and govern ourselves.

\* (1020)

While there are still some matters which must be dealt with under the NFA, such as the obligations under Article 6 in relation to potable water and death and injury claims, we are hopeful that there is a new spirit of co-operation which will allow these claims to be resolved in the future. In addition, we have a detailed process which must be followed before any future hydroelectric dams can be developed or built. We want to participate as full partners in Manitoba where our rights and traditions are respected now and in the future. We want to better our lives for our children and grandchildren. We are working hard to ensure this, and we hope you will join with us trying to achieve a decent standard of living for our people.

As the government is responsible for the operations of Manitoba Hydro, we hope all of you, regardless of political affiliation, will never again allow this type of devastation we faced in our community. Hopefully, the provisions in this agreement will be honoured, and our people will not have to wait for over 18 years to obtain

compensation or the benefits from any future developments. Thank you.

**Mr. Chairperson:** We thank you for your presentation. Do the members of the committee have questions they wish to address to the presenter and also to Chief Primrose?

**Mr. Steve Ashton (Thompson):** First of all, I want to thank Marcel Moody and Chief Primrose for coming in. I should mention to members of the committee that to get here, you have to go across Highway 391, which is never in the best of shape. I find it ironic, too, and I want to mention this on the record there has been a lot of work within the community in terms of improving roads, and perhaps that may lead to a new spirit with the provincial government in terms of improving Highway 391. I think it is part of the spirit of the Northern Flood Agreement, so I could not resist that, Mr. Chairperson. I know everybody in—I do not mean to politicize this—

**An Honourable Member:** But you will.

**Mr. Ashton:** I would say I am not politicizing it when I say that the entire community of Nelson House, if you were to find the No. 1 priority now that the Northern Flood Agreement is settled, it is to get Highway 391 fixed.

I also wanted to thank the presenters too for giving I think a sense of what is happening in Nelson House, because I know I sensed there is a real sense in Nelson House of turning the corner now with the signing of the Northern Flood Agreement. There is a lot that can be done, and I note that a lot of what is being talked about here is really in the sense a partnership. There is talk, for example, in terms of casinos. That would require again perhaps a fairly flexible position from the government and I think perhaps a new recognition of the reality of self-government. I appreciate that fact.

Also I think it very appropriate that the presenters refer to the fact that we have to be careful in terms of future hydro development. One of the potential dams that might be developed, Waskahigan, would involve as much flooding on the Burntwood River as previous developments have, so this is not a one-time development. If we are not careful again and we do not

learn from history and recent history, we run the risk of the same sort of development.

I wanted to ask Mr. Moody, in that sense that is the position of the Nelson House First Nation, that there should be no further developments such as, say, Waskahigan which would involve flooding without the approval of Nelson House First Nation, and I assume if there was significant flooding that that approval would not be given. Are you saying that one of the keys in the future is to make sure that First Nations, Nelson House First Nation is not only told after the fact but has a veto, if you like, over that kind of development that would involve significant flooding?

**Mr. Moody:** I do not want to speak on behalf of council, but certainly when you talk about consultation we want to be involved, and we want the governments to commit to our participation. If there is a project we want to be involved. We just do not want to be told. There is a process outlined in the agreement that outlines what the process is going to be, and certainly we just do not want the governments to come to our community and say, well, we are going to do it. We want to be involved right from the start, and we want to make sure that the consultation process is followed.

**Mr. Ashton:** I also wanted to ask a further question either to Mr. Moody or to Chief Primrose, because there was reference to, in terms of some of the expectations, and I know this is one of the frustrations many people have expressed to me.

The reason I mention Highway 391 is that that is—well, I will keep mentioning it until we get it fixed. But quite frankly, that was one of the expectations on the original signing of the Northern Flood Agreement, that there would be an emphasis not just within the narrow confines of the agreement but that governments were recognizing the need to provide basic facilities, the road being one of them, and economic development is another.

I am wondering if the reference in here to those kinds of expectations did not include, I will mention it again, Highway 391 and other types of things that many communities take for granted. I hope members of this committee, many of whom have not had the opportunity to travel on it—I know the minister has.

**Mr. Marcel Laurendeau (St. Norbert):** I have been on it.

**Mr. Ashton:** Well, okay, Mr. Laurendeau has, but I think the important thing here is that Nelson House does not have the most basic facilities in terms of road access that many communities in the south take for granted. I am wondering, the reference in here to the expectations, if, now that the Northern Flood Agreement has been resolved, then I congratulate all parties in terms of resolving that agreement, if the expectation is not that now we can move on to, for example, fixing up the roads and perhaps working on the 90 percent unemployment that you referenced. I say, working in partnership, because I know the band is working on it actively, but perhaps with the federal and provincial governments also accepting responsibility as well.

**Mr. Primrose:** One of the things that you talk about, Steve, about the highways and stuff like that, our long-term plan is like was mentioned in one of the speeches here, that is, self-sufficiency, and I think everything interconnects. You talk about roads and stuff like that, and when we talk about self-sufficiency, we look at mining, we look at buying investments in Thompson, so I mean everything interties. I am not here to condemn anybody, but it would certainly help if we all worked in the spirit of co-operation. I think in the long term, we are only interested in our own self-sufficiency, so we do not expect handouts. We want to work to the betterment of our people. That is our long-term vision. Thanks.

**Mr. Praznik:** Mr. Chair, I would like to thank Chief Primrose and Mr. Moody for coming here today and making their presentations. I know your legal counsel is going to speak on an amendment you are requesting. Our people have been talking, and I think we hopefully should be able to accommodate the issues that you raise.

I wanted to put on the record of this Legislative Assembly today, after your presentations, my personal admiration for both of you and your councils and your negotiating team and the effort that went in to concluding this agreement. Jerry, my friend, we have spent a lot of time on the telephone, we had meetings, and we had to sometimes take issues together and work through our respective problems. This is a massive agreement to put together, huge amounts of issues, many of them that had

to be raised to the principles' level, some at the end to get concluded.

Once we had agreement—just for the interest of members of the committee—my task was easy. I only had to sell it to 17 other people around a cabinet table and to a government caucus. Chief Primrose and his council had to go and sell it to a community—[interjection] Two communities. Actually, that is right, with thousands of bosses, all of whom have their own ideas and interests and views as to what should happen and they are not at the negotiating table. Sometimes it is very easy from the—call it the safety, I guess, of this Legislative Building, for any of us or the news media to be able to say, well, why is this thing not being done? But the huge effort, once you have actually concluded an agreement, is being able to secure the support for it in the community and to build the level of understanding. We as a nation are not able to do that on constitutional matters. So one appreciates the effort that goes into doing this.

I just want to say on behalf of the people of Manitoba, I do not think we would have been able to resolve this outstanding debt of our province and our hydro utility to the Nelson House First Nation if it had not been for the tremendous efforts of your negotiating team and your council and people in the community to make this thing work. I enjoyed very much attending—it was a great honour and privilege for me and one of the highlights of my career in public to have attended that signing ceremony in your community. I know the member for Thompson (Mr. Ashton) was there with me as well, and it was really truly an honour.

\* (1030)

I think, Chief Primrose, when the flooding took place, you and I were much younger in our lives, and we have to ask why others did not settle it in their day. The fact that they did not left us the challenge of doing it, and now it is completed. We very much appreciate the good work that is going on in your community with those dollars. I want to thank you for coming here today and making your statements on the record, and on a personal note it is one of the more rewarding moments in this particular ministry of having concluded those agreements.

So I want to thank you for coming today, and we have some issues we will discuss with your counsel when she

makes her presentation. I hope that we have been able to accommodate the particular perception concerns that have been raised out of this particular act. Again, thank you, and a safe journey home, and I look forward to us being there to ratify another agreement called treaty land entitlement in the very near future since we have agreement in principle now.

**Mr. Gerard Jennissen (Flin Flon):** Mr. Chairman, I wonder if I could ask Chief Primrose just one brief question, and that is relating to the language in the legislation and the agreement itself, not necessarily both being understood clearly by the people of Nelson House. I am just wondering, Chief, are you saying that the agreement was clearly spelled out for the people in Cree, but the legislation has not? So the people are not always sure if we are talking apples and apples or apples and oranges.

**Mr. Primrose:** We wanted to make sure that the agreement and the legislation are the same wording. For example, in the federal government legislation, the wording was different, so we just want to make sure that the wording in both the legislation and the agreement are consistent. That is all we want.

**Mr. Chairperson:** We thank you for appearing before us. Thank you very much.

I would now call on Chief Eric Saunders, please. Do you have written copies for distribution?

**Mr. Eric Saunders (Chief, York Factory First Nation):** Yes, I do.

**Mr. Chairperson:** Chief Saunders, you may proceed with your presentation, please.

**Mr. Saunders:** Good morning. Mr. Chairman, and members of the committee, I am pleased to be here today on behalf of our community and all First Nation members of the York Factory First Nation.

Also with me are Councillor Gordon Wastesicoot, who is sitting behind me here, and Valerie Matthews Lemieux, who is our legal counsel.

Historical record shows that native people of what is now northern Manitoba have interacted with the

newcomers to our land to survive and reap the economic benefits of the vast resources of our land, waters and natural resources. Our forefathers offered to share the natural resources of our land and to live in harmony with our environment.

Today it is ironic that we are here to seek redress for the devastation that the exploitation of the land's resources has caused. The culture, traditions of the land and a way of life have been forever altered for my people for the past 350 or so years, and more so within the last 40 years during the economic development of the North. It has only been within the last quarter of a century that we have sought redress for the exploitation and destruction of our lifestyles caused by modern-day progress.

As our elders and honoured ancestors have sought to protect our land, and the aboriginal and treaty rights bestowed upon us by inherent rights and by treaty under Treaty 5 of 1910, we hope that we can continue to protect those aboriginal and treaty rights which our grandparents and parents sought to protect under the Northern Flood Agreement when they realized the extent of the damage caused to those rights by the flooding of land and natural resources and its disruption of a way of life which is protected by treaty.

The creation of the Northern Flood Agreement came as a direct result of the people seeking to protect those rights. For the past 20 years, York Factory First Nation has been involved with the efforts of northern First Nations people to implement the NFA since it was signed in December '77 and ratified in March '78.

From the outset, the purpose of the agreement was to provide compensation and remedial measures. At the time of the agreement, however, many of the damages and impacts were unforeseeable as the hydro projects were just nearing completion. While the NFA describes general and specific obligations accepted by the signatories in '77, it did not detail the precise activities to be undertaken by each of the parties.

As the future unfolded it became clear the agreement could not be implemented because it lacked a clearly defined operational definition on how this was to be done. It failed to establish appropriate responsibilities and implementation mechanisms.

During the early years of the agreement, our people saw very little evidence of any attempt at implementation. This period is notable for lack of initiative by the parties to meet their obligations. The people of our community waited in good faith for the other parties to honour their commitments. In the latter years, various attempts at global and comprehensive approaches to implement the NFA were unsuccessful.

In early 1993, following consultation with members, York Factory indicated they wished to pursue comprehensive negotiations for an implementation agreement of the NFA. As chief and council wanted members to be actively involved in the process, this was accomplished through various methods. For instance, members of the community were hired to work as community consultants who communicated the views and concern of the general membership.

A series of community workshops were conducted at York Landing as well as off-reserve in Churchill, Thompson and Winnipeg. Explanatory written material in Cree and English were provided to various centres on and off reserve. Community meetings focused on particular issues arising out of the negotiating process. In addition, the concerns of specific segments of the membership were specifically addressed through meetings organized for elders, resource users, women and students. By October 1995, following two and a half years of negotiations and eighteen years of waiting, York Factory First Nation finally concluded an implementation agreement for promises contained under the NFA.

On November 2, 1996, the referendum on the agreement was held which carried the acceptance of the agreement by the band members. Three criteria, as stated in the agreement, were required to be met. The overall turnout from all four centres and mail-in ballots was 76.1 percent of all band members eligible to vote. The combined overall "yes" vote of on and off reserve was 88.9 percent and the on-reserve "yes" vote was 97.1 percent in favour to accept the agreement. Therefore the referendum met the requirements of Article 14.2.1(h) and ratified the agreement.

Now that the implementation agreement is in place, it has begun to show positive effects in that we are able to meet more needs of the community and more socioeconomic development and employment creation for

the near future. While I will speak to the benefits of the legislation, Ms. Valerie Matthews, our legal counsel, will speak on our legal issues and amendments to the bill so that it is consistent with the wording and intent of the York Factory Implementation Agreement. I hope committee members have been able to review our amendments prior to today.

In order for the First Nation to proceed and have more control over its affairs, we require that the enactment of Bill 52 be passed to enable York Factory to improve the standard of living conditions of our people. So it is critical that the legislation is passed for that purpose. Now that the agreement is fully executed, after some undue delay by Canada and the Minister of Indian Affairs, this last portion of the agreement is the legislation that would empower York Factory to continue to develop our community, land and resources.

The community approval process is incorporated in the *Kitche-Waskahigan Trust*, ensures the participation of all members, whether on or off the reserve, in the annual planning and budgeting process to determine all uses of trust moneys and assets each year.

\* (1040)

While no agreement is ever perfect, we believe this agreement fairly and accurately represents the many concerns and issues raised by our First Nation members. Our people had grown tired of a process that did not and could not work. They wanted change for the community and members to move forward. As elders and members have told us, it is time to close this chapter and open a new one, a new chapter that looks toward the future and generations yet unborn. Through the course of the negotiation process, our negotiators were guided by the vision and aspirations of the people. So band meetings, workshops and informal meetings, members have made their views known and ensured the entire process remained community driven and guided by the wisdom of the elders to protect the future of our children and their children's children.

Let us be mindful of those that follow after us. That has always been our way.

I thank everybody for allowing me to do this presentation here this morning.

**Mr. Chairperson:** Thank you for your presentation.

**Mr. Ashton:** I wanted to thank Chief Saunders. I wanted to note for the committee, I certainly know the minister is aware of this, but the fact that Chief Saunders is one of the most senior chiefs in Manitoba, and speaks from some experience, particularly in terms of Northern Flood Agreement, having served York Factory First Nation as chief for a considerable part of the time in which the debate and discussions took place in the community and the negotiations. I also want to thank Chief Saunders for coming in. I should mention too, since I mentioned in terms of Nelson House with Highway 391, for those who perhaps have not been into York Landing that there is no all-weather road into York Landing. In fact, one has to travel out either by air or by ferry, and I know that is one of the concerns in the community. Certainly, an all-weather road access into Highway 280 is certainly on the agenda, and I say that in the spirit of partnership, and I am hoping the Northern Flood recognizes it.

I also think it is important to note as well that the York Factory First Nation has been through a considerable number of dislocations, and a lot of people are not aware of the fact that the entire community is essentially a relocated community in the mid-1950s. That is why it is the York Factory First Nation. I know I have done some considerable research, working with members in the community, of what happened in the 1950s, and it is interesting because much attention has been paid to many of the other relocations, but there is considerable evidence that many of the people in the York Factory First Nation at the time did not agree to the relocation. Essentially, it was a forced relocation, and there were some very horrific circumstances. I talked to many people about the first winters, and in the sense that this closes one chapter, I know there is a real concern, people I talked to, in recognizing some of the things that happened in that relocation, and particularly given the fact that many of the elders are passing away and we are losing that collective memory.

I also wanted to note too, talking about historical obligations and Chief Saunders referenced Treaty 5 which was signed in 1910, and it is funny how one does not recognize in a way how the fact that we are all, I believe, obligated to following the provisions of the treaties that were signed and the agreements that were signed. But in

doing research with band members on the relocation and the provisions of Treaty 5, I found that one of the signatories to Treaty 5, involving York Factory First Nation in 1910, was listed as Ashton Ashton. Now, I am not sure who that was, and I am not claiming to be a band member. I do not know who it was, but it is interesting that historically here, and I discovered this in about 1993-94, you know, some 80 years later, some distant ancestor of mine apparently signed this treaty.

It shows the obligation that we all have because our ancestors—we are all party of that, no matter whether the member is the York Factory First Nation or the other signatories to the agreement. I appreciate both in the sense of the two bills we are passing today involving Nelson House First Nation, York Factory First Nation, that we are essentially doing two things here. One is, and I say this to both bands, I believe you are as much making history being here today, signing this agreement, as those that signed the treaties in the early part of this century. The second thing is, I believe it is a historical obligation that we are dealing with today, that this signing of this bill—it is the end of a chapter, and I appreciate that terminology in one sense, but the bigger book is still being written and it is very much a part of that.

So I wanted to put those comments on the record and thank Chief Saunders, and particularly to comment on his reference to the elders as well. The one thing that strikes me in that regard, both in regard to Nelson House and in regard to York Factory First Nation, is all the elders that have not lived to see this day and all those that worked in the community, it is, I think, a lesson to all of us in the future to make sure, first of all, that this type of thing does not happen again if we can avoid it, but also just to comment on that fact, that there are many people who worked very hard and are no longer with us.

That is why your statements in here about future generations I think are particularly appropriate, because I am sure they would have wanted that kind of focus today, looking at the future rather than strictly looking at the past and the many clear injustices that happened, because I think, once again, as you point out, there is a new chapter beginning for York Landing, for the York Factory First Nation. I really congratulate you for your extensive work on this because you have certainly put many hours into it.

**Mr. Praznik:** I just wanted to add some comments to those made by the member for Thompson. Chief Saunders, it is truly an honour for me and for members of the committee to have you here today to address this bill. You and your council and your negotiating team, like that of the Nelson House First Nation, went through a long wait and then a tough period of negotiation, and I wanted to congratulate you on the efforts and skill, because as I said to Chief Primrose, it takes a lot to negotiate a complex agreement, but then you have to go home and sell it to your constituents, and that is a difficult problem. We as politicians appreciate that more than I think the media or the general public, and it is worthy of note.

If I just may put on the record today one very brief story. I think that my memory of the signing when I was the guest in your community almost a year ago—I think it was in December that we arrived for the signing ceremony. I know there were other colleagues there. It was quite an interesting story. We left in the morning and I had with me our colleague from the Liberal Party, the member for The Maples, Mr. Kowalski, and we left Winnipeg, as you know, and got in the air, and 10 minutes later I think they shut down the airport, leaving the officials from Manitoba Hydro who, of course, the major payers here, the cash, on the ground in Winnipeg.

As well, the federal officials also got grounded in Winnipeg, and when our little plane landed in Thompson, we called ahead, and, of course, the weather was sunny over York Landing, and we decided we would go ahead and persevere, and, of course, when it came time to the signing, we exercised some executive authority. Thankfully, I was Minister responsible for Manitoba Hydro, and as Chief Saunders remembered, even though the Hydro officials were not there, I said I would represent them with my second hat, and we had to enlist the services of Mr. Kowalski. Being a Liberal, we had him represent the federal Liberal government at the signing.

Needless to say, he did not actually sign the document on behalf of Mr. Irwin, but he did, in fact, represent the federal government. I guess we sort of improvised to go through with the ceremony and ensure that the document was done, and I remember a wonderful community feast that we were able to take part of and the wonderful hospitality of your community as we enjoyed in Nelson House.

So we thank you very much for coming in today. I know your legal counsel will be making a similar recommendation as Nelson House, I understand, on adjusting the wording to better reflect the agreement, but I wanted to ensure that story was on the record, so my children can read it someday and yours, as well. Thank you so very much for coming; a great honour for us to have you here today.

\* (1050)

**Mr. Chairperson:** Thank you, Chief Saunders, for appearing before us.

I will now call on Valerie Matthews Lemieux, please, to speak to both Bills 52 and 53. Is there leave to allow this by the committee, to speak to both bills? [agreed]

Usually, only one person is allowed to register as the official representative for an organization. Is there leave for Ms. Matthews Lemieux to also be listed as the official spokesperson for the Nelson House and York Factory First Nations? [agreed]

**Mr. Praznik:** Yes, Mr. Chair, just for the purposes of the record, should this ever be read, the current presenter is the legal counsel for both communities, and we have had some discussions, because these two bills are very similar to one another, that would be certainly appropriate, in the interests of time, for her to address both sets of issues. I think they are the same issues, but I think it is important that that be on the record, to understand why we are giving leave.

**Mr. Chairperson:** Okay, could you please hand out the information? Thank you.

**Ms. Valerie Matthews Lemieux (Legal Counsel, Nelson House First Nation and York Factory First Nation):** Just while those are being handed out, maybe I could just indicate to you, these are the documents that we are talking about. You can see the size of these documents and imagine the length of time it took to negotiate these documents—and not only that, they are in English only, they are not translated—and be able to have these understood by predominantly Cree-speaking communities. It took a lot of work on the part of the community people. Having been involved with both communities now for close to, I guess, it would be five

years, a little predating the negotiations which started on these agreements, some interim agreements were actually dealt with and signed. But, particularly in relation to these particular agreements and the negotiations, those two communities are really to be commended, because it was at the time when both communities took hold of the whole process and dealt with the issues locally and really had very few outsiders who were involved in the negotiations other than their own local people. It is when they did that that they got results, and in fact we ended up with the conclusion of the negotiations and ultimately the signing of these particular documents.

As a result, it is very important to both communities to ensure that the language that is in these documents rather than some other agreements—some of you may know that the Split Lake First Nation, for example, had signed an agreement several years earlier. Their language is different than the language in these two agreements. However, as a result, it is very important for the communities to have the language that is in these documents reflected not only in the federal legislation but also in the similar provincial legislation, and I will be addressing in a moment the issue of the amendments and why we are seeking those.

Having said that, we appeared before the Standing Committee of Parliament on Aboriginal Affairs several weeks ago. At that time we also sought amendments to ensure that the language in these agreements was reflected in the federal legislation. The standing committee heard us and ultimately, after our presentations, they accepted the amendments that we had requested be made, and it was through that process that we then came back and realized that we wanted to ensure that the language in the provincial legislation was very similar to the extent it could be in the provincial legislation as well.

Now, just to give you a bit of background about what it is that the federal and provincial legislation is intended to do, I have prepared a short brief, and maybe I will just take you through that. I think it is always important for legislators to understand what it is and what the implications are of the legislation that they are passing, for the community itself. In this situation what we have is the federal legislation does four things; the provincial legislation does one of the same things as the federal legislation.

The federal legislation, in the case of Nelson House, will ensure that their settlement proceeds, which are payable under the agreement by Manitoba and Manitoba Hydro, will be paid to Nisichawasihk Trust, which is a local, controlled trust but with local trustees and the assistance of Royal Trust, a corporate trustee.

In the case of York Factory, the legislation will ensure that their financial proceeds, again payable by Hydro and Manitoba, will be paid to Kitche-Waskahigan Trust, a local York Factory controlled trust.

Without this legislation, what would happen is the funds from Manitoba and Manitoba Hydro would be paid to the federal Minister of Indian Affairs and then would be administered under the Indian Act without local control, and, of course, that is not in keeping with the concept of self-government. As a result, the legislation provides an exemption for these funds in these circumstances for these communities.

It is important because in the case of the agreements, the way they are structured, as the previous presenters indicated, the community members decide on an annual basis how the funds will be spent.

They go through basically a process which we call the community approval process, and what they do is, they come up with their wish lists and then they come up eventually with a budget on an annual basis and determine what the needs of the community are. If that legislation was not in place, as I said, it would have to be governed by the Indian Act.

The second thing the federal legislation does is that it exempts a parcel of land known as the Notigi parcel from the operation of Section 36 of the Indian Act. What that means, then, is that this land can be held in fee simple by the trust in the case of Nelson House, and that is the way most of us normally hold land. It is not reserve land. Most of us are familiar with the concept of fee simple title.

That is not the way the Indian Act is set up. Land, even if it is held by somebody other than the Crown, is deemed to be reserve land, so what we are doing is creating an exemption here so that this particular parcel of land can be held in fee simple. It is the same in the case of York Factory. There is a parcel of land in the

town of Churchill which formed part of the negotiations. It also will be held in fee simple by their trust.

Thirdly, the Manitoba Arbitration Act is, of course, not binding on Canada because, unless Parliament passes a law to that effect, any provincial law would not be binding on them. The third thing then that that legislation does is that it makes the Manitoba Arbitration Act binding on Canada for the resolution of any disputes that might arise under the two new agreements.

Lastly, both the federal and provincial legislation provide each community with control over their individual claims procedures by ensuring that where claims could be formally brought under the Northern Flood Agreement, those claims will now be brought under the new agreements.

What that means is, in the case of Nelson House, rather than members of the First Nation submitting their claims to Manitoba Hydro, claims under \$2,000 will be dealt with by a designated claims officer in the community. In this case, it will be the assistant director of the newly established trust office, which you heard Mr. Moody indicate that he is the director of now, or in the absence of the assistant director then, by Mr. Moody himself as the director.

Claims over \$2,000 will be dealt with by the claims officer and two Nelson House trustees. That is local trustees. Again, so what we have is local control in the community over these procedures.

In the case of York Factory, their trustees will decide all claims. If the claim is less than a thousand dollars, then one trustee will hear the claim. If the claim is over a thousand dollars then three York Factory trustees will decide that claim.

There was much discussion in both communities about the claims process. This is one of the most controversial areas that arose during the course of the negotiations because people were very concerned that whatever rights they had under the Northern Flood Agreement would not be taken away from them as individuals through the new agreements. As a result, what happened is we have language which is actually the same in both agreements on this respect. Nelson House had entered into their negotiations in the fall of 1992; York Factory started

theirs in the spring of 1993. As a result, York Factory was prepared to accept certain language that Nelson House had negotiated as long as they were able to put in place their own administrative procedures. That is exactly what you find. You have different administrative procedures, but you have certain definitions being the same.

Now the language was carefully chosen to ensure that whatever rights people had under the Northern Flood Agreement they would also have under this agreement. As a result of that, there were many, many times when throughout the course of the negotiations both communities were asked to accept the language that had been previously negotiated in the Split Lake negotiations. That was not acceptable to them. They wanted to have their own language in the agreement. Ultimately, they were able to negotiate their own language, and for that reason it is, as I say, very important that the language also show up in the legislation, because people need to be able to draw a connection between these very complicated agreements which they approved and which we went through many, many hours in the community trying to explain.

\* (1100)

It is very interesting because one thing I learned—I do not speak Cree or even understand it, unfortunately—but one thing became apparent is that there are certain concepts that just do not exist in the Cree language, something like a corporate trustee, for example. Well, it ended up having to be translated in some ways as I understand it in my, I suppose, poor way of really trying to grapple with these issues, but what it came down to was a person who handles money or something for someone else. There are no direct translations on many of these concepts into Cree. So, again, that is why we are appearing before you, wanting to make sure that the federal legislation, which we have just recently been able to convince the standing committee to reflect that language, also show up in the same way in the provincial legislation.

Now, in all fairness to the minister, we did not get final confirmation that the standing committee had accepted our amendments until last week. So he did not get a letter in final form from me until Friday. Having said that, he still has worked very quickly with us to try and

ensure that our request is being met, and I believe he is supporting the amendments that we have requested. There are some small differences in wording between the federal language and the provincial language. The data bases are a little bit different in terms of legislation; that is fine. We have had a chance this morning to take a look at the proposed amendment, and it is a little bit different than what we had proposed, which is found on the last two pages of the presentation I have given to you, but I have spoken with both of my clients and the language that is being proposed by the minister is acceptable to my clients.

The real concern was over the use of the word “rights,” and, as I have said, the background to that is because this was a very controversial issue throughout the course of the negotiations. People wanted to ensure that whatever rights they had under the Northern Flood Agreement were not taken away from them by these two new agreements. We still have to go before the NFA arbitrator. There are various legal procedures which still have to take place. We want to ensure that the language reflects what is in the agreement without, I guess, creating additional problems, which we felt, when we looked at it again after going through the process we had with the standing committee, that the use of the word “rights” might do.

I have to advise the committee members that, in terms of legal effect, it certainly is our view that there would be no distinction in terms of the legal import of what we are proposing compared to what was there originally. However, it is a matter of perception, and perception is very, very important, particularly when you are dealing with the history that we have had to deal with through the course of the negotiations and that my clients have had to deal with over the last 19 years in terms of trying to resolve the outstanding difficulties and promises that were made under the Northern Flood Agreement. It is for that reason that we are appearing before you and requesting these amendments.

If you have any questions, I would certainly be prepared to entertain them.

**Mr. Chairperson:** We thank you for appearing before us.

**Mr. Praznik:** Thank you very much for the presentation. I just want it to be clear for the interest of the record that

I think the original wording—and for the interest of the members of the committee—there were discussions and, I think, agreement, and I believe you had some concerns, or your clients had concerns, on the federal side, and that led to a reconsideration of the wording.

I certainly appreciate when the argument was presented to us in detail that there was a necessity to mirror the exact language, even though the current proposal of the bill that I introduced and spoke to in the House had agreement and was reflective of the same issues that we are dealing with here today, that it was a perception and linkage issue. Given the complexity of this bill and the need, as we have discussed, for ensuring that the community who has ratified it is satisfied with it and can make those linkages, this kind of adoption and linkages of wording is a necessity, I think.

So I thank you for coming here with your presentation and your explanation and your comments, and I think it is important to have on the record that this has no difference in legal effect, but it is one of linkages of words and perception of how people are able to read and link the documents. The reason I raise that is this Legislature did pass a similar act for the Split Lake First Nation, and they may ask the question, why is the wording changed at the current time, and I think our presenter has dealt with that, that there is different wording in those two agreements. I wanted to ensure that that was covered.

You may want to add a little bit on to that, but I know I am going to get the question at some point in the future. Perhaps our presenter just could elaborate a little bit more on those differences.

**Ms. Lemieux:** There are significant differences between the wording of the Split Lake Agreement and these two documents. These two documents are much closer, and as I have indicated, that was because the York Factory First Nation, their counsel and negotiating team made a choice. What they said is that since Nelson House has gone ahead and, you know, there is no point reinventing the wheel and wasting time. What we are prepared to do is accept that language as long as in places where it is important to us, we have distinctions. For example, you will find that their water regime articles are quite different. Some of the concepts are the same, but they are different because you are dealing with different bodies of

water and different implications that flow from that. So in those areas, there are distinctions. But for this particular one, in the claims procedures, as long as there was the ability to put in place the administrative procedures that each community wanted, York Factory was prepared to accept the same definition of claimant.

That is different than what is in the Split Lake Agreement. Their agreement is structured differently. The wording that is used is different. One of the things that lead originally to the breakdown of the proposed basis of settlement which was sort of I guess the negotiations that took place for approximately five years before these current negotiations was because there was a sense that it was not community-sensitive in the same way. As a result of that, what happened was that the communities could not come to an agreement on a five-band basis. What they did, they broke off into their own separate negotiations, wanted to have language and concepts that were reflective of their own communities.

So there are distinctions and I think that is a valid response as to why there are differences between the Split Lake legislation and the legislation that is here.

**Mr. Ashton:** I want to thank Ms. Matthews Lemieux for the presentation and also thank the minister who, in a few minutes, is going to be introducing some amendments to deal directly with the concern.

I particularly want to thank the minister, because I know we had private discussion about this a short time ago at which point I know that he was aware at the time and we had some discussion about the concern about the need for an amendment. I want to put on the record that, as the presenters pointed out, there was a very short time lag between the federal process and provincial process. I think the fact that we are going to have amendments that are going to mirror some of the concepts of languages that are actually in the agreement is very much to the credit of the minister who has moved very quickly. I think it is a very sensitive type of issue when you are dealing with an agreement. An agreement is an agreement and when you are looking at, in this case, what are essentially the last-minute changes, I would say that the minister did not have to bring in these types of amendments. We certainly would have been prepared to move the amendments; but this, I think, is the spirit we should be dealing with, which is we are all parties in the

House or in support of all the political parties. I want to note that because I really feel that the minister deserves significant credit for bringing these amendments in on very short notice, amendments that I understand essentially do accomplish what is being requested by Nelson House First Nation and York Factory First Nation.

**Mr. Chairperson:** Are there any other questions or any other persons, rather, wishing to speak to the bills? Okay. Seeing none, is it the agreement of the committee to proceed with clause-by-clause consideration of the bills?

**Some Honourable Members:** Agreed.

\* (1110)

**Mr. Ashton:** I just want to make a few final comments before we deal with the two bills and the amendment. We have already commented in response to the presentations, I think, on the significance of this. What I wanted to focus in on was just how much effort has been involved in the communities over the years in dealing with these particular issues. I think the minister quite rightly—

**Mr. Chairperson:** Excuse me, Mr. Ashton, could I just clarify, there will be an opportunity to speak before each of the bills. Is this sort of the comment—

**Mr. Ashton:** In general. I just thought we would have—okay.

**Mr. Chairperson:** Okay, thank you.

**Mr. Ashton:** What I wanted to do was comment on the significant amount of work that has been done. I note that the minister certainly has commended the individuals who worked very hard on this particular round of negotiations, the final round of negotiations, and in fact presenters, former Councillor Moody and also Chief Primrose and Chief Saunders were very involved with that, and I think that it is pretty much something that should be recognized.

I also wanted to pay tribute to the many people going back, really, chiefs, councillors, to the signing of the original agreement, negotiation of the original agreement

back in the late 1970s and the many people in the community, whether they be on council in both communities, who have worked on this matter since. I do not think you could imagine how many hours of time has been spent on this particular issue in the different communities.

I also wanted to commend the other parties that have been involved with this. I thought the spirit of what we are talking about here was in both briefs, both from Chief Saunders and Chief Primrose, in the sense that in any agreement not everything is as the way one would want it. But essentially one looks for a balance of fairness and perhaps some hope that the goodwill that comes from signing an agreement will lead to some of the other concerns that may still be outstanding to being considered at some point down the line.

I know we have certainly expressed the concern that the Northern Flood Agreements as adopted in the legislation, the implementation agreements, would be considered equivalent to modern-day treaties. That is not part of the legislation but certainly I think an aspiration of the communities. I wanted to put that on the record, too, that the signing of the agreement, I think, is not the end of the agreement. This is a living, breathing document, and I think does have as much significance to the communities involved as the treaties had in the past or perhaps should have in an even greater sense.

I wanted to state that because I know through many of the discussions, and I have been fortunate to represent both communities since 1990 and even as MLA for Thompson in previous years, I have certainly been aware of the concerns of Nelson House and York Landing. That, I think, is the spirit in which this is being agreed to today, and it is the spirit of congratulating all the parties, the First Nations who I think deserve the most commendation out of this having been through the very difficult times, damage, and having made those very difficult decisions. I have been in the position as an MLA of having to make some difficult decisions, but I do not think I had a more difficult decision to make than the decisions that were made through the negotiation process and the final decision to sign the agreement. I think that is one of the most significant decisions anyone who is here today from the chiefs and councillors and former chiefs who have been part of this process have ever had to make and certainly very few decisions are made in this

Legislature that are as significant because this document can have and will have a very dramatic impact on the community.

There was a lot of debate and discussion that went on in the communities as to whether various provisions in this agreement were appropriate. When you look at the impact in the next 10, 20, 30 years in the community, that was a very, very difficult decision.

I did want to also commend others who have been involved. I wanted to commend Hydro for, I think, making an honest effort finally to deal with some of the consequences of the flooding. I think there has been a dramatic shift in recognition of this at Manitoba Hydro over the last 10 years or so. I welcome that, and also the federal and provincial governments I think deserve commendation, and I did want to also, I have already mentioned this, commend the current minister because I think he has made a very honest effort to deal fairly with the communities, and I think that is reflected in the agreement.

I wanted to put that on the record, because I do not think it is any secret we have our partisan disagreements in the Legislature, and we can get into some of those issues at times. I mean, we will debate northern roads or transportation or issues of that nature, and I do not want to get into that any more than I did earlier. I want to commend the fact that at certain times we are able to come together. I think that the communities, the bands have come together, and I think also the Legislature as well, and I am particularly pleased that even on the amendments that we are going to have all-party agreement, not only on the agreement itself, but on the amendments being requested by the communities.

I also want to note as well, because there sometime has been debate from sources outside of the communities talking about the Northern Flood Agreement. I think it is also significant that there have been no presentations at the committee from anything other than the communities themselves that made this decision and presentations that support the agreement that was signed. I think that is something that is significant.

The bottom line is, even though this is a multiparty agreement, I think in many ways it reflects the reality of self-government in its truest sense, in the sense that this

is a decision that was made by York Factory First Nation and by the Nelson House First Nation.

I always said right from the start, as MLA, in my discussions with people involved in the process, that my role as MLA was to support the decision made by the community, and I consider it a real honour today to be able to in this committee vote for the implementation of this agreement in support of the decision made by the two communities affected. I look forward to voting on this in third reading, because it is a lot easier decision for me than it was for the communities involved. I am really supporting a decision made by the communities themselves.

I wanted to note that on the record, because I believe that these two bills are far more significant than many of the other bills we are dealing with in this Legislature. I think they are going to have dramatic impact on the community, and I share the optimism I think with just a sense of partnership that has developed around this bill. If that could be transferred to other issues dealing with other community concerns and working in a sense of true partnership, I think there is a lot of potential for economic development, a lot of potential to develop new institutions for education, for example.

Now, Chief Primrose and I had these discussions. There are a lot of things that can be done in Nelson House and York Landing with that sense of partnership continuing, the kind of partnership we are seeing with the adoption of these bills today.

So with those few comments, I will look forward to voting in support of these two bills.

**Mr. Praznik:** Mr. Chair, I would like to thank the member for Thompson (Mr. Ashton) for his very kind words on a personal basis. Just one note for clarification. There was one thing, I think, the member for Morris (Mr. Pitura) pointed out to me that in Chief Primrose's presentation, and I do not know if it appears orally, but in the written presentation, the date of the referendum, I think there is a typographical error. It indicates it was held on December 6, 1996. I believe that should read December 6, 1995, so we just wanted to make sure for the interests of historical accuracy that one error on a computer keyboard somewhere does not appear in the record. I just wanted to make that correction.

Mr. Chair, I am prepared to proceed with the clause by clause.

**Mr. Chairperson:** Did the committee wish to consider the bills in numerical order? Agreed? [agreed]

**Bill 52—The York Factory First Nation Northern Flood Implementation Agreement Act**

**Mr. Chairperson:** Consideration of Bill 52, The York Factory First Nation Northern Flood Implementation Agreement Act. Does the minister responsible for Bill 52 have any opening statements?

**Hon. Darren Praznik (Minister responsible for Native Affairs):** No.

**Mr. Chairperson:** No? Hearing none, we thank the honourable minister.

Does the critic of the official opposition have any opening statement? No? Thank you.

During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee. We will now begin with clause-by-clause consideration.

Clause 1—pass. Clause 2—

**Mr. Praznik:** This is a critical moment. To our visitors, the minister getting his hand up very quickly is important.

Mr. Chair, this is the proposed wording; this Clause 2 in essence is the guts, for lack of a better term, of the agreement.

I would like to move

THAT section 2 be struck out and the following substituted:

**Settlement of claims**

2 A claim respecting an issue or matter in dispute which may be advanced under both the Northern Flood Agreement and the Implementation Agreement by

(a) the council of the York Factory First Nation;

(b) the York Factory First Nation;

(c) any person who is a member of the York Factory First Nation;

(d) any group or unincorporated association, whose membership or shareholding is wholly or substantially comprised of members of the York Factory First Nation;

(e) any unincorporated association or corporation established by the council of the York Factory First Nation;

(f) any share capital corporation, the shares of which are wholly or substantially owned, both legally and beneficially, and controlled by the York Factory First Nation or members of the York Factory First Nation; and

(g) any corporation without share capital, the membership of which consists wholly or substantially of the York Factory First Nation or members of the York Factory First Nation

shall be resolved in accordance with the Implementation Agreement and not in accordance with the Northern Flood Agreement, except where the Implementation Agreement otherwise provides.

I would make that motion in both official languages.

\* (1120)

**[French version]**

Il est proposé que l'article 2 soit remplacé par ce qui suit

**Règlement des demandes**

2 Sont réglées en conformité avec l'accord de mise en oeuvre et non pas la Convention, sauf si l'accord prévoit le contraire, les demandes qui concernent des questions en litige et qui peuvent être présentées dans le cadre de la Convention et de cet accord par:

a) le conseil de la première nation de York Factory;

b) la première nation de York Factory;

- c) des membres de la première nation de York Factory;
- d) des groupes ou des associations non constituées en personne morale, dont les membres ou les détenteurs de parts sont tous ou presque tous des membres de la première nation de York Factory;
- e) des associations non constituées en personne morale ou des personnes morales fondées par le conseil de la première nation de York Factory;
- f) des personnes morales avec capital-actions, dont les actions sont toutes ou presque toutes possédées –légalement et à titre bénéficiaire–et contrôlées par la première nation de York Factory ou des membres de celle-ci;
- g) des personnes morales sans capital-actions, dont les membres forment tous ou presque tous la première nation de York Factory ou sont tous ou presque tous des membres de celle-ci.

#### **Motion presented.**

**Mr. Praznik:** Mr. Chair, just to indicate, this particular clause is, in essence, the guts, the heart of this act, and what in essence it does is give effect to the Implementation Agreement that, in a whole host of cases, transfers the claims under the Northern Flood Agreement to be settled under the Implementation Agreement. It is necessitated, by and large, as my understanding goes, because it would be impossible to secure the individual consent of every possible person who has a claim under the Northern Flood.

There are certain provisions under the Implementation Agreement that will still be dealt with by the Northern Flood Agreement, and those are spelled out in that agreement and are protected by this legislation. The change, in essence, from the wording of the act has to deal with the rights to make a claim, and I think counsel for both communities has expressed the concern with use rights.

We have proposed, with the acceptance of both First Nations, using the words: "A claim respecting an issue or matter in dispute which may be advanced under both the Northern Flood Agreement and the Implementation Agreement." This wording mirrors, in essence, the

wording in the Northern Flood Agreement as the operative wording and is similar to that in the Implementation Agreement, and it gives the direct connection from the agreement to this legislation. It has no different legal effect, I am advised, from the current wording, but I think makes it easier for people who are trying to read both documentation.

I think that is important, so I am very pleased to make this amendment.

**Mr. Chairperson:** Amendment—pass. Clause 2 as amended—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill as amended be reported.

#### **Bill 53—The Nelson House First Nation Northern Flood Implementation Agreement Act**

**Mr. Chairperson:** Bill 53, The Nelson House First Nation Northern Flood Implementation Agreement Act. Does the minister responsible for Bill 53 have an opening statement?

**Hon. Darren Praznik (Minister responsible for Native Affairs):** Mr. Chair, it was just pointed out to me, this may not be the right place to do it, but I understand there was also a similar typographical error in the presentation of Chief Saunders that has a particular event, the referendum, taking place on November 2, 1996. I would suggest we look at someone's typewriter or computer, but that date should correctly read November 2, 1995, and I think it is worth correcting for the record.

**Mr. Chairperson:** We thank the minister. Did the critic of the official opposition have any comments? Thank you.

During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

We will now begin the clause-by-clause consideration. Clause 1—pass; Clause 2—

**Mr. Praznik:** Mr. Chair, I would move

THAT section 2 be struck out and the following substituted:

**Settlement of claims**

**2** A claim respecting an issue or matter in dispute which may be advanced under both the Northern Flood Agreement and the Implementation Agreement by

- (a) the council of the Nelson House First Nation;
- (b) the Nelson House First Nation;
- (c) any person who is a member of the Nelson House First Nation;
- (d) any group or unincorporated association, whose membership or shareholding is wholly or substantially comprised of members of the Nelson House First Nation;
- (e) any unincorporated association or corporation established by the council of the Nelson House First Nation;
- (f) any share capital corporation, the shares of which are wholly or substantially owned, both legally and beneficially, and controlled by the Nelson House First Nation or members of the Nelson House First Nation; and
- (g) any corporation without share capital, the membership of which consists wholly or substantially of the Nelson House First Nation or members of the Nelson House First Nation

shall be resolved in accordance with the Implementation Agreement and not in accordance with the Northern Flood Agreement, except where the Implementation Agreement otherwise provides.

I would so move in both official languages, Mr. Chair.

**[French version]**

Il est proposé que l'article 2 soit remplacé par ce qui suit

**Règlement des demandes**

**2** Sont réglées en conformité avec l'accord de mise en oeuvre et non pas la Convention, sauf si l'accord prévoit le contraire, les demandes qui concernent des questions en litige et qui peuvent être présentées dans le cadre de la Convention et de cet accord par:

- a) du conseil de la première nation de Nelson House;
- b) de la première nation de Nelson House;
- c) des membres de la première nation de Nelson House;
- d) des groupes ou des associations non constituées en personne morale, dont les membres ou les détenteurs de parts sont tous ou presque tous des membres de la première nation de Nelson House;
- e) des associations non constituées en personne morale ou des personnes morales fondées par le conseil de la première nation de Nelson House;
- f) des personnes morales avec capital-actions, dont les actions sont toutes ou presque toutes possédées –légalement et à titre bénéficiaire–et contrôlées par la première nation de Nelson House ou des membres de celle-ci;
- g) des personnes morales sans capital-actions, dont les membres forment tous ou presque tous la première nation de Nelson House ou sont tous ou presque tous des membres de celle-ci.

**Mr. Chairperson:** Those in favour of the amendment, please indicate.

**Some Honourable Members:** Agreed.

**Mr. Chairperson:** The amendment is passed. Clause 2 as amended—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill be reported.

Committee rise

**COMMITTEE ROSE AT:** 11:26 a.m.