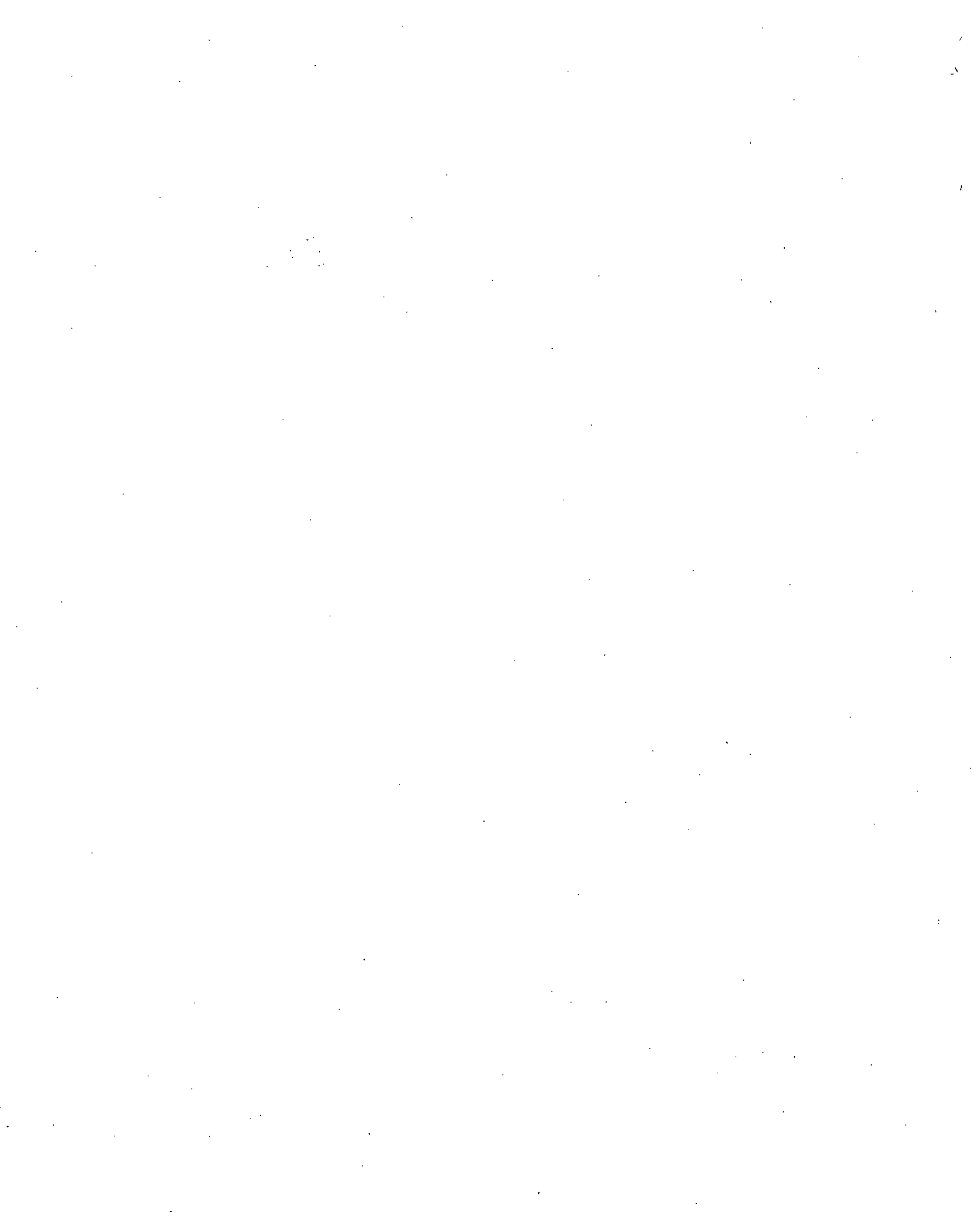




YUKON

SPECIAL COMMITTEE
on
LAND CLAIMS AND SELF-GOVERNMENT
REPORT

28th Legislative Assembly



YUKON LEGISLATIVE ASSEMBLY

28TH LEGISLATURE

1993

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SPECIAL COMMITTEE

ON

LAND CLAIMS AND SELF-GOVERNMENT

REPORT ON

BILL #2, AN ACT APPROVING YUKON LAND CLAIM FINAL AGREEMENTS,

AND

BILL #3, FIRST NATIONS (YUKON) SELF-GOVERNMENT ACT,

AND

AGREEMENTS REFERENCED IN EACH OF THOSE BILLS

HON. JOHN OSTASHEK, M.L.A.
Porter Creek North
Chair

JACK CABLE, M.L.A.
Riverside
Member

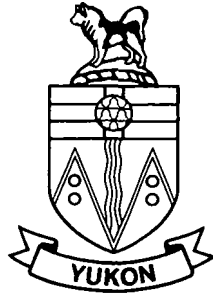
HON. MICKEY FISHER, M.L.A.
Lake Laberge
Member

DAVID MILLAR, M.L.A.
Klondike
Member

MARGARET JOE, M.L.A.
Whitehorse Centre
Member

HON. JOHN DEVRIES, M.L.A.
Watson Lake
Member

DANNY JOE, M.L.A.
Mayo-Tatchun
Member



Yukon Legislative Assembly

Box 2703, Whitehorse, Yukon Y1A 2C6

March, 1993

Honourable Alan Nordling
Speaker of the Legislative Assembly
Yukon Legislative Assembly

Dear Sir:

On behalf of the Special Committee on Land Claims and Self-Government, appointed by Order of the Assembly on December 16, 1992, I have the honour to present this Report.

Hon. John Ostashek, M.L.A.
Chair

SPECIAL COMMITTEE ON LAND CLAIMS AND SELF-GOVERNMENT

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**REPORT
OF THE
SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

INTRODUCTION

On December 14, 1992, during the First Session of the 28th Legislative Assembly, the following bills were introduced and given first reading:

**Bill #2 - An Act Approving Yukon Land Claim Final
Agreements;**

Bill #3 - First Nations (Yukon) Self-Government Act.

The specific agreement referenced in Bill #2 is the Yukon Land Claim Final Agreement between the Government of Canada, the Government of the Yukon and the Champagne and Aishihik First Nations ratified by those First Nations on September 15, 1992. The specific agreement referenced in Bill #3 is the Yukon First Nation Self-Government Agreement between the Government of Canada, the Government of the Yukon and the Champagne and Aishihik First Nations ratified by those First Nations on September 15, 1992. These two agreements were tabled in the Legislative Assembly on December 14, 1992.

The Legislative Assembly gave second reading (approval in principle) to Bill #2 and Bill #3 on December 16, 1992.



The Special Committee on Land Claims and Self-Government was created on December 16, 1992, by the following motion of the Legislative Assembly:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled An Act Approving Yukon Land Claim Final Agreements, and Bill #3, entitled First Nations (Yukon) Self-Government Act, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to



report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

Pursuant to the direction found in the motion, the Government Leader, Hon. John Ostashek, appointed Hon. John Devries, Member for Watson Lake, Hon. Mickey Fisher, Member for Lake Laberge, and David Millar, Member for Klondike, to the Committee. The Leader of the Official Opposition, Tony Penikett, appointed Margaret Joe, Member for Whitehorse Centre, and Danny Joe, Member for Mayo-Tatchun, to the Committee. Jack Cable, Member for Riverside, was named in the motion as a member of the Committee.



TECHNICAL BRIEFINGS

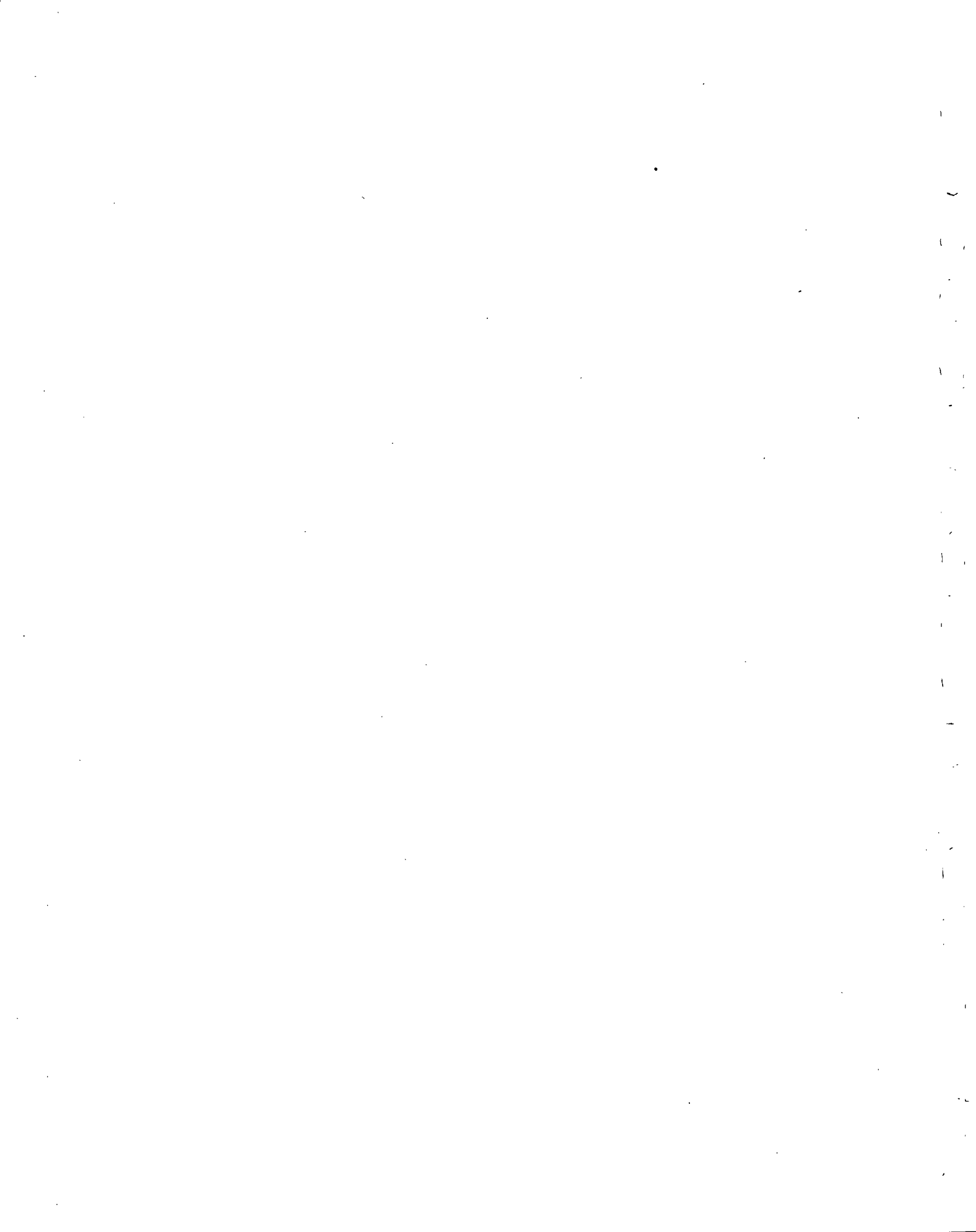
The Committee held technical briefings in the Legislative Assembly Chamber on January 20 and 22, 1993, for the purpose of familiarizing members with the provisions of Bill #2 and Bill #3 and of the agreements referenced in each of those bills.

Appearing on January 20 were the Chief Land Claims Negotiator, Tim McTiernan, and five other members of the land claims negotiating team. On January 22, Albert James, Vice-Chair, and Vic Mitander, chief negotiator, of the Council for Yukon Indians appeared before the Committee.

PUBLIC MEETINGS

Public meetings were held in all Yukon communities from January 24 to March 1 (see Appendix 1 for a complete schedule of public meetings). At least one official from the Land Claims Secretariat of the Government of Yukon attended each of these meetings for the purpose of answering questions respecting the provisions of the agreements referenced in Bill #2 and Bill #3. The Council for Yukon Indians had a representative attend all but four of the public meetings.

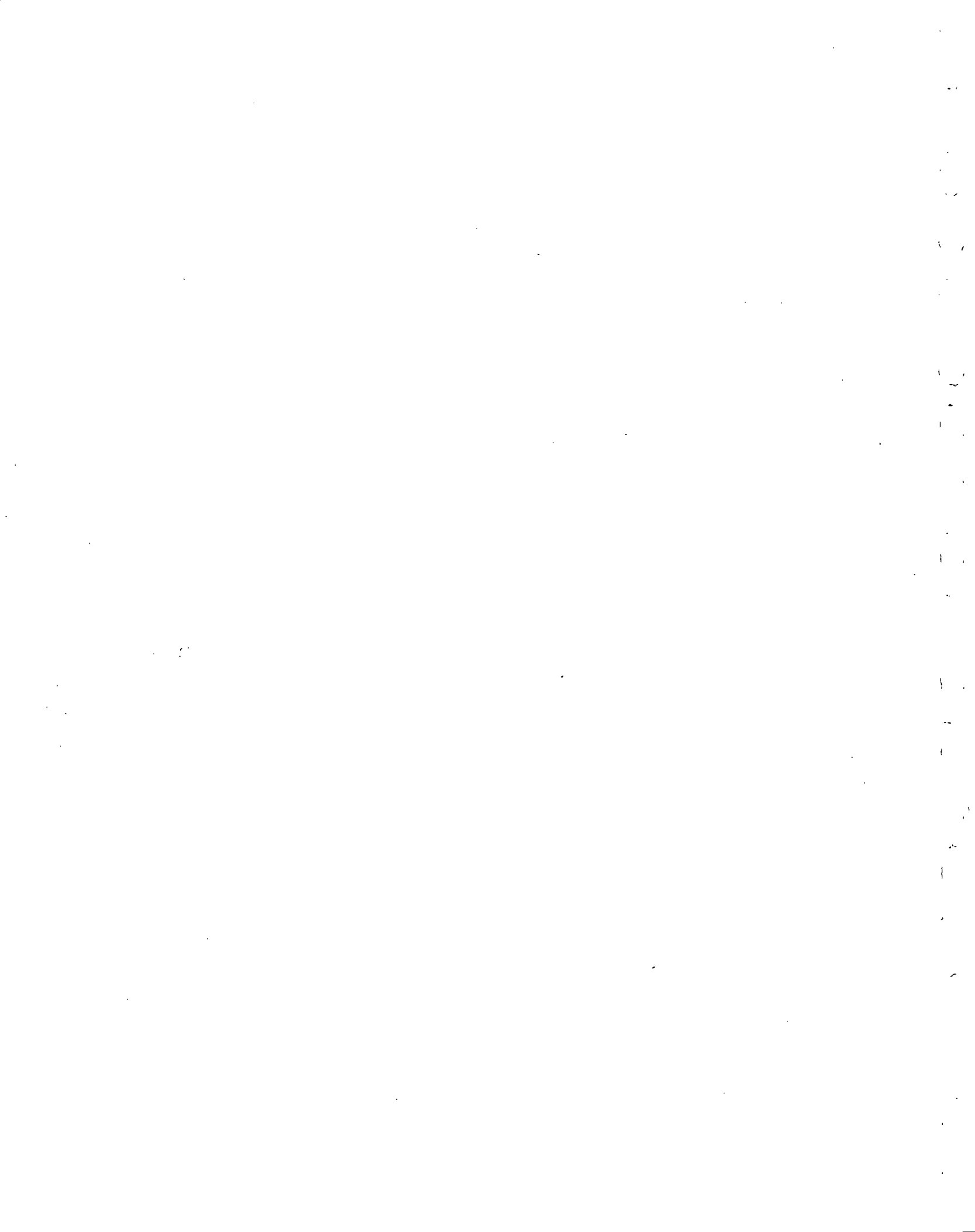
An information package entitled "Information Package - Summary Sheets - Yukon Land Claim/Umbrella Final Agreement (January, 1993)" prepared by the Land Claims Secretariat was distributed to all communities prior to the meetings. Notice of the public meetings was given by:



- (1) newspaper advertisements in the Yukon News, Whitehorse Star and in those community newspapers scheduled for publication prior to the meeting dates;
- (2) public service announcements on the CBC;
- (3) radio advertisements on CHON-FM;
- (4) rolling television advertisements in Dawson City and Watson Lake; and
- (5) notices posted in each of the communities.

A total of 305 people attended the public meetings (see Appendix 2 for the names of those who were in attendance).

Transcripts were prepared of the technical briefings and of all public meetings. Copies of the transcripts are appended to this report to provide the Assembly with a complete record of the views and opinions expressed by those Yukon citizens who participated in meetings of the Committee.

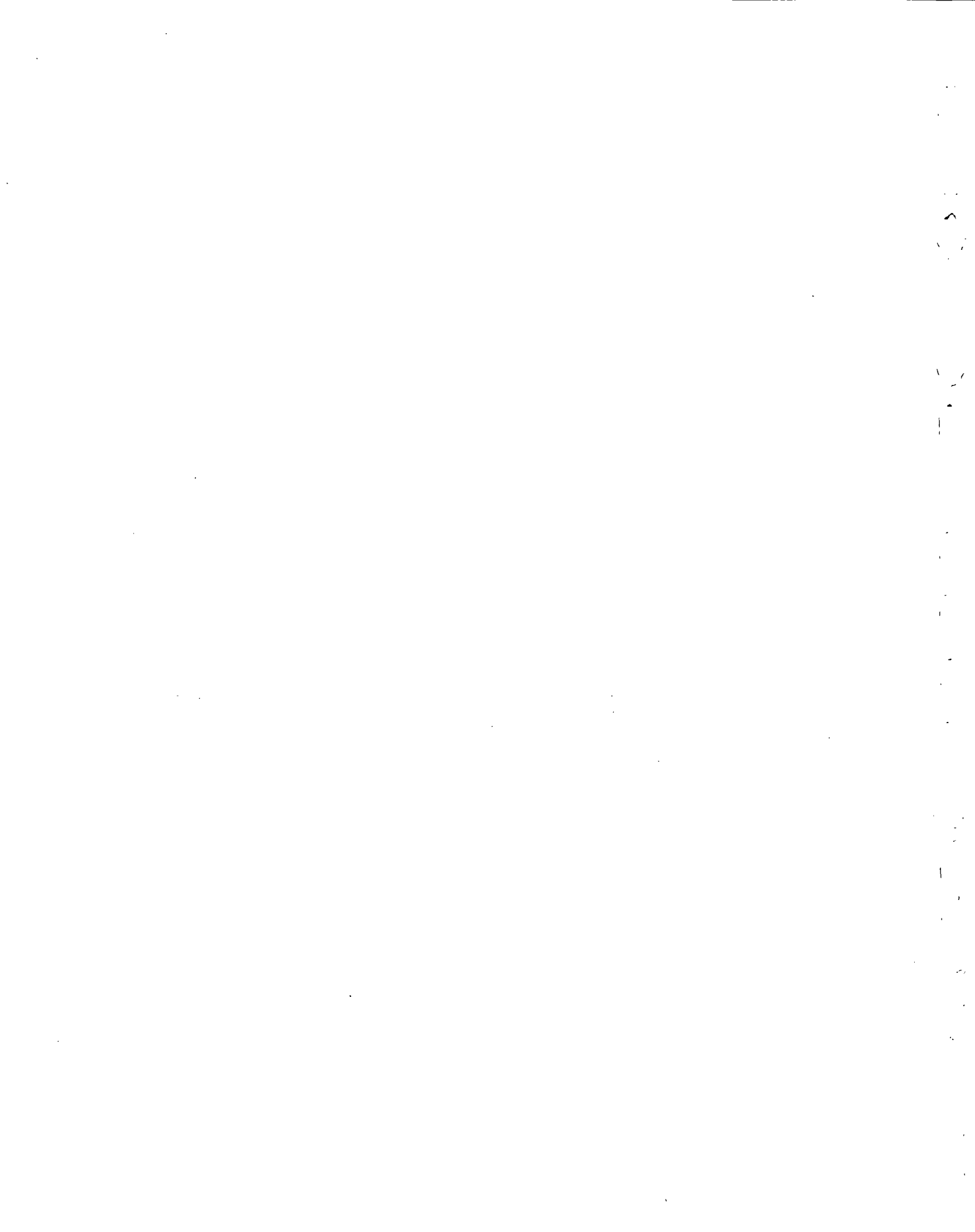


RECOMMENDATIONS

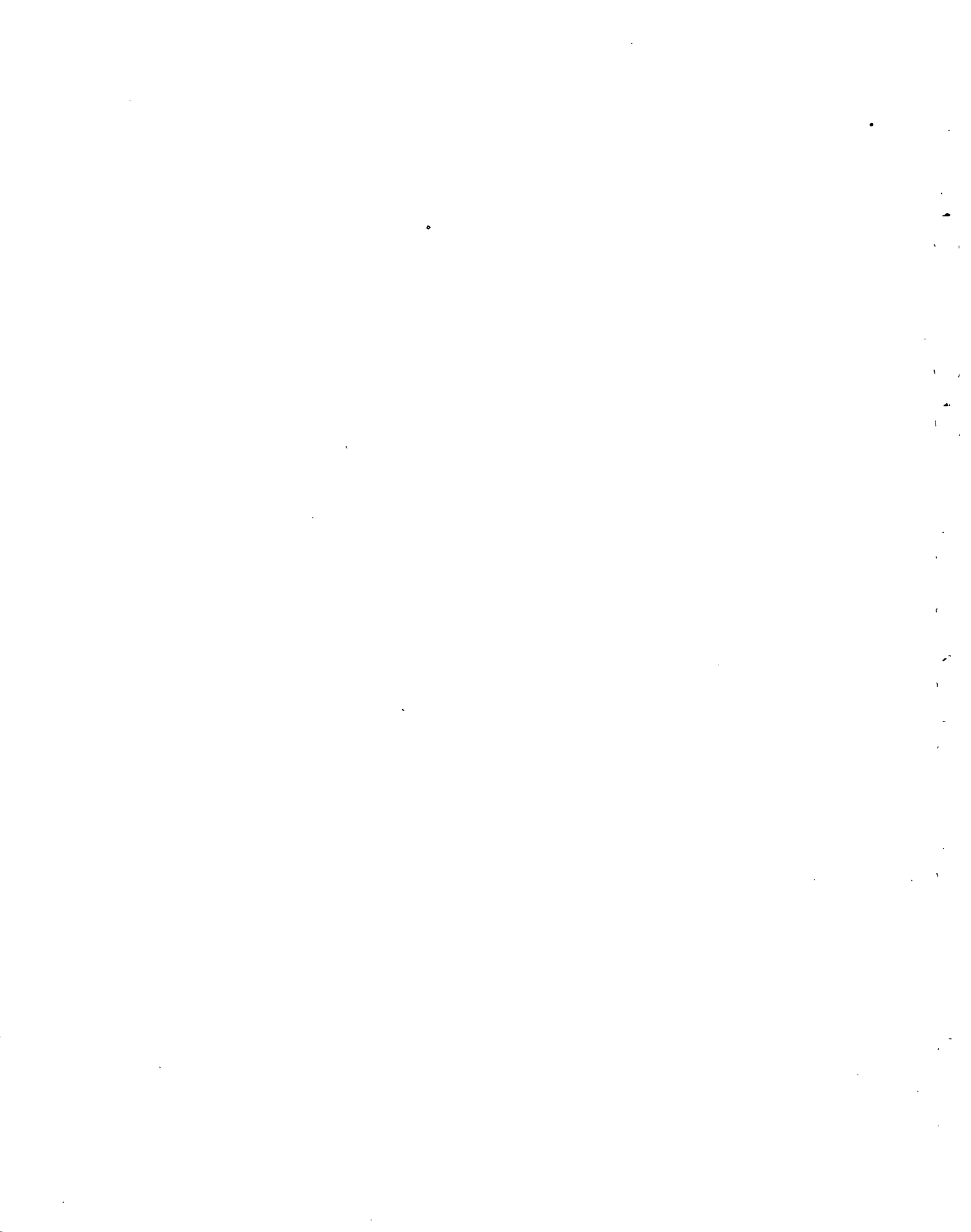
The Committee recommends that:

- (1) the Agreement referenced in Bill #2, **An Act Approving Yukon Land Claim Final Agreements**, be accepted; and
- (2) the Agreement referenced in Bill #3, **First Nations (Yukon) Self-Government Act**, be accepted.

The Committee does not recommend any amendments to the clauses of Bill #2 and Bill #3.



APPENDICES



APPENDIX 1

DATES AND LOCATIONS OF PUBLIC MEETINGS

January 24	Beaver Creek	Community Hall
January 25	Burwash Landing Destruction Bay	Community Hall Community Hall
January 26	Haines Junction	Arena Mezzanine
February 1	Dawson City	School
February 2	Mayo	Community Hall
February 3	Pelly Crossing Carmacks	Band Office Heritage Hall
February 4	Whitehorse	Hellaby Hall
February 11	Carcross	Community Hall
February 15	Ross River	Community Hall
February 16	Faro	Rec Centre
February 22	Watson Lake	Secondary School
February 23	Upper Liard Teslin	Two Mile Comm. Centre Rec Complex
March 1	Old Crow	Community Hall

APPENDIX 2

NAMES OF PARTICIPANTS AT PUBLIC MEETINGS

Beaver Creek (Community Hall)
Sunday, January 24, 1993 7:30 p.m.

Albert, Ed	Nieman, Freda
Benjaminz, Patty	Nieman, Kim
Demit, Angela	Nieman, Margaret - Chief
Demit, Robert	Rodtko, Brent
Hajash, Jim	Schlaffke, Bev
Jabury, Robert	Stephen, Glenn
John, Doris	Stitt, Sally
John, Bessie	Weihers, Rick
Ledergerber, Beat	

Burwash Landing (Community Hall)
Monday, January 25, 1993 2:30 p.m.

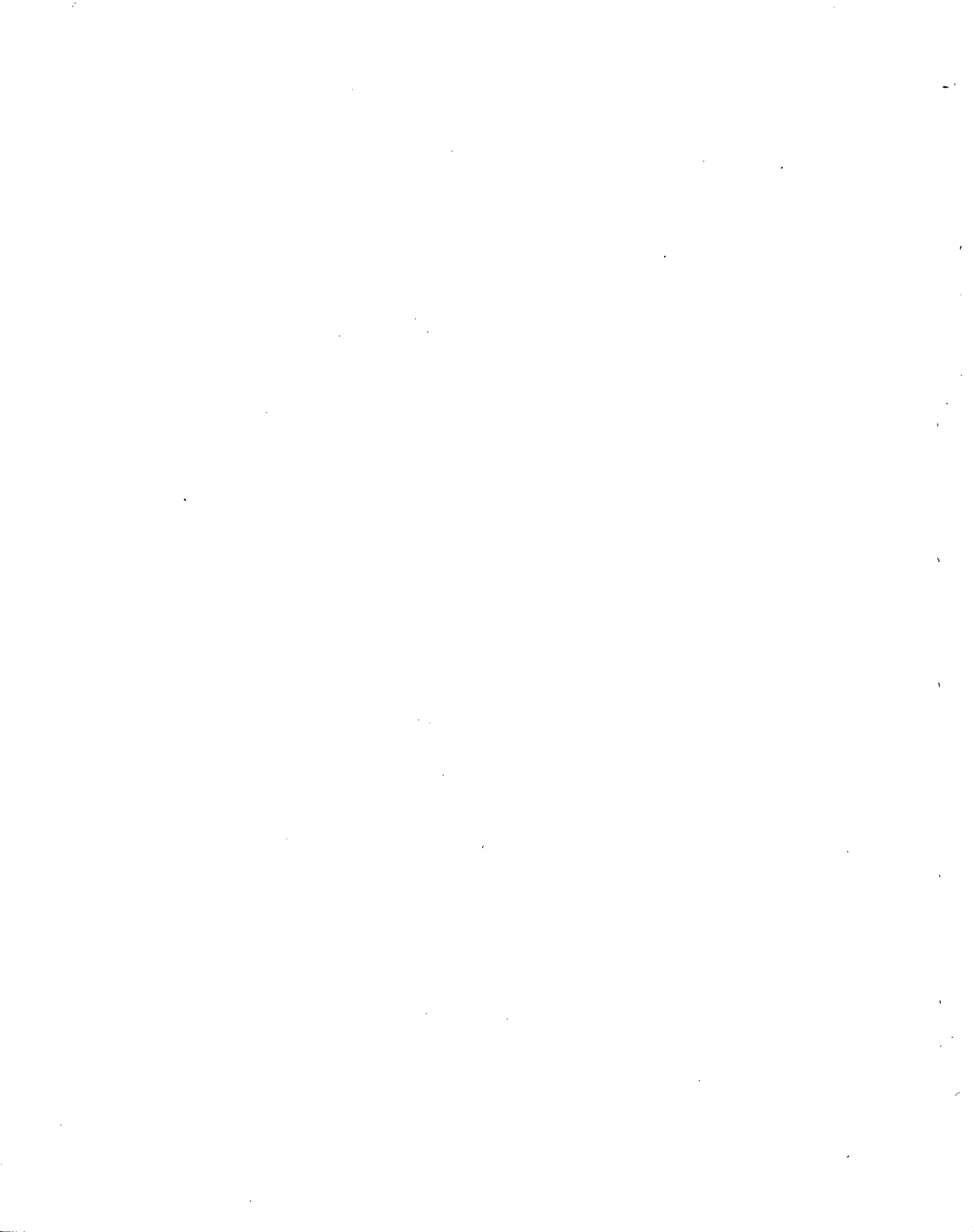
Ireland, Liz	Johnson, Leana
Joe, Bonnie	Johnson, Little Grace
Joe, Jessy	Johnson, Liz
Johnson, Bernie	Johnson, Mary Jane
Johnson, Gloria	Jones, Shawn
Johnson, Joe - Chief	Kant, Timothy

Destruction Bay (Community Hall)
Monday, January 25, 1993 7:30 p.m.

Flumerfelt, Jim	Jennings, Dawn
-----------------	----------------

Haines Junction (Arena Mezzanine)
Tuesday, January 26, 1993 7:30 p.m.

Brewster, Bill - MLA	LaVallee, Alfred
Brewster, Mabel	Mazur, Rose
Crawshay, Michael	Moose, Dorothy
Eikland, Barb	Smith, Harry
Graham, Joan	Smith, Lilly
Hassard, Ray	Smith, Martha
Hume, Barb	Tomlin, Al
Hume, Chuck	Tomlin, Tish
Jim, Oliver	Tremblay, Marc
Kane, Ken	Williams, Deborah
Komaromi, Greg	Williams, Vera
Kushniruk, Rose	Wilson, Ron
Kushniruk, Sheila	



Dawson City (Robert Service School)
Monday, February 1, 1993 7:30 p.m.

Everitt, Glen
Gerberding, Tim
Henry, Annie
Jenkins, Peter - Mayor
Joseph-Rear, Angie
Kane, Ken
Kobayashi, Norma
Kormendy, Peggy
Langtry, Cathie
Matchett, Murray
Morrison, Brent

Murray, Carol
Nagano, Debbie
Pennell, Shirley J.
Peterson, Maureen
Rear, Robert
Ryan, Shawn
Semple, George
Sippola, Sandy
Taylor, Steve - Chief

Mayo (Community Hall)
Tuesday, February 2, 1993 7:30 p.m.

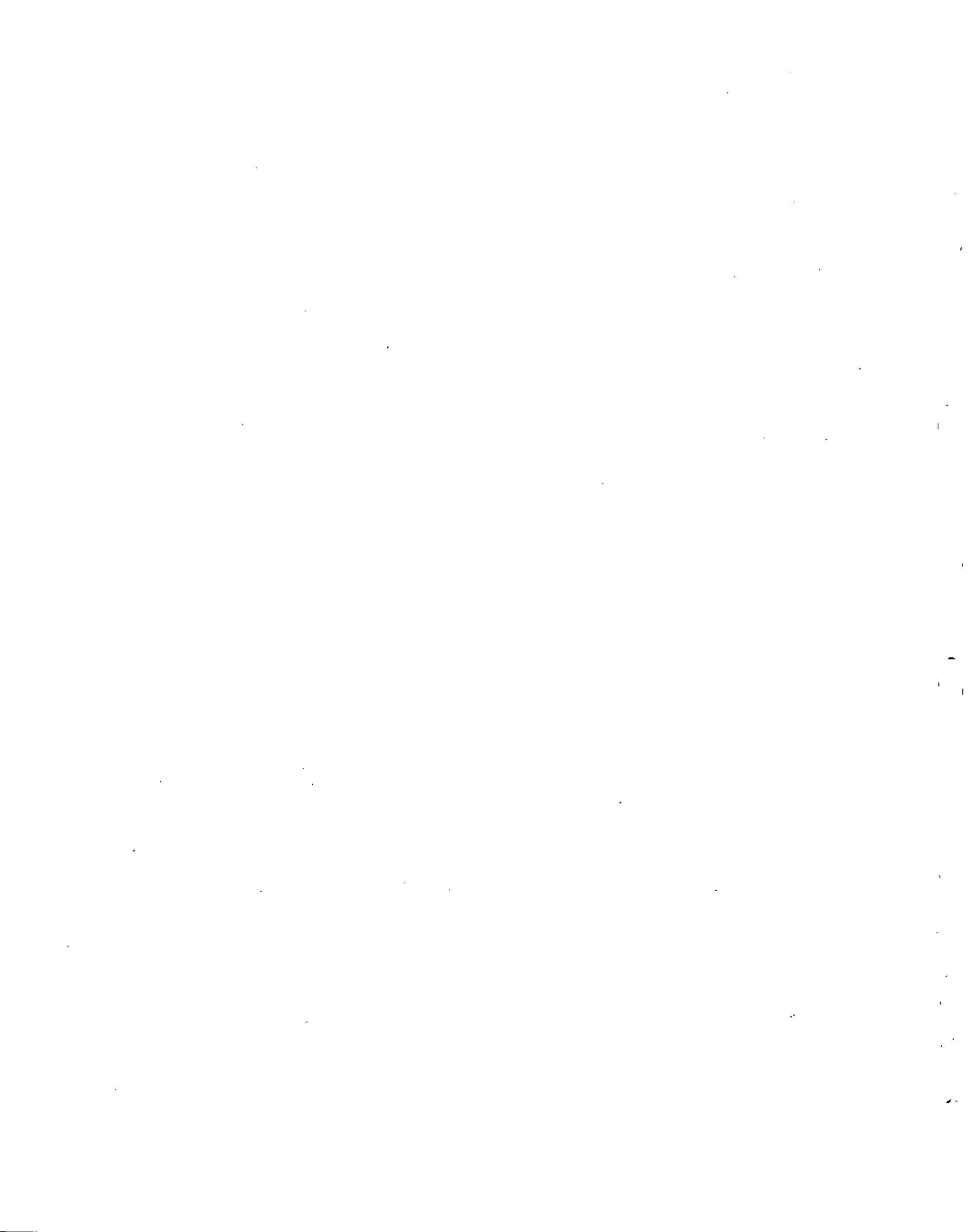
Buyck, Don
Buyck, Helen
Chaplin, Ed
Cove, Tom
Drapeau, Albert
Fairclough, Eric
Germaine, Bill
Hager, Robert - Chief
Hager, Roberta
Hammond, Lena
Hassen, Minnie

Heasley, Dennis
Hind, Gord
Jimmy, Charlie
Kane, Ken
McGinnis, Michael - Mayor
Menelon, Bernerd
Menelon, Sylvie
Moses, Richard
Sinnots, Nancy
Skookum, Hazel

Pelly Crossing (Band Hall)
Wednesday, February 3, 1993 2:30 p.m.

Alfred, Emma
Alfred, Jerry
Curry, Wayne
Debastien, Leonard
Horn, Doug
Isaac, Darin

Jonathan, Stanley
Jones, Carl
Kane, Ken
Morrison, Alex
Turner, Frank
Van Bibber, Dan



**Carmacks (Heritage Hall)
Wednesday, February 3, 1993 7:30 p.m.**

Allen, John
Barker, Char
Blackjack, Clyde
Blackjack, Rowena
Butterworth-Carr, Brenda
Fairclough, Eric - Chief
Fields, Earl J.
Lacasse, Luke
Kane, Ken
O'Brien, Joseph
Phillips, Bob

Ranigler, Anne
Sam, Norman
Taylor, Paul
Taylor, Randy
Tom, David
Tom, Rosie
Tracey, Howard
Washpan, Agnes
Washpan, Dulaney
Wheelton, Phil
Wood, Bev

**Whitehorse (Hellaby Hall)
Thursday, February 4, 1993 7:30 p.m.**

Alwarid, Shakir
Armstrong, Irwin R.
Asp, Don
Boss, Patrick
Brown, Keith
Carey, Cheryl
Couture, Rudy
Dawson, Malcolm
Donnesay, Midge
Dougherty, Michael
Falle, Al
Falle, Irma
Fisher, Margie
Furlon, S.
Gerein, Gerry
Gillen, Brian
Gingell, Judy - Chair (CYI)
Holmes, Derek
Hurlock, Bonnie
Huston, Nancy
Hutchinson, Ken
Kane, Ken

Kishchuk, Paul
Komaromi, Greg
Koprowsky, Allan
Kosuta, Kathy
Koz, Pieter
Kuni, Ken
MacGillivray, Janeane
MacPherson, Neil
MacPherson, Trish
McDiarmid, Alan
McNevin, Deborah
Mason, G.W.
Penikett, Tony - MLA
Reed, Gord
Smith, Dianne
Smith, Johnnie
Stehelin, Mel
Sumanik, Ron
Taylor, Ken
Watson, Kathy
Webber, Albert - Acting Chief
Weigand, Bill- Mayor



Carcross (Community Hall)
Thursday, February 11, 1993 7:30 p.m.

Atlin, Karyn
Barrett, Larry
Barrett, Mamie
Breaugh, Jan
Carvill, Howard
Fisher, Margie
Halladay, Rick
James, Patrick
James, Stanley

Jim, Bessie
Kane, Ken
Martin, Willie
Matthies, Ken
Rushant, Geoff
Smith, Teresa
Thompson, Joan
Twigge, Pearl
Wally, Anne

Ross River (Community Centre)
Monday, February 15, 1993 7:30 p.m.

Atkinson, William
Hemsley, Brian
Kane, Ken
Rawlings, Mike

Sennett, David
Sutherland, Gloria
Taylor, John

Faro (Recreation Centre - Sportsman's Lounge)
Tuesday, February 16, 1993 7:30 p.m.

Gault, Bob - Mayor
Girouard-Fickes, Dorine
Hampton, Murray

Kane, Ken
McLachlan, Jim

Watson Lake (Watson Lake Secondary School)
Monday, February 22, 1993 7:30 p.m.

Ersfeld, Fritz
Fentie, Dennis
Forsythe, Bill
Hauser, Rick
Holt, Jean
Holt, Ruth
James, Albert
Kane, Ken

Komish, Barry
Magun, Don
Oostindie, Ian
Reams, Roger
Reams, Willa
Suffesick, Joe
Thompson, Doug
Wilkinson, Terry

Upper Liard (Two Mile Community Centre)
Tuesday, February 23, 1993 1:00 p.m.

Chief, Alfred
Gill, Frank (Baptise)
James, Albert

Jules, Leda
Kane, Ken
McGeorge, Jean



Teslin (Recreation Complex)
Tuesday, February 23, 1993 7:30 p.m.

Aylard, Bruce
Bruce, G.A.
Bruce, J.G.
Carter, Wilf
Cooley, Bessie
Devries, Henriette
Greenwood, Brandy
Greenwood, Debbie
Gould, George
Jackson, Robert

James, Albert
Kane, Ken
McCormick, Marilyn
McCormick, John
Moore, Maureen
Rigaud, Fr. P.
Saligo, Frank
Sidney, Carl
Thomas, Frank

Old Crow (Community Centre)
Monday, March 1, 1993 2:00 p.m.

Abel, Barbara
Abel, Johnny - MLA
Abel, Karen
Abel, Rosalee
Beairsto, Colin
Beairsto, Shelagh
Benjamin, Allen
Benjamin, Martha
Bruce, Ellen
Bruce, Robert, Jr. - Chief
Bruce, Robert, Sr.
Burke, Richard
Charlie, Andrew
Charlie, Bruce
Charlie, Charlie P., Sr.
Charlie, Helen
Charlie, Joanne
Charlie, Lawrence Dean
Frost, Alice
Frost, Bertha
Frost, Brenda
Frost, Clara
Frost, Donna
Frost, Ethel
Frost, Freddie
Frost, Glenna
Frost, Marvin
Frost, Renee E.
Frost, Stephen
Greenfield, Kevin

Josie, Dolly
Josie, Edith
Josie, Tracy
Kaye, John Joe
Kaye, John Joseph
Kendi, Randall
Lord, Annie
Lord, Irene
Markowsky, Bob
Moses, Roy
Netro, Florence
Netro, Hannah
Netro, Mary
Njootli, Stanley
Nukon, Dick
Nukon, Esau
Nukon, Marion D.
Nukon, Marion E.
Nukon, William
Ollett, Neta
Peter, Ernest
Peter, Joel
Peterson, Victor
Sutherland, Gerry
Thomas, Lydia
Tizya, Andrew
Tizya, Ida
Tizya, Peter
Von Specht, Franko

TRANSCRIPTS OF PUBLIC HEARINGS



Special Committee on Land Claims and Self-Government

28th Legislature

Number 1

Official Transcript

Wednesday, January 20, 1993

9:30 a.m. to 11:35 p.m.

1:30 p.m. to 2:50 p.m.

Yukon Legislative Assembly Chamber
Whitehorse, Yukon



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)

Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)*

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

* Lois Moorcroft (Mount Lorne) substitute for
Danny Joe for this day

STAFF

Patrick Michael, Clerk of the Assembly

Missy Follwell, Deputy Clerk

Whitehorse, Yukon**Wednesday, January 20, 1993 — 9:30 a.m.**

Chair: Ladies and gentlemen, as you are all aware, we are here today as a committee to be briefed by the Yukon Government Land Claims Secretariat on *An Act Approving Yukon Land Claims Final Agreements, the First Nations (Yukon) Self-Government Act* and the agreements referenced in them.

For those of you here who do not know all the members of the special committee, I would like to start out by introducing them to you.

I am John Ostashek and I am Chair of the committee. Sitting in the front row are: Margaret Joe, MLA for Whitehorse Centre; the Hon. John Devries, MLA for Watson Lake; Jack Cable, Member for Riverside; and Mr. Fisher, MLA for Lake Laberge. In the back row, we have Lois Moorcroft, Member for Mount Lorne, a new riding; next to her is David Millar, Member for Klondike. Lois is substituting for Danny Joe, who could not be here today.

From the Land Claims Secretariat we have with us the Chief Land Claims Negotiator, Tim McTiernan, who will be introducing you to the rest of the people with him here today.

Mr. McTiernan: Thank you, Mr. Chair. I appreciate the opportunity to introduce my colleagues and members of the land claims negotiating team. On my right is Karyn Armour, who is principal negotiator and who has worked with the Land Claims Secretariat for a number of years now. On my immediate left is Lesley McCullough, legal counsel, who works on land claim legal issues for the Department of Justice. Behind me, to my right, is Jan Langford, who is a Health and Social Services staff member who coordinates our work on both self-government negotiations and implementation. Next to her is W. E. (Bill) Byers, who is senior counsel for land claims and constitutional issues in the Executive Council Office. Next to him is Norman Marcy, who is the manager in renewable resources responsible for coordinating the Department of Renewable Resources' work on land claims, including work on harvest allocations and special management areas.

Chair: Thank you. Would you just lay out for the committee how you intend to proceed and, if there are no questions from the committee, we will get down to the business at hand.

Mr. McTiernan: Thank you, Mr. Chair. We will be working from two basic sets of reference materials in responding to the committee and in briefing the committee.

One set of reference materials is the summary sheets related to the chapters of the umbrella final agreement and First Nation final agreements and amendments to the umbrella final agreement that have been negotiated since 1990. These summary sheets are included in an information package dated January 1993 and distributed by the committee.

We also have land selection maps should we need to refer to them later on in the briefing. We have land selection maps related to the Champagne/Aishihik First Nations final agreement.

With the approval of the Chair and the committee, we would propose to provide a presentation in a number of segments.

We would propose to give an overview of the negotiation process and an overview of the umbrella final agreement and pause for questions at that point. We will then provide an overview of First Nation final agreements with reference to the Champagne/Aishihik agreement, land selection process and specific provisions in final agreements, after which we will again pause for questions and discussion.

The next segment would be an overview of First Nation self-government agreements, with specific reference to the negotiation of self-government powers in relation to settlement lands.

Upon providing these overviews, we will again pause for

questions and discussion and finish with an overview of the land claims implementation planning process and then we will have an opportunity for wrap-up.

If that general proposal meets the support of the committee, we can organize our briefing in that order.

Chair: Just one point of clarification — will you be addressing specifics of the Champagne/Aishihik self-government agreement?

Mr. McTiernan: Yes.

Chair: Are there any questions from the committee? If not, I will ask Mr. McTiernan to proceed.

Mr. McTiernan: It may be worth noting the distinctive features associated with the Yukon land claims and self-government agreements, as both the Yukon comprehensive claims and self-government negotiation processes are unique in Canada in a number of respects. In general terms, the Yukon comprehensive claim is the only comprehensive claim in Canada to cover all of the communities within a province or a territory.

It is the only comprehensive claim in Canada that I am aware of that includes several different aboriginal cultures and communities under the framework of one overall comprehensive claim. In other areas, comprehensive claims have tended to focus on culturally distinct and single sets of cultural communities.

It is the only comprehensive claim in the north where the majority population in the claimant area is non-aboriginal. It presents a particular set of negotiation issues and challenges associated with that.

It is a comprehensive claim that, in many respects, has taken more time to negotiate than any other comprehensive claim, although it has dealt with a broader set of evolution and development issues from start to finish.

The Yukon comprehensive claim is one of the earliest claims filed with Canada after the 1973 acknowledgment of the federal government that outstanding claims issues remain to be addressed and to be resolved.

It was one of the first comprehensive claims to be filed after the Supreme Court decision on the Calder case in 1973. The Yukon comprehensive land claims process is the first comprehensive land claims process that provided for the negotiation of self-government agreements and that involved the parallel negotiation of self-government agreements together with comprehensive claims agreements.

The Yukon comprehensive claim has been negotiated in the context of changing and evolving federal land claims policy and in the context of an added body of court cases and court decisions regarding aboriginal rights and the exercise of aboriginal rights. One of the latest of those decisions is the Supreme Court decision on aboriginal harvesting of salmon addressed in the Sparrow case.

During the course of Yukon comprehensive claims negotiations, the government side of the table has gone from being a single party, namely the federal government, to being two separate parties at the negotiation table where the Yukon government has participated as a separate and distinct party from the federal government. At the same time, the number of claimant First Nation groups has gone from 12 First Nations being involved in filing the original claim to 14 First Nations through the better clarification of First Nation groups under the provisions of the *Indian Act* and other legislation.

All of these features, collectively, make the Yukon claim quite a bit different from other comprehensive claims that have been negotiated. They provide for some unique features negotiated in the claims to pay attention to, and account for, some distinctive features of the negotiation process.

The history of the Yukon claim, as I indicated a moment or two ago, dates back to 1973, when the status and non-status aboriginal

peoples of the territory, through the Yukon Native Brotherhood and the Yukon Association of Non-status Indians, joined together to present a claim to the federal government, entitled *Together Today for Our Children Tomorrow*.

Between 1973, when the claim was filed, and the late 1970s, the negotiations between the federal government and the negotiating organization that worked on behalf of the Yukon Indian people, the Council for Yukon Indians, were bilateral in nature.

In 1978, with the emergence of responsible government in the Yukon, there was a greater focus on the need to have the territorial government interests represented separately at the negotiating table. As a result of work on the part of the territorial government, the negotiation process moved from a bilateral process to a trilateral process, involving the federal government, the Yukon government and the First Nations, collectively represented by the Council for Yukon Indians.

That trilateral process consolidated in the early 1980s and moved toward the completion of an agreement in principle in 1984.

Prior to the finalization of an agreement in principle, the issue of claims implementation and the resourcing for claims implementation was addressed by the parties in 1983.

In 1984, a finalized agreement in principle was presented to the leadership of the Council for Yukon Indians and First Nations but was not ratified.

The period of 1985 to 1986 centred on restarting the negotiation process and reorienting and reorganizing the negotiation process to start work toward an alternate agreement that could be presented to First Nations leadership.

During that period, the focus on negotiations centred on community negotiations, and there was a general understanding that the solution to a comprehensive land claims process in the Yukon was a solution that needed to take account of individual community needs, at the same time as general territory-wide needs in a format slightly different from those community needs that had been addressed in the 1984 agreement in principle.

With the new federal comprehensive claims policy in 1987, which provided for the retention of aboriginal title on lands retained by First Nations following a comprehensive claims settlement, and which provided for the commitment to negotiate self-government agreements in relation to comprehensive claims, the negotiation of the Yukon comprehensive claim agreements refocused and started again in earnest with a plan to complete a two-step process.

The first of those steps involve the negotiation of a framework agreement or a general agreement that would provide general provisions for land claims that would cover all First Nations in the Yukon and that would establish territory-wide structures and processes. The second step of that negotiating process would involve a focus on specific commitments and specific rights and benefits that would accrue to each First Nation community.

There was an attempt to conduct those negotiations in parallel in the 1987 to 1989 period. During that period, the focus gradually turned toward completing a framework agreement, or an agreement in principle, and community negotiations were set aside until that agreement in principle was completed.

The agreement in principle was completed in November of 1988; the legal drafting was finalized and it was released in 1989. Between 1989 and 1990, the negotiators for the three parties, working with that agreement in principle, negotiated the text of an umbrella final agreement that set out the general provisions for the comprehensive claim in the Yukon.

Between April of 1990, when the umbrella final agreement was negotiated, and 1991, with legal drafting and the addressing of some issues that needed to be cleared up for consistency purposes

within the umbrella final agreement, the text was completed and finalized.

At the same time that the legal drafting of the text of the umbrella final agreement was being finalized, work got underway to negotiate four First Nation final agreements. Between 1991 and 1992, the first four First Nation final agreements were concluded with the Na-Cho Ny'ak Dun, Vuntut Gwich'in, Teslin and Champagne/Aishihik First Nations.

In parallel with the completion of four First Nation final agreements, a model self-government agreement was negotiated among the three parties — concluded in November 1991 — and served as a framework for the negotiation of the finalization of First Nation self-government agreements.

While First Nation self-government agreements were being negotiated in 1992, and the first four First Nation final land claims agreements were being finalized, work on implementation plans to give effect to the land claims agreements picked up and all three parties began to participate actively in an implementation-plan working group to complete implementation plans for the final agreements and for the self-government agreements. Territorial legislation for land claims and self-government agreements was introduced in June 1992, and re-introduced in December 1992. With first and second reading of the territorial legislation, the legislative committee that we were appearing before was established to address issues related to the negotiation of land claims agreements and to the legislation that has been introduced at the same time.

At the same time that the agreements themselves were being negotiated and the ratification process started on the completed agreements, the Yukon government has worked with the Council for Yukon Indians on issues related to the constitutional protection of self-government agreements.

The negotiating process for land claims itself has often been a difficult one to understand, even for the negotiators themselves. It involves a number of key elements. There is a main table for the negotiations of the major elements of all land claims and self-government agreements, and the main table involves representative of the three key parties: CYI and First Nations, the territorial government and the federal government. The negotiators at the main table are supported by legal and technical staff that are required at the negotiation table. From time to time, when there are difficult technical issues for negotiation at the main table and issues that are beyond the technical expertise of the negotiators, working groups are established that report to the main table. Working groups tend to be three-party working groups that are sent off to work through options for the resolution of technical or specific issues. These options will be brought back to the main table and discussed and negotiated by the main table negotiators.

The types of issues that have been sent off to working groups include issues about the title for settlement land and land tenure issues, financial compensation provisions, indexing rates for the financial compensation package, pay-out schedules for the financial compensation package, and so forth. Wildlife harvesting provisions have been dealt with by working groups from time to time, as have details on the structure and development process or the operation of the surface rights board and the drafting of surface rights legislation.

The other major group that has been established in the land claims negotiation process, which reports to the main table and provides advice to the main table negotiators, is the implementation planning working group. It includes representatives from CYI and First Nations, as well as the two government parties. The implementation planning working group essentially takes the finalized agreements and translates them into operational plans to give effect to the agreements.

The negotiation process involves consultations with third parties and, throughout the negotiation process, efforts have been made to ensure that third-party interests are addressed and protected and that the third parties affected by claims are consulted with respect to their interests.

Between negotiation sessions, substantial consultation takes place within government on issues associated with provisions of the agreements and, from time to time, issue work is undertaken between the federal government and the territorial government, or the territorial government and CYI and First Nations, on matters that may affect the outcome of claims negotiations — for instance, the Supreme Court decision on Sparrow, or the options for providing training for beneficiaries to the land claims agreements; those types of issues have been dealt with on the side, as well.

In terms of completing agreements, the final texts of agreements are reached through a general process of narrowing down the terms of the agreement. To use the umbrella final agreement as an example: the general provisions of the umbrella final agreement were negotiated in the early hours of April 1, 1990; the package was finalized. Once that package had been completed, the agreement was reviewed for internal consistency and the general negotiating language was translated to legal language. The internal review of the umbrella final agreement package identified some outstanding matters that had not been fully resolved — some internal inconsistencies and some language difficulties that needed further negotiation. With that negotiation and with the resolution of the outstanding issues, final legal text was put into place. So, there is generally a period of time between the completion of the general negotiations on specifics and the availability of the final legal text. That has been a constant pattern throughout the negotiation process.

The agreements are given effect through legislation. There are two sets of federal legislation required for the comprehensive land claims agreements and for the self-government agreements. Federal legislation for the comprehensive land claims agreements will be protected by section 35 of the Constitution. Land claims agreements will essentially be treated as treaties with constitutional protection.

Self-government legislation will not yet receive constitutional protection. It will be separate federal legislation, but the issue of the constitutional recognition of self-government is an issue that has been addressed nationally by aboriginal organizations.

Together with federal legislation, the land claims agreements will be given effect through legislation introduced and passed by the Yukon Legislature. The Yukon Legislature has, as we know, introduced comprehensive claims and self-government bills that will put into effect not only the agreement that is attached to those bills — the Champagne/Aishihik First Nation agreement — but all other agreements, as they are completed, that will be attached by order-in-council to the legislation.

In order to have a complete package for land claims and for the implementation of land claims and self-government agreements, we need: an umbrella final agreement that is ratified by all the parties; First Nations final agreements for each of the First Nations that are party to the claims process, ratified by all the parties and annexed to legislation; First Nations self-government agreements for each of the First Nations involved in the negotiating process, ratified by all the parties and annexed to the agreements; implementation plans for each of the First Nations final agreements, self-government agreements and for the umbrella final agreement that are approved by the parties; and financial transfer agreements between the federal government and the parties that deal with the financial resourcing to implement the claim.

The parties will also need to ensure that related legislation is introduced and passed in the appropriate legislative forum. For

instance, there is a requirement for legislation on the development assessment process and there is a requirement for legislation on surface rights.

The land claims and self-government agreements will be given effect through the activities of government in implementing the implementation plans. This will be done by the establishment of First Nation government bodies and governing processes provided for in self-government agreements, with the responsibility to implement First Nation provisions in the land claims and self-government agreements. Boards and committees will also be established as a result of the claim, to give effect to the management provisions that are captured in the land claims agreements.

Ratification of agreements by government is undertaken by the respective federal and territorial Cabinet members. Ratification of agreements by Council for Yukon Indians and First Nations is undertaken by processes established by the leadership of the Council for Yukon Indians or the First Nations.

The agreements, as they are being negotiated, meet a number of objectives, with two main objectives.

Comprehensive land agreements meet the outstanding constitutional responsibility to treaty with First Nations, thereby affirming ongoing aboriginal and First Nation rights and establishing legal certainty over tenure and ownership of land and resources in the area that is under negotiation in the comprehensive claim.

Self-government agreements serve to re-define the relationship between aboriginal people, First Nations and government. Self-government agreements, in effect, replace the *Indian Act*, which currently defines the relationship between First Nations and government.

The general overriding provisions of the comprehensive land claim agreement — provisions that also capture the general elements of the self-government agreement — are contained within the umbrella final agreement. The umbrella final agreement sets out common provisions and elements that are included in all First Nation final agreements.

The umbrella final agreement provides for territory-wide bodies, such as the Fish and Wildlife Management Board, the Heritage Resources Board, the Surface Rights Board and other such boards. It provides for territory-wide processes, such as the development assessment process and land-use planning. It provides for territory-wide management principles, which will be undertaken by government and by First Nations in the implementation of claims agreements. For instance, there is the principle of conservation for the management of fish and wildlife and the principle of sustainable economic development, which applies to the management and use of natural resources generally. The umbrella final agreement provides for the establishment of institutions — for instance, the training trust and the wildlife enhancement trust, which will serve as institutions or trusts to facilitate implementation of provisions of the agreement.

More specifically, the umbrella final agreement covers eight general areas in the land claims agreement. It defines who the beneficiaries of the agreement are and what First Nations are involved in the comprehensive land claims agreements in the Yukon. It provides for the exchange of rights between government and First Nations that will compensate First Nations for relinquishing their outstanding claim to title on all lands in the territory and will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The umbrella final agreement provides the financial compensation package in lieu of surrendering their claim to the major portions of the territory. The umbrella final agreement defines ongoing aboriginal rights to harvest natural resources and to use

natural resources. It provides for the participation of First Nations and First Nations peoples in the management of natural and heritage resources in the territory. The umbrella final agreement provides for general economic measures and provisions for First Nations. It provides a commitment to self-government and for implementation processes to ensure the effective implementation, review and revision, if necessary, of comprehensive claims and final agreements.

With respect to the certainty and rights provisions in the umbrella final agreement, the umbrella final agreement allows for the claimant First Nations to surrender their claim to land in the territory in exchange for the retention of some lands selected by First Nations and a general compensation package in addition to the lands and a role in the management of natural resources in the territory following the implementation of claims agreements.

The provisions in the claim that deal with the exchange of rights and claims meets the constitutional obligation of the federal government to negotiate claims with First Nations, a constitutional obligation that stretches back through the efforts of Chief Jim Boss in the early 1900s to reach a treaty with the federal government. It stretches back to the Royal Proclamation of 1763.

In terms of the land and financial compensation package of the umbrella final agreement, 16,000 square miles of land will be retained by the 14 Yukon First Nations. As well, there will be an additional 60 square miles of land available for selection in lieu of existing reserves or potential reserves in the territory.

The financial compensation to First Nations amounts to \$242.6 million, in 1990 dollars, which, when indexed to current dollar terms, is now substantially greater than \$250 million, although I do not have the precise figures. The financial compensation package, as will the land, will be divided among the 14 First Nations, and the financial compensation package will be paid out over 15 years.

The land that will be retained by Yukon First Nations will be held with a variety of classes of tenure. Category A lands will include sub-surface as well as surface tenure rights and aboriginal title will be retained on category A lands. Category B lands will include the same package of surface rights as category A lands but will not have sub-surface rights associated with them. Ten thousand of the 16,000 square miles of land available for the Yukon First Nations will be category A lands and 6,000 square miles will be category B lands.

In addition, parcels of land will be held by First Nations in fee simple. These will tend to be small, site-specific lands such as community lots or cabin lots in rural lands.

The land selection process and the land tenure provisions of final agreements will provide for access by third parties onto or over First Nation lands according to terms set out in Yukon First Nation final agreements. General provisions provided for in the umbrella final agreement include things like a one hundred foot right-of-way on rivers and navigable water bodies, which provides for general public transit along those water bodies. There will be recreational access on undeveloped settlement lands and access will be managed with attention paid to the distinction between developed and undeveloped lands and between category A and category B lands. Disputes over access to settlement lands — particularly disputes relating to conflict between the exercise of subsurface interests and surface rights on category B lands — will be referred to and addressed by, the surface rights board, which was provided for in the claim. The umbrella final agreement also defines expropriation provisions that will be contained in all First Nation final agreements.

In addition to the land that will be available, selected and retained by First Nations and described in First Nation final agreements, the umbrella final agreement also provides for the

establishment of special management areas. These special management areas will be described in the respective First Nation final agreements and will allow for the identification, protection and management of critical areas that are important both to government and to First Nations because of their special or distinctive wildlife, heritage or natural resource values.

For instance, Kluane National Park is an example of a special management area. There will be a new national park on the Old Crow Flats area of the Vuntut Gwich'in traditional territory. It is envisaged that heritage sites will be incorporated into special management areas. The first four First Nations final agreements have provided for a special management designation on some key heritage sites, such as Rampart House.

The financial compensation package that provides the \$242.6 million — in 1990 dollars — to the First Nations also incorporates provisions such as a buy-out for the tax exempt status of Yukon Indian people and it provides details regarding taxation provisions for settlement land. For instance, there will be no taxes assessable for unimproved rural lands, while fee simple settlement lands are subject to taxation in the same manner as other fee simple lands are throughout the territory. Taxation details are contained in First Nations final agreements.

As well as the land and financial compensation package provided generally to First Nations, the umbrella final agreement also specifies general ongoing aboriginal rights to harvest and use fish and wildlife and other natural resources. The chapter on fish and wildlife management deals with the right of First Nations people to harvest fish, wildlife and food species for their subsistence use, and it sets out the terms of management for fish and wildlife. It also addresses the allocation of traplines around the territory.

The chapter of the umbrella final agreement on forestry deals with the opportunity for First Nations and First Nations people to harvest wood for community use and to use forest resources and wood resources during the exercise of their traditional activities. One can use wood for campfires, for crafts purposes and so forth.

The chapter on water details the right of First Nation people to the use of water for domestic purposes in the territory.

The chapter on heritage resources provides for First Nation ownership of the Indian heritage resources directly related to the culture and history of the First Nation in question, and provides for First Nation management of its own heritage resources and heritage resources on settlement lands.

Scattered throughout the umbrella final agreement are specifications about the ongoing rights of aboriginal peoples and First Nations to pursue traditional lifestyles and lifestyle activities.

The umbrella final agreement also details the involvement of First Nations, with government, in the management of natural resources. A variety of boards and committees will be established through the provisions of the umbrella final agreement and First Nation final agreements that will allow for First Nation involvement in management issues and in providing advice to the appropriate Minister and to the appropriate First Nation when the First Nation has management responsibility for the matter at hand, with respect to the management of fish and wildlife, on a territory-wide basis, with respect to water management, with respect to heritage management and with respect to the implementation of processes like land use planning and the development assessment process that will evaluate the economic and environmental impacts of major development proposals.

The umbrella final agreement, among other bodies, provides for the establishment and operation of the fish and wildlife board, guaranteed First Nation participation on the water board, heritage resources board, surface rights board, land use planning bodies and on bodies established to assess the development impacts of

major proposals. The role and involvement of First Nations on development assessment panels will depend very much on whether the impacts of development projects will more likely fall on settlement lands or on non-settlement lands.

In each of the 14 traditional territories of the 14 First Nations in the Yukon, there will be a renewable resource council established that will provide advice to the Ministers, the First Nations and the Fish and Wildlife Management Board on issues that range from fish and wildlife management in the traditional territory to forest management and management in the special-management areas. The umbrella final agreement, as I already indicated, provides for the establishment of special-management areas as negotiated in First Nation final agreements.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in First Nation final agreements. The intent of the economic measures is to allow for First Nation and aboriginal peoples' involvement and participation in economic activities in the territory. Details with respect to specific economic measures are included in First Nation final agreements. For instance, in the Champagne/Aishihik First Nations final agreement, there are provisions for economic opportunities for Champagne/Aishihik peoples and in economic activities in Kluane National Park and in other matters.

Incorporated in the economic measures in the umbrella final agreement, there are also provisions for First Nation access to resource royalties from oil and gas resources that are developed in the territory. First Nations have access to, I believe, 50 percent of the first \$2 million worth of resource royalties from oil and gas resources developed in the Yukon, and there is a percentage allocation of resource royalties above the first \$2 million that flows from there.

The umbrella final agreement also commits to the negotiation of self-government arrangements with each Yukon First Nation. This is a first, as I indicated before, in any comprehensive claim in Canada.

The impact of that commitment to negotiate self-government arrangements is that the implementation of the provisions of First Nation final agreements, by First Nations, can be undertaken by duly constituted Yukon Indian governments, through the Yukon claim, rather than by the establishment of corporations, as has been the case in previous claims.

The umbrella final agreement also pays attention to implementation requirements from the development of implementation plans to the development of training plans and the identification of training needs to the establishment of trust funds that will provide for the training of Yukon Indian people to meet the requirements of the claim. That will provide for an enhancement trust to enhance fish and wildlife populations and habitat populations in the interests of Indian and non-Indian harvesters in the territory.

Implementation provisions in the umbrella final agreement also provide for a dispute resolution process to deal with issues where the parties disagree on the provisions of the claim. It also provides for the later negotiation of trans-boundary agreements.

As I indicated earlier, the umbrella final agreement was, in essence, completed on April 1, 1990. Subsequent to that, the legal text was prepared and modified to deal with internal inconsistencies and to deal with other factors that impinged on the claim, such as the May 1990 Supreme Court release of the Sparrow decision, which had a direct bearing on the provisions of the fish and wildlife chapter.

The revisions highlighted in the information package available from the select committee are essentially technical revisions that ensure internal consistency and coherence in the umbrella final agreement.

I should perhaps stop there for the moment.

Chair: Thank you. Are there any questions from the committee?

Mr. Cable: Could we have a thumbnail sketch of the residual powers Indian Affairs will have after the signing of all 14 agreements, assuming they take the same pattern as the Champagne/Aishihik agreement?

Mr. McTiernan: I believe the general intention of the federal government, with the completion of the comprehensive claims agreements and self-government agreements, is to essentially hand over a lot of the development program management powers that are currently exercised by Indian Affairs to First Nations and to vacate the field. The relationship between First Nations and the federal government would be defined very differently from the provisions under the *Indian Act*.

What residual powers Indian Affairs may have in the territory, once all 14 First Nations self-government agreements have been negotiated, is still unclear, but it would be minimal.

I think that is the understanding of the Yukon government, and it is the understanding of the First Nations and the Council for Yukon Indians. Obviously, there needs to be a mechanism whereby Canada can still deal with First Nations on financial matters and resource issues that relate to everything from taxation through to the negotiation of ways in which self-government powers might be exercised by First Nations, and on general matters that relate to the constitutional relationship between Canada and First Nations — but that would be through a revamped process that would look very unlike the way Indian Affairs looks right now. It could well be a set of responsibilities that might be taken up by other departments, for instance, federal Finance or Justice. There is no clear outline or summary of what Indian Affairs might look like 10 years from now, as opposed to now.

Mr. Cable: Perhaps you could tune me in here. Will Indian Affairs have some role in dealing with the land set aside? Am I reading this briefing note correctly?

Mr. McTiernan: Could I refer that to my colleague, Ms. Armour, please; she has more knowledge of land issues than I do. Before I pass it over, my understanding is that land set aside will generally be dealt with in the context of final agreement negotiations so that land will be disposed of, one way or another, during final agreement negotiations. One of the difficulties we have to deal with with Indian Affairs over the course of the next couple of years is that, for some period of time, some final agreements will be completed and implemented but not all of them. So, Indian Affairs will have a different relationship with those First Nations that have completed final agreements than they will with those that have not.

Ms. Armour: I am not sure, Mr. Cable, what your question is. Are you asking whether or not all of the existing land set aside will be included as settlement land?

Mr. Cable: Will Indian Affairs have any residual role whatsoever over the lands that are negotiated under the band final agreements?

Ms. Armour: Once a First Nation has completed its First Nation final agreement, all lands that are held now as land set aside for First Nations will become settlement lands or will be returned to the Crown. If there are improvements on the land, the First Nations must take it as settlement land. If the land is unimproved, they have the option to give it up.

Mr. Cable: In regard to the dispute resolution section, how will the municipalities access that process?

Mr. McTiernan: The dispute resolution mechanism essentially speaks to relationships between the territorial government, the Federal government and the First Nations in question, and the interpretation and the resolution of difficulties surrounding the

implementation of the claim. It would be a responsibility of the territorial government to deal with the municipalities and to represent interests that are agreed to between the municipalities and the territorial government on issues relation to the interpretation and implementation of the claim. With respect to overall provisions of the claim, there will be built into First Nation final agreements and self-government agreements mechanisms that will allow for municipalities and First Nations to work together and to deal with each other on issues such as compatible land use, compatible zoning and development regulations for First Nation land selected within communities or adjacent to communities. Those provisions will be specified within each of the First Nation self-government agreements or final agreements

Later we will be talking in more detail about some of the land-based and compatible land-use issues that emerge out of land selection and self-government negotiations. There maybe particular questions and examples that we can use at that time.

Mr. Cable: Would it be appropriate to wait if we have further questions on dispute resolutions?

Chair: We will be dealing with dispute resolutions later. Do you want address questions now, Mr. McTiernan?

Mr. McTiernan: I am at your pleasure, Mr. Cable. If we do not have specific answers at the moment, we can provide you with further details later, if that is agreeable to you. We will try to answer the questions the best we can now.

Mr. Cable: The agreements talk about the dispute resolution board dealing with interpreting the legislation. Is that, in your mind, a definitive interpretation? Would that set a precedent for the courts, for example?

Mr. McTiernan: The purpose of the dispute resolution process was to provide for a number of steps that the parties could use to try to resolve difficulties before they hit the courts.

There was a general recognition by the parties that a couple of things have happened if you end up in court to resolve some interpretative difficulties about the provisions of the claim or the interpretation of the claim — essentially a substantial disagreement that may affect on-going working relationships between the parities and the implementation of claims provisions. Court work is very costly and takes a lot of time, so there was an effort made to define a dispute resolution process that allowed for mediation and allowed for arbitration in some instances, with the agreement of all the parties to, in a sense, preempt the requirement to go to court on each instance of a dispute. The goal of the dispute resolution process is to try to resolve issues and solve problems more quickly and constructively, in a lower key fashion, than might be the case if there was a protracted court fight.

So that was the general intent. Certainly if there was a body of resolution to disputes that emerged out of mediation, from time to time, or that emerged out of arbitration, I would expect that it might be reviewed and used by the courts in considering any issue that ultimately went into court.

I will refer this to Ms. McCullough.

Ms. McCullough: I believe that the law would apply. There are provisions for judicial review of arbitrators' decisions, if there has been an excess jurisdiction or refusal to exercise, or if natural justice has been denied. So, in most cases, the decision of the arbitrator will be final. If a decision is reviewed judiciously on those grounds, certainly there will be a body of case law emerging from that. The direction a court gets on the interpretation of law by the arbitrator who is properly exercising his jurisdiction is usually considered by the court.

Mr. Cable: I was thinking about some decision made by the arbitrator in one context being used as precedent for some third-party argument. Am I on the right track here?

Ms. McCullough: I do not quite understand what kind of

third-party context you are looking at. Do you mean that if there is some kind of litigation between parties that are not parties to the agreement ensues, the issue would be binding upon a court?

Mr. Cable: Let us say that there were some dispute between the Village of Carmacks and the band and that a decision came down the line, would that bind similar situations in, for example, Dawson?

Ms. McCullough: I do not believe that it would necessarily bind Dawson. They would look at the facts of each case. I would like a better example of how it would come before the court and what type of dispute between the Village of Carmacks and the First Nation you are referring to.

Mr. Cable: I am just trying to get a sense of how the municipalities are going to interface with the bands under this agreement and under the dispute resolution process. There will be some arguments arbitrated in the context of each municipality. Will those arbitration decisions be binding in other geographic areas or will they have to go to the courts to get binding precedent?

Ms. McCullough: I do not think that the arbitrators' interpretation of the law are binding in geographic areas within the Yukon, but I do think that the decisions may well be made upon the geographic nature or situation of the case before them. However, the interpretation of the agreement, unless it is a specific revision, will be an interpretation of the overall agreement of the law, basically.

Ms. Moorcroft: With respect to development assessment, in chapter 12, a provision was added to allow land in the Yukon, held by a transboundary claimant group, to be treated like settlement land for the purpose of calculating the membership on a development assessment panel reviewing a development on that land. Can you explain the formula for the structure of the Yukon development assessment board, and how that would change with the transboundary claim?

Mr. McTiernan: As I understand it, and I am subject to correction from my colleagues, that amendment with respect to the recognition of the Tetlit Gwich'in land in the territory as settlement land follows the formula that is provided in the umbrella final agreement, with respect to First Nations people representation on a development assessment panel, to kick in for Tetlit Gwich'in land. It treats Tetlit Gwich'in land as if it was any other settlement land in the territory for the purpose of forming a panel.

The provisions in the umbrella final agreement address the proportion of government and First Nations representation on development panels.

I should know this off by heart, because I was involved for a long time on this section of the agreement. If it is determined that the significant impact of a development proposal would be on settlement land, it is envisaged that two-thirds of the members of a panel established to review the impacts of that development proposal would be nominated by First Nations and one-third of the members would be nominated by government. If the impacts are largely deemed to be off settlement land, that formula reverses: two-thirds would be nominated by government and one-third nominated by First Nations.

The amendment to the umbrella final agreement provides for the treatment of Tetlit Gwich'in land in the same manner as other settlement land. So, two-thirds of the nominees to review any project that impacts largely on Tetlit Gwich'in land would be First Nations nominees.

Ms. Moorcroft: Therefore, on transboundary claims, the representation of First Nations increases.

Mr. McTiernan: It relates less to where there is a claim and more specifically as to who owns the land on which the development may largely impact. With the Tetlit Gwich'in claim, there is a substantial body of land in the Peel River drainage that will now

be owned by the Tetlit Gwich'in.

If there is an impact on that land, then the provisions of the development assessment process, which would have a panel constituted of two-thirds First Nation nominees and one-third government, would take effect.

If the impact was in the Tetlit Gwich'in primary-use area, which is a much bigger body of land that relates to wildlife harvesting but is not on settlement land, then the two-thirds government/one-third First Nation formula would take effect.

Ms. Joe: I have a couple of questions. One question is a follow-up from some of the questions asked by Mr. Cable in regard to self-government and how Indian Affairs fits into the whole process. I believe that Mr. McTiernan mentioned that there would be a cash settlement in the amount of \$240 million. Was that the figure?

Mr. McTiernan: In 1990 dollars, it would be \$242.6 million, yes.

Ms. Joe: Pardon me, but I have always felt that was a very low figure in regard to what the aboriginal people of the Yukon should receive. My question is in regard to how self-government fits in with Indian Affairs.

I understand that different groups will determine how they will run their own self-government, and I think that there was a response that some of the bands would be taking over some of the responsibilities that Indian Affairs provides right now.

My question is in regard to a commitment for funding education, medical benefits and all of the benefits that are now available to status Indians or to the aboriginal people who make claim under this claim. Is there a commitment from the federal government that the kind of funding that is being provided now will continue over the years, because how long is this \$242 million going to last and how will they seek to generate finances after that?

Mr. McTiernan: I do not know of a commitment in any of the agreements to date that provides for a base level of funding in any program area that may currently be administered by Indian Affairs or that may be administered down the road by a First Nation when the First Nation chooses to exercise its jurisdiction in the area. Self-government agreements provide the ability to deal with transitional arrangements for the exercise of self-government powers, including the delivery of programs for the negotiation of financing associated with the delivery of those programs and for financial arrangements between Canada and the First Nation in question if the First Nation chooses to deliver those programs.

My sense would be — and this is subject to confirmation from the federal government or federal officials — that funding for ongoing programs that Indian Affairs currently delivers to aboriginal people and to First Nations is subject to the ups and downs of budgets from time to time and from year to year. The negotiation of funding arrangements after a First Nation chooses to exercise its responsibilities under self-government agreements will depend very much on the financial resources available and being spent by Indian Affairs at that time. There will be occasions when the Yukon government will be dealing with the federal government on those funding issues where the program in question is currently being delivered by the Yukon Government; but in all instances, where First Nations choose to exercise their powers under self-government and are getting financial transfers to enable them to deliver programs under their powers, that will be done with Canada. There is no preset level, as I understand it right now, in any of the agreements. Let me just check with my colleagues.

Ms. Langford: There is a commitment in the self-government agreements that any benefits to Status Indians will not change as a result of the self-government agreements. While most of the *Indian Act* disappears with self-government, people will still retain their Indian status so that programs, for example, medical

benefits and post-secondary education benefits, will not disappear if, as Tim says, there is no commitment to an existing level of funding. But if there is an erosion of funding, it would have to occur as a nationwide policy from Indian Affairs, not specifically dealing with status Indians in the Yukon. There is that commitment there.

Ms. Joe: With regard to the Sparrow Case, I have recently heard from different First Nations groups in British Columbia that there is a problem that they have started to face in regard to the decision that was made. It was my understanding, and the understanding of a lot of individuals who I have spoken to, that the decision of the Sparrow case set a precedent right across the country for aboriginal groups. I am now told that there is some fear that there is a move to appeal or reject that decision. Some aboriginal groups in British Columbia are being told that the decision only affects the Musqueam band and that there will be problems down the road in regard to that. I do not know anything more than I have heard and I am just a little bit concerned about that.

Mr. McTiernan: I am not sure that we have heard any of those details. Sparrow is certainly a complicated case. It addresses the issue of subsistence fishery and commercial fishery and deals with the subsistence harvest question in a much more straightforward manner than it deals with the commercial harvest question that has been set aside for further court review, as I understand it. It deals with the conditions under which aboriginal rights might be extinguished or could be extinguished by the Federal government. It deals with the spirit of governments' protection of aboriginal rights and it deals with consultation provisions with respect to anything that government might do that would impact on the exercise of aboriginal rights.

It certainly does not surprise me — although it is unfortunate if there are different interpretations — as to how the Sparrow decision might apply, because I think in the couple of years that have passed since the Sparrow decision was passed down, there are a lot of people who are looking at different aspects of the decision and looking at it in different ways. I think it will probably take some time and probably some more court cases before there is a common understanding of the impact of the decision. It was certainly an issue that we had to deal with in the context of land claims here because it addressed the primary access by aboriginal food users to food species.

That was directly related to the harvesting provisions of chapter 16. How it is playing out in British Columbia, I do not think we have been fully briefed on. Sorry.

Ms. Joe: Has there been an analysis of the cause and effect? How will it affect the Yukon?

Mr. McTiernan: I think we have the advantage in the Yukon now of having dealt with those types of questions in the context of negotiating agreements. We now have provisions with respect to harvest allocation and shared harvesting that are captured in the umbrella final agreement and First Nation final agreements — that once legislated by the federal government it will be constitutionally protected and will set a pattern that will be very clear and certain. The expectation is that we will not be subject to the broad range of interpretation that might happen with respect to particular court cases in areas of the country where claims are ongoing.

Hon. Mr. Devries: You did not elaborate on the financial compensation package. I am looking at the abbreviated form here, at section 19.6(1). It states that after three years the First Nation may request a loan from Canada against the unpaid balance of its financial compensation. Would that only apply to the Government of Canada or would it also apply to other institutions?

Mr. McTiernan: The specific provision in 19.6(1) refers, as I understand it, just to the Government of Canada. The First Nation

may well make different financing or loan arrangements with other bodies, government and non-government, but they would be different types of arrangements than the one envisaged here in 19.6(1).

Hon. Mr. Devries: So, would it not be seen as being an advance, in a sense?

Mr. McTiernan: No.

Chair: If there are no further questions from committee, I think you could continue, Mr. McTiernan.

Mr. McTiernan: I proposed earlier that we deal with the highlights of the Champagne/Aishihik First Nation final agreement, and what is included in final agreements, generally, in essentially three steps. If you will allow, I will give an overview of the types of specific provisions that are included in the Champagne/Aishihik final agreement and in other First Nation final agreements. Ms. Armour will speak about the land negotiation and land selection process, because that is a major component of final agreements. Mr. Marcy will speak to the harvest allocation provisions and special management provisions that are contained in First Nation final agreements and in the Champagne/Aishihik agreement in particular.

When you see and review a copy of a First Nation final agreement, whether it be the Na-Cho Ny'ak Dun final agreement or the Champagne/Aishihik final agreement, the text appears in two general forms. There is ongoing running text, clause-by-clause and chapter-by-chapter in the final agreement. From time to time, there is language and text in the final agreement that appears within boxes. The text that is not included in boxes is essentially the text of the umbrella final agreement, as it is incorporated into the First Nation final agreements. The text within boxes includes specific provisions that have been negotiated particularly for that First Nation final agreement.

For instance, with respect to the Champagne/Aishihik First Nation final agreement, there are specific provisions in chapter 6 on access, which provide for an outfitting concession holder to have the right of access to use settlement land for outfitting until the 30th day of November following the effective date of the agreement, and the right during the following 30 days to remove any of the holder's property from settlement land.

Those specific provisions, in relation to access, fish and wildlife harvesting and heritage management address both the particular sets of rights that will be exercised by the First Nations and the Champagne/Aishihik people as a result of the final agreement. They also address the way in which other issues associated with the negotiation and implementation of the claim, such as the protection of third-party rights, are incorporated into the final agreement.

A lot of the specific provisions of the final agreements are land-based and relate to access and use of land — compatible land management — and the key specific provisions in the final agreements relate to the land allocation for the First Nation in question, land selections and the pattern of rural and community land selections. The key provisions address harvesting rights, heritage management rights and particular economic opportunities that are provided to the First Nation through the final agreement.

To highlight some of the specific provisions of the Champagne/Aishihik First Nation final agreement: there is allowance in the final agreement that certain described areas of land may, in fact, be Indian reserves. If such areas of land are deemed to be a reserve, the Champagne/Aishihik First Nations may decide, following the provisions of the umbrella final agreement, to retain the land as a reserve or to convert the land to settlement land.

All of the settlement lands that have been selected by the Champagne/Aishihik First Nation are described in annexes or appendices to their final agreement.

Access provisions, particularly for third-party interests such as outfitters, to settlement lands are described in the final agreement. The final agreement also lists any areas that are subject to the expropriation provisions in the expropriation chapter of the umbrella final agreement.

There are 10 hydro sites around the Yukon that have been, or will be, identified as areas where expropriation provisions are limited because of the particular interest and potential for hydro-electric development in the area. The Aishihik hydro project is included and specified in the Champagne/Aishihik First Nation final agreement as one of the 10 sites in the Yukon where government's obligation to compensate may be limited if the site is developed.

The Champagne/Aishihik First Nation final agreement lists and details the rights associated with establishment of special management areas. I will not go into detail right now, because Mr. Marcy will speak to those issues, but the Kluane National Park and Sha'washe and the surrounding area, the area around Dalton Post, have been designated as special management areas.

There are also provisions to study and nominate the Tatshenshini River as a Canadian heritage river and to develop management procedures for trails and designated heritage sites.

The fish and wildlife chapter of the Champagne/Aishihik First Nation final agreement sets out the harvest allocation provisions of the Champagne/Aishihik final agreement that would apply when harvesting of wildlife species is restricted and a total allowable harvest is set for moose harvesting in the traditional territory. I will leave the details of that to Mr. Marcy.

In the forestry resource chapter of the Champagne/Aishihik First Nation's final agreement, there is provision for the Champagne/Aishihik people to avail themselves to opportunities for silviculture. The silviculture programs are established in the traditional territory of the Champagne/Aishihik peoples.

There are operational procedures such as the identification of quarries for government use, which are detailed in the final agreements. There are specific provisions related to which bodies of settlement land are subject to service agreements and taxation within communities and which bodies of settlement land are tax exempt.

The financial compensation package for the Champagne/Aishihik First Nation's people is set out in chapter 19; chapter 22 deals with the economic development measures that are particular to the Champagne/Aishihik final agreement. There are provisions for government to develop an employment equity plan that deals with representative employment in the Yukon and access for Champagne/Aishihik peoples, as well as Indian peoples in general, to employment within government. There are provisions for project agreements for developing a regional economic development plan and for rights of first refusal to economic opportunities within Kluane National Park and to any new outfitting concessions that might be established within the traditional territory as well as access to licenses that may be required from time to time for commercial wilderness adventure travel or similar types of activities. The agreement also provides for the right of first refusal for the Champagne/Aishihik First Nations to develop a commercial wilderness campsite at Silver Creek in the event that such a campsite is deemed desirable and is permitted by government.

Generally, then, the final agreements take the provisions of the umbrella final agreement and translate them into specific arrangements between government and the First Nation in question.

At this point, I will turn over the review to Ms. Armour, who will speak about the land selection process which, in many ways, is the most detailed and involved portion of negotiating final agreements, other than the self-government negotiations that go

on in parallel.

Ms. Armour: Mr. McTiernan has covered some of the process already. I will just quickly go through the general process that we have used for all negotiations.

The negotiation process adopted by the parties is what is called the interest-based, or cooperative, approach. This process allows negotiators to identify areas of common interest and explore all reasonable options based on the understanding that all parties are working toward the same end. It is a style of negotiation that emphasizes problem solving with a focus on process, rather than positions.

The success of the process is based on the understanding that lasting agreements are dependent upon the satisfactory resolution of the interests of all parties. This process was used successfully for the completion of the agreement in principle and the umbrella final agreement negotiations. We have also used this process in the first four final agreement negotiations.

The First Nations final agreement negotiations are community-based to the greatest extent possible and involve significant consultation with affected communities, interest groups and individuals. There is also a tripartite agreement where representatives from municipal councils can attend negotiations as observers if all parties consent.

The Government of the Yukon has developed what is called the memorandum of agreement, which is signed by each mayor and the Government Leader, which sets out the parameters for observer status. It is our preference to have municipal councils in attendance, but we have not obtained consent from all First Nations as yet. It takes time to build up that relationship, if there is not a working relationship there already.

In the first four agreements, Teslin, Mayo and the Haines Junction council attended the negotiations. In Old Crow, it was not an issue.

When the municipalities are not present, there is also an agreement that had been signed with the Government of Yukon and the Association of Yukon Communities stating that the government negotiators will regularly brief the municipalities regarding those issues that have an impact on communities, primarily land selection and self-government issues.

The negotiators try to meet with the municipal councils whenever we are in the community to brief them on any changes that may have occurred and on the status of negotiations with First Nations. With the Na-Cho Ny'ak Dun, for example, the negotiations were open to the public. The First Nation would post the schedule and agenda all over the community. It was open so community representatives could come in to listen to the negotiations.

While we are in the communities, we also try to meet with a number of the local interests, including the local outfitters, commercial wilderness operators and mineral claim holders that may want to talk to the negotiators. Throughout this process, we have also held a significant number of public meetings in all communities with a variety of interest groups.

The Yukon government and federal government have organized their negotiating teams to resource more than one set of negotiations at a time, so that we can work toward resolving final negotiations as soon as possible. The first four negotiations were completed at approximately the same time and we are planning to work with a number of First Nations in the next wave of negotiations.

The land table negotiations generally take place away from what Tim described earlier as the main table. There are a number of overlaps between the main table and land table, such as heritage, special management areas and self-government discussions as they pertain to community lands. Generally, all other issues —

other than land — will be dealt with at the main table.

The main table has been used in the past, and will likely be in the future, as a forum to resolve any issues that arise at the land table, where the negotiators have been unable to reach agreement after exploring all options.

Generally, the process that we have used for negotiation of lands was identical for the first four, with a slight variation with Na-Cho Ny'ak Dun. The First Nations, as a rule, table their interest to government. With Na-Cho Ny'ak Dun, we tried a different process where government and the First Nation jointly identified their interests in all of the lands in the traditional territory.

Then the tough negotiations only came down to where we had conflicts — where both government and the First Nation were interested in the same areas. Generally, though, the First Nations table their interests in rural, site-specific and community lands. When they table those maps to government, the First Nation explains what their interests are in the selections. Once the maps have been duplicated, we then invite First Nations — and not all of them have taken us up on this offer — to present the maps to the government departments when they are sent to government departments for review. We find it is better for the First Nations to identify their interests to government departments rather than going through the negotiators.

Once we have the reviews back from the departments such as Community and Transportation Services, they identify agricultural interests, existing and future transportation interests, gravel resource needs, residential requirements, and so on. The maps also go to the Department of Renewable Resources for habitat concerns, any interests in future parks, campgrounds, and those kinds of interests. Tourism, Heritage and Economic Development identify any mineral or forestry interests.

The Government of Yukon then meets with the federal government, which has done a similar review. We try to resolve any conflicts the two governments may have in what we would like to present to the First Nation. We then present our response to the First Nation; this whole process can be duplicated a number of times until we reach agreement. Throughout this process, as I mentioned earlier, we do consult regularly with the municipal councils and any third-party interests the land selections may impact.

Once we have reached a final agreement, or what we feel is a final agreement, the maps are drafted and they are sent to Ottawa for interim protection. The maps, at that point, go out to the public, once the surface and subsurface protection is on the land selections. We then take the maps to the communities for public consultation, as well as in Whitehorse. If we do not, at that point, feel it is necessary to make any changes to the maps — and we have not had to make any major changes to any of the final agreements as yet — or if it is identified through the public consultation and through the First Nation review that we have missed anything major, then there is the ability to change the maps before they are finalized and before the final order-in-council goes through.

Chair: Are there any questions, at this point?

Mr. McTiernan, you may continue.

Mr. McTiernan: I will turn it over to Mr. Marcy to speak about the harvest allocation provisions and special management areas.

Mr. Marcy: First, on fish and wildlife, the Yukon has negotiated based on three principles for fish and wildlife harvesting and management, the first being conservation, the second being a single-management regime, and the third principle being a sharing of resources among all Yukoners.

I will take a minute to talk about those three. Conservation is the overall governing principle of the fish and wildlife component

of the umbrella final agreement and each First Nations final agreement. The definition of "conservation" is "conservation means the management of fish and wildlife populations and habitats and the regulation of users to ensure the quality, diversity and long-term optimum productivity of fish and wildlife populations, with the primary goal of ensuring a sustainable harvest and its proper utilization."

The second major principle we have pursued is that of a single-management regime. The management of renewable resources, fish and wildlife, will be undertaken through a process of management bodies that ensure both participation of all interests and communities in the Yukon at the local level and territory-wide. Examples of that are the pre-implemented Renewable Resource Council in Mayo and the Fish and Wildlife Management Board, as it has been operating for the last two or three years and will operate upon the full implementation of the claim.

Both of these structures — the renewable resource councils that are to be established in each First Nations' traditional territory, and the Fish and Wildlife Management Board — have equal nomination of representatives, both by First Nations, or the Council for Yukon Indians, and government, so government would nominate half the members to the renewable resource councils. One of the provisions there is that members of the councils would be resident and have a good knowledge of the area and the resources found in the traditional territory.

The renewable resource councils and the Fish and Wildlife Management Board, as Mr. McTiernan has briefly talked about, would make recommendations to the Minister responsible on any matters concerning fish and wildlife management, as well as the management of special management areas that may be found within the traditional territory, and also on the allocation of resources and harvest opportunities for all people in the traditional territory.

The third principle, the sharing of resources among all Yukoners is, in part, affected by the Sparrow case that we have talked about numerous times today. Briefly, that case of the Supreme Court of Canada could be argued to give the right to harvest fish and wildlife to native people of Canada to meet their needs to the exclusion of all others.

For example, if Indian people needed all the harvestable population in a traditional territory to meet their needs, that would be to the exclusion of other harvesters. Other harvesters would not have an ability to access the resource. That would be the case if we interpret Sparrow.

The Yukon First Nations, and the Yukon First Nations final agreements negotiated to date, recognize the importance of fish and wildlife to all Yukoners and, accordingly, provide for assured sharing of resources and resource harvesting opportunities for all people found there.

An example would be the allocation of moose and woodland caribou in the Na-Cho Ny'ak Dun agreement. Upon the establishment of a total allowable harvest, up to 75 percent of that total allowable harvest would be allocated to the Na-Cho Ny'ak Dun and 25 percent to other harvesters.

Until a total allowable harvest has been established, Na-Cho Ny'ak Dun will continue to harvest all species to meet their subsistence needs. It would be only when the total allowable harvest was established that the sharing formula provisions would take effect.

In addition, I should say that, if the subsistence needs of Na-Cho Ny'ak Dun are less than those harvest allocation provisions, then the lesser amount is the number that they would take opportunity to harvest.

In the Champagne/Aishihik agreement, in recognition of the conservation limits and the low numbers of wildlife that are found

in the Champagne/Aishihik traditional territory, a minimum allocation of 15 moose has been negotiated in their agreement, with the remaining total allowable harvest being shared according to the 75:25 percent formula that is being used in the Na-Cho Ny'ak Dun agreement. This arrangement only applies to moose in the Champagne/Aishihik agreement. The harvest of other species will continue by Champagne/Aishihik to meet their subsistence needs.

Their fish and wildlife agreement is quite complex. It touches on a number of other things. I am just relating it to the highlights, and I will now move on to special management areas, as they pertain to Champagne/Aishihik.

Canada will establish the park as a national park pursuant to the *National Parks Act* in accordance with the schedule in chapter 10, on the effective date of the agreements. The schedule, as appended to chapter 10 of the Champagne/Aishihik agreement, sets out a number of specific provisions for the management of the park and the resources found there. There will be exclusive wildlife harvest and trapping rights established for Champagne/Aishihik citizens in the park. There will also be no-harvest areas so that those rights are limited to some extent. The application of these rights are consistent with those found in the fish and wildlife agreement and are also subject to limitations and recommendations by the Kluane National Park Management Board. Both Parks Canada and the Yukon will make best efforts to coordinate management of wildlife resources, both inside and outside of the park. Champagne/Aishihik will participate in these activities through the park management board and the renewable resource council for the Champagne/Aishihik traditional territory, Sha'washe and area, the area known as Dalton Post. This area will be a special management area and is of cultural, historic recreational and resource interest to many Yukoners. The resource-use conflicts have been substantial between the users and the interest here and this agreement should contribute significantly to their resolution.

Of most importance is the joint preparation of a heritage resources plan by Champagne/Aishihik and government. This plan will be completed and recommended to the parties within one year of the effective date of the agreement. The details of what the plan will be asked to address will be found in the schedule attached to chapter 10.

In addition, the government has agreed to enhance the management in the Sha'washe area that we have applied there to date. Government will provide adequate parking for users of Sha'washe and surrounding areas and will provide adequate access to the Tatshenshini for rafters and other river users. In addition, adequate signage will be provided. Champagne/Aishihik may provide a wilderness-oriented campsite for users of the area. Both government and Champagne/Aishihik will make best efforts to coordinate the management of the Sha'washe special management site and the surrounding area so there are no continued conflicts between users.

Finally, the Tatshenshini River will be nominated as a heritage river under the Canadian heritage rivers program, and that is an activity, in the first stages, undertaken by government, and would be undertaken in consultation with Champagne/Aishihik and with the renewable resource council, when it is established.

Chair: Are there any questions from committee members?

Hon. Mr. Fisher: What is the formula for determining the membership of the renewable resource council?

Mr. Marcy: The formula is 50 percent nominated by Champagne/Aishihik for the renewable resource council in their traditional territory, and government will nominate 50 percent of the members.

Hon. Mr. Fisher: Will each band have a separate renewable resource council?

Mr. Marcy: There is provision in each First Nations final agreement negotiated so far for a renewable resource council to be established. Therefore, we could anticipate 14 renewable resource councils. The same 50 percent nomination by Yukon Indian people and 50 percent by government would also apply to the Fish and Wildlife Management Board.

Hon. Mr. Fisher: Would this council have control over all fish and wildlife for all the Yukon?

Mr. Marcy: Each individual renewable resource council has, within its mandate an opportunity to make recommendations to the Fish and Wildlife Management Board and to the Minister on issues pertaining to the management of fish and wildlife in its traditional territory, or territory-wide. The board would also make recommendations either to the renewable resource council, if it is a local issue that they would like the council to consider, or to the Minister, if it is more of a territory-wide interest.

Hon. Mr. Devries: Who makes the interpretation as to what is subsistence? For instance, if a trapper had a dog team, would he also be allowed to use wildlife and fish, et cetera, to maintain that dog team?

"Subsistence" is a defined term, and if I can turn to that, I will try to summarize it as much as possible.

"Subsistence" means "the use of edible fish and wildlife products by Yukon Indians person for subsistence: for food and traditional ceremonial purposes, including potlatches; the use by a Yukon Indian person of non-edible by-products of harvest for such domestic purposes as clothing, shelter or medicine; for domestic, spiritual and cultural purposes, but traditional products of handicrafts and implements by Yukon Indian persons does not include commercial uses of edible fish and wildlife products or non-edible by-products".

To answer your question directly, I do not believe that this means the large scale use of wildlife to supplement the feeding of domestic animals.

Ms. Moorcroft: I have some questions for Miss Armour. You said that the First Nations may permit the municipalities to sit as observers at the negotiating table. Can that occur at any point in the process, and which municipalities have already been accepted in the negotiating process?

Ms. Armour: Yes, it can occur at any time in the process. It does not mean that if consent had not been given by all parties to attend at the beginning they are out for the entire process. If the First Nation and the municipal council have not reached agreement on their attendance, governments try to facilitate their coming together, and hopefully they will be able to attend at some point in the process.

Municipal councils, as a rule, only attend negotiations for those issues that pertain to them: self-government, as it pertains to community lands, and the land selection process in and around communities.

In the negotiations to date, the Na-Cho Ny'ak Dun and the Mayo village council had a number of joint council meetings and have a very good relationship. The Mayo council attended all meetings for which they were available. Unfortunately, some of the negotiations are scheduled during the week, during business hours, and not all council members are available to attend in all communities.

The Haines Junction council had representatives at the Champagne/Aishihik negotiations as often as possible.

Teslin was the same; they had representatives as often as possible. In Old Crow, of course, it was not an issue.

In the next round, the City of Whitehorse is attending negotiations with Kwanlin Dun and Ta'an Kwachan. We do not anticipate any problems in Carmacks; they, again, have joint council meetings. They have not yet signed a memorandum of agreement but

we have not entered into active negotiations with Carmacks. We are having some problems in Dawson.

Ms. Moorcroft: If difficulties do occur, is it possible for a party to withdraw their consent for the municipalities to be at the table?

Ms. Armour: Yes.

Ms. Moorcroft: And does this affect the ability of a hamlet council to participate, if they had expressed an interest?

Ms. Armour: It is not something we have entertained to date. In the Whitehorse negotiations and in the Carcross negotiations, that is something we would have to discuss with the federal government and with the First Nation, as it is a tripartite agreement.

Chair: If none of the committee members have any questions, I have some I would like to ask at this point.

Norm, how is the department going to arrive at the total allowable harvest on moose and caribou?

Mr. Marcy: In the process leading up to a total allowable harvest, First Nation citizens would continue to harvest to meet their subsistence needs. We would enter discussions with the First Nation during that time to pursue keeping better and more accurate records of harvest. We would also, to the extent that our resources permit, continue to monitor the populations that are found in the traditional territory and, when we have adequate information to develop the biological number for the total harvest, the number of animals that can be harvested over and above those required for conservation, then we would, upon having enough information, be able to establish it. Primarily, that would be done by the biology staff and also in consultation with the renewable resource councils in the communities where interest and concern might be expressed.

Chair: Is there going to be a concerted effort to get a very good feel for a number of animals in the area once the land claims agreements are signed off?

Mr. Marcy: That is certainly our intention, within the resources that we have for those activities.

Chair: Are you saying that you will be working within the resources you now have and that there will be no extra effort going into establishing the numbers in those areas? My concern is that, if we do not know the number of animals in an area, we are just throwing a dart in order to establish what the total allowable harvest is.

Mr. Marcy: Yes, I think there are certain implementation implications there. I think Mr. McTiernan can address those.

Mr. McTiernan: In completing implementation plans and in setting priorities within implementation plans for activities that have to be undertaken to meet the obligations in the claim, I would expect that priority would be placed on completing the surveys necessary to establish what the population levels for the food species are in the area and to determine what the harvest levels are and when a total allowable harvest number needs to be set.

I would assume we would be allocating additional resources that might be made available to implement the claim to those types of priority areas, particularly where there is an urgent need to get some information quickly.

Chair: So, are you telling me that the additional game counts and information required would be costed out in implementation agreements?

Mr. McTiernan: That is correct.

Chair: I have several more questions, but it is now 11:30 a.m., so I believe we will adjourn until 1:30 p.m.

Mr. McTiernan: Excuse me, Mr. Chair, but could I offer two corrections to previous comments we made just before adjourning?

Chair: Yes.

Mr. McTiernan: I had spoken several times earlier in the proceedings about the financial compensation package being \$242.6 million in 1990 dollars. In fact, in precise terms contained in the agreement, the 1989 aggregate value of the compensation package is described as \$242.6 million. I was a little imprecise there.

Mr. Cable had asked about municipalities dealing with First Nations in disputes surrounding land management. Section 25.2 of self-government agreements provides direct access from municipalities to the dispute resolution process that is established in the claim. I had suggested that access for municipalities might be through the territorial government, but there is provision for direct access by municipalities.

Ms. McCullough: If I could just comment on what Mr. McTiernan was saying in response to Mr. Cable's earlier questions, there are also provisions in the dispute resolution for any person, which includes incorporated municipalities, to apply to be part of an arbitration or mediation when their interests will be affected by the decision. They would participate on the terms set out by the arbitrator or mediator.

They do not have the ability to initiate or refer a matter to dispute resolution but, once it has been resolved, they do have the potential to take part in the proceedings.

I was thinking back to an earlier question, and perhaps I understand it better now. The usual administrative law rules would apply, and the decision of one arbitrator is not going to be binding upon the decision of another arbitrator, although it will have persuasive value, depending upon the similarity of the fact situation.

Mr. Cable: Rather than take up a lot of the time of the committee, I could chat with Ms. McCullough later. The arbitration awards appear to be filed as orders of the court, and I want to feel comfortable with the effects of those.

Chair: Mr. Cable, we can follow up on that issue during this afternoon's session, if you like. We can go back to other sections that we have been briefed on. I would like to keep this as informal as possible. I would like the committee members to be well-versed and satisfied with the answers to their questions. So, there will be no problem following that matter up later on today.

The committee will now adjourn until 1:30 p.m. this afternoon.

Adjourned at 11:35

Recess

Chair: We will now reconvene the afternoon session of committee hearings.

When we adjourned for lunch we were discussing wildlife issues.

Mr. Marcy briefed us on wildlife issues, but I have a couple of questions I would like to ask.

We talked about how they would arrive at the total allowable harvest. Has the department arrived at what it feels is a safe percentage of harvest based on the number of animals in the area without depleting the herds. As you said, conservation is one of the main criteria for the guidelines that were set out. At what percentage level are we going to be harvesting moose and caribou in these areas?

Mr. Marcy: I am not as conversant with the caribou guidelines, but with moose, depending upon the population level and densities within the area, three or four percent is generally believed to be the safe level of harvesting for conservation.

Chair: Is this based on a harvest of cows, calves and bulls or is this sex specific?

Mr. Marcy: Within the restrictions of the laws of general

application of the *Wildlife Act*, the harvest would be for bulls and there would not necessarily be a restriction for subsistence harvest.

Chair: The three or four percent is based on those criteria.

The other question I have concerns the harvest rights of the Champagne/Aishihik First Nation within the boundaries of Kluane National Park and what effect the allowable harvest will have on the split of the harvest on territorial lands. If we are talking about a 75/25 split, is the harvest that the Champagne/Aishihik Band may take from the Kluane National Park part of the 25 percent or is it over and above the 25 percent?

Mr. Marcy: If there were animals to be taken from within the park, those animals would be counted in the allocation to Champagne/Aishihik, so there would not be an allocation of 75 percent outside the park or those animals that were necessary to meet their needs plus those that were taken in the park. Those that were taken in the park would be included in the overall allocation.

Chair: Thank you. With that, Mr. McTiernan, I think we can move on to the next segment.

Mr. McTiernan: The next segment of the presentation will deal with self-government agreements. We will give an overview of work leading up to the model self-government agreement; I will speak to that and then turn over to Jan Langford to deal with the details of First Nation self-government agreements.

As we mentioned earlier, self-government has been an outstanding issue in the negotiation of the Yukon comprehensive claim since 1984. It was one of the issues discussed in some detail at the General Assembly in 1984 that addressed the agreement in principle of the Yukon comprehensive claim that had been negotiated at that point.

Self-government was felt, by some of the First Nations, to be an outstanding issue to be addressed and finalized in the Yukon land claims agreement.

At about the same time that Yukon First Nations were addressing the key issues, including self-government, that they felt to be covered by a Yukon comprehensive land claim agreement, the federal government was beginning to review its comprehensive land-claims policy for comprehensive claims negotiations across the country. They established a commission to review and report on comprehensive claims policy, headed by Murray Coolican, who had some experience in working with aboriginal peoples to that point in time.

The Coolican Report that was prepared on the basis of cross-country consultations and the cross-country review process for federal comprehensive claims policy resulted in a new federal policy on comprehensive land claims negotiations that was approved and published in 1987. That comprehensive land claims policy provided for the negotiation of self-government agreements in relation to the completion of comprehensive land claims with First Nations across Canada.

The commitment in the federal comprehensive claims policy to the negotiation of self-government agreements, with land claims agreements, was reflected in the 1989 agreement in principle on the Yukon claim. One of the chapters in the 1989 agreement in principle on the Yukon claim provided a commitment on the part of the three parties to the Yukon claim to negotiate self-government agreements. The agreement in principle, in committing to negotiate self-government agreements in parallel with land claims agreements, also set out the general terms and the general provisions that would be included in Yukon self-government agreements.

These general terms, and the scope of Yukon self-government agreements, was described in somewhat more detail in chapter 24 of the umbrella final agreement. This chapter has become the reference point for the negotiation of self-government agreements with the Council for Yukon Indians and Yukon First Nations.

Working from the provisions set out in chapter 24 of the umbrella final agreement, the three parties to the Yukon claims negotiations addressed and completed a model self-government agreement. Negotiations on this model agreement were concluded in November of 1991.

The model self-government agreement sets out the general clauses and provisions with respect to self-government arrangements between Yukon First Nations and the Government of Canada and the Government of Yukon that will be captured and finalized in First Nations self-government agreements. There will be separate First Nations self-government agreements negotiated for each of the First Nations in the Yukon.

Four of those First Nations self-government agreements have been negotiated so far. The Champagne/Aishihik First Nation has ratified its self-government agreement. The other First Nations that have completed self-government agreements are in the ratification process, or planning the ratification process for their agreements. The Yukon government has addressed both the Vuntut Gwich'in and the Champagne/Aishihik agreements over the course of the last year in preparing for land claims and self-government legislation.

There are essential elements to self-government agreements that are described in detail in the model self-government agreement of November 1991 and that will be captured in each of the 14 self-government agreements that are provided for through the Yukon land claim agreements. Self-government agreements will allow for the establishment of First Nation governments and the replacement of Indian band structures as they currently exist under the *Indian Act*. Duly constituted First Nation governments will have their own governmental procedures, their own constitutions regulating their affairs and governmental ability to make bylaws and manage programs without having to refer those bylaws or without having to refer program management guidelines to Indian Affairs and to the Minister of Indian Affairs for review and approval. Self-government agreements also set out the authority for First Nation governments and, in essence, replace the provisions of the *Indian Act* as they apply to the operation of Indian government structures and the delivery of programs and services by First Nation governments. Self-government agreements will define the jurisdictional authority or powers that are available to First Nation governments — powers to manage their own administrative affairs, powers that First Nation governments will have to provide programs and services to First Nation citizens and powers that First Nation governments will have to manage activities and affairs on First Nation settlement lands.

The structure, provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution.

The agreements are structured to provide flexibility so First Nations may take on responsibilities under their areas of jurisdiction or under their powers in a flexible manner and according to priorities set by the First Nations themselves.

The agreements provide for transitional provisions, the orderly transfer of programs and the orderly transfer of the exercise of power from the federal and territorial governments to the First Nation governments, as they pick up on their responsibilities.

They provide for financing and taxation arrangements to be exercised. In dealing with financing for self-government activities, there are provisions that specify the relationship between the Yukon and Canada, both in terms of resourcing self-government arrangements and in terms of the flow of funding to support First Nations when they exercise self-government powers.

First Nation financing for self-government powers will come from a variety of sources, but the money made available from government will flow from the federal government through finan-

cial contribution agreements.

Generally, self-government agreements establish mechanisms for continuing relationships between First Nation governments and various levels of government — from the federal government through the territorial government, to municipal governments.

I will turn matters over to Jan Langford to provide some more details on each of the areas of the agreements.

Ms. Langford: I will go through some of the highlights of the self-government agreement. Bear in mind that most of the self-government agreements and provisions are similar to what was in the model and remain the same from one agreement to the next. Where there are specific provisions for Champagne/Aishihik, I will try to highlight those provisions as I go through them.

As has been stated, essentially the *Indian Act* will be replaced once self-government comes into effect, with the exception of the designation of whether someone is a registered Indian for the purposes of receiving benefits and programs for status Indians.

First Nations will have the ability to set up their own governing structures through their own constitutions. Their constitutions have to meet a number of criteria that are set out in the self-government agreements. Other than that, they have a wide range in which to decide how they want to govern themselves.

Many First Nations are in the process of developing constitutions or have finished developing their constitutions and are implementing them. We can see from the constitutions that are in effect that some First Nations are adopting a traditional structure of appointing clan leaders to a governing body. Other First Nations are electing to go with elected chief and council structures. We can anticipate that there will be a range of governing structures within the First Nations in the Yukon.

First Nations will also be setting out their own citizenship code. This allows the First Nations to say who can be a citizens of their First Nation. In the agreement, all beneficiaries of the land claim must be citizens of a First Nation. Above and beyond that, a First Nation can make provisions for special citizenship — for example, through marriage, if someone was married to a Champagne/Aishihik member they could be made a citizen of the Champagne/Aishihik First Nation. The First Nation has control of their citizenship code, which was a key factor.

Going on from that, there are legislative powers that the new First Nations governing bodies will be able to take advantage of. The self-government agreements outline what legislative powers the First Nations will have. To put that in context, it is important to note that the umbrella final agreement and the final agreements are paramount over the self-government agreements, so you have to almost read the two together.

There are areas in the final agreement that outline specific powers in the fish and wildlife areas, for example. A First Nation cannot enact laws that would be contrary to something that is in the umbrella final agreement and final agreements. That is a limiting factor.

Other than that, the self-government agreement outlines a broad range of powers the First Nation will be able to make laws within, and those are both municipal-type powers and province-like powers. Those powers are divided into three categories. The first category is exclusive powers. It is an area where government will not have the ability to legislate, and those matters basically deal with the internal management of the First Nation government and management over their internal affairs.

The second area where they will have power is on settlement land. These are areas that concern the management of the land and resources on the land. You can see from your agreements that there is a fair list of powers under this area.

The third area where First Nations will be able to enact laws is

off settlement land and on settlement land, but relating to matters dealing with their citizens. There was a recognition by the parties that, with the land selections in the Yukon, there would be a number of First Nations citizens who did not live on settlement lands. First Nations wanted to be able to provide services and programs for their people, wherever they lived.

Therefore, there are provisions in the self-government agreements for First Nations to enact laws that will cover all their citizens, wherever they live in the Yukon.

Most of those areas of law are, as I mentioned, in the service area: health, social services, education, and so on.

I should say that, in all these areas, federal laws are paramount over First Nation laws unless the parties agree otherwise. There is a provision in the agreement for the parties to negotiate matters where a First Nation law would be paramount over federal laws, but unless the parties engage in negotiations, it is clear that federal laws remain paramount.

As for territorial and municipal laws, our laws stay in place until such time as the First Nation decides to enact a law. When the First Nation decides to enact a law, then our law is displaced to the extent that their law covers the same matter. For example, if they enact a law dealing with, say, social assistance for their members and it thoroughly covers the whole range of social assistance, then at that point — the point at which their law is enacted — the YTG law would no longer apply to those people.

We realize that in this kind of arrangement we have to be quite clear about where Yukon jurisdiction ends and where First Nation jurisdiction starts, so there is a process in the self-government agreement to allow both the Yukon government and the First Nation to consult in the process of drafting their legislation so that we are clear where our jurisdiction ends and we can tell our people what the changes are as they come about.

We realize that a First Nation may just want to take over one area of a law; for example, perhaps they just want to take adoption and not the whole area covered in our *Children's Act*. In that case, we want to make sure that if they are taking only a portion it does not create an administrative nightmare. So, there are provisions in the self-government agreement for consultation in those situations where we cannot resolve the issues and it is going to result in a complex nightmare of administration by being part-YTG law and part-First Nation law.

There are provisions for the Yukon Legislature to declare the Yukon law totally void as it affects the First Nation law. That, in effect, would force the First Nation to take on the whole scope of our legislation.

As I say, it is a last resort and something that was put in the agreement for the Yukon's interest in this matter, but it is something we hope will be rarely used. We hope that most of these things can be worked out by the parties before it gets to that stage.

If someone wants to know what a First Nations' law looks like, they can access that through a public registry of laws. There will be one set up by each First Nation. The public will have access to that registry. There will also be a central registry of laws formed by all First Nations.

There are a couple of other clauses in the legislative powers that may be of interest. There is a so-called spillover clause. We recognize that if First Nations have jurisdiction for matters on their settlement lands, there may be situations where something they do on settlement lands may have a spillover effect on adjacent non-settlement lands. There is a clause in the self-government agreement that would permit government to take action where there is an emergency situation arising off settlement land and the cause of it is arising on settlement land. So, government can take action in those situations.

The other area we tried to cover is in the situation where both

governments — the First Nations and Yukon governments — have jurisdiction over people, wherever they live in the Yukon. The situation we addressed was, for example, when a child is in need of protection, how would one know whether the child was a First Nations citizen or another Yukon resident. This would allow the parties to take emergency action. So, we put provisions in the agreement that state that, basically, where either the First Nation or government believes that a child or other person is in imminent danger and there needs to be emergency action taken, the parties can act and then we will sort out whose jurisdiction it is and who should take responsibility for the matter after that. That is in order to cover some of the human concerns.

Going on from some of the legislative powers, there is flexibility in this agreement for First Nations to take on programs and services when they like and according to their own schedule and priorities, very similar to what we have set out in the legislative powers. A First Nation may continue on in some areas under Yukon laws and Yukon programs for many years to come. There is nothing forcing a First Nation to take on anything, but if they do want to take over programs and services there is a process outlined in the self-government agreement whereby they notify government; we set up a schedule for negotiations — and those are three-party negotiations with Canada, Yukon and the First Nation. In those negotiations a number of factors will be addressed. Obviously, the concern with economies and efficiencies will be addressed during those negotiations. As everyone anticipates, resources will be hard to come by.

That leads me into financing. As has been mentioned earlier, Canada will finance First Nation governments through a financial transfer arrangement. One of the key principles at work there will be that First Nations are to be financed by Canada at comparable levels so that they can run public services at levels comparable to those offered in the Yukon — there is that principle of equity built into the agreement.

The Yukon has said that we will provide a contribution. Our contribution is outlined as net savings. When a First Nation transfers a program, if there are any net savings accruing to the Yukon as a result of not having to deliver a program to a First Nation then we have said yes, we will turn those over to Canada to be made available to the First Nation through the funding agreement. Again, there is an important principle there that we do take losses of economies of scale into account in determining our net savings, and it is also clearly indicated that the level of service to other residents in the Yukon is not to be reduced as a result of those net savings being offered.

It is important to note that the overall paramountcy rule does not apply to taxation. That is, a First Nation will have the power to tax, but they cannot displace some of Yukon's tax authority just by enacting their own laws. What we have set up here is more of a concurrent model. A First Nation will be able to tax over and above what the Yukon government and municipalities tax.

If they want a share of what we collect in taxes, they will have to enter into tax-sharing agreements with the Yukon. Again, there are statements that speak to equitable taxation in the agreement to guide people.

There is a three-year delay on taxation. Unless the Yukon government and First Nation agree otherwise, the taxation powers of the First Nations on property tax will not kick in for three years. The same sort of restriction applies to the First Nations' power to levy other taxes, such as income tax. In that situation, there is a three-year delay, and the parties undertake to get together and negotiate exactly what those powers might be and what sort of instruments they might use to share taxation in those fields. Those discussions will also include the federal government.

Another key point is that there is a link between property taxes

and delivery of local services. We have tried to link the two together; that is, people should see a relationship between the types of services that are delivered within municipalities and the taxes that are levied. We have also guaranteed, on behalf of the Yukon government, that municipalities will not suffer any net loss in service as a result of a First Nation taking over taxes; therefore, if a First Nation decides they want to take over delivery of some service for their people — for example, fire protection — and believe that some of the tax should come to them as a result of that, there will be a process of negotiation.

If, in the case the municipality still has to offer fire protection services to the rest of the citizens, there may not be any net savings for that municipality. There may be some tax revenue lost to the municipality. Yukon has undertaken to protect municipalities against those shortfalls in services.

With respect to aboriginal justice, First Nations will have authority over administration of justice on their settlement lands, but that power is delayed until 1999, or sooner, to allow the parties to negotiate exactly what that would mean.

We looked at this issue and felt it was a fairly complex area deserving a separate set of negotiations. The power is there for First Nations to exercise, but we have set up a process for further negotiations.

It is important to note that federal laws and the *Criminal Code* will still apply. In the interim, before a First Nation has a justice agreement, the Yukon provisions for dealing with First Nation offences will apply. For example, if there is an offence under a First Nation law, Yukon prosecution, courts and corrections will apply. Yukon will be reimbursed by Canada for that activity.

All of those provisions are similar in every self-government agreement that we have negotiated so far.

I am going to speak about the community lands section, and this is where the self-government agreements are different from one to the other.

The Vuntut Gwitch'in agreement has very little in this section, because there was no municipality or municipal interests to be concerned about in that community. However, Haines Junction, Mayo and Teslin have these provisions in their agreements.

On small lots of settlement land within municipal boundaries, there are limited self-government powers. This is the general rule. There is no authority for zoning, administration of justice, control of construction, pollution or public health matters. The powers that the First Nation has agreed not to exercise are listed in one of the appendices in the back of the self-government agreement.

In Haines Junction I counted about 20 selections, but each selection it applies to might have three or four lots; therefore, it is safe to say that most of the small lots within municipal boundaries are captured in this.

Another provision that applies to community lands is compatible land use, and it was felt that most of the conflicts that might arise regarding self-government powers, had to do with land use issues.

There are further provisions that discuss the parties working toward some kind of compatible land use. In an instance where a land use on adjacent lands, where settlement lands are adjacent to non-settlement lands, where there is a potential of an adverse land use on those two lands, the parties will consult with each other to try to resolve any potential land use problem that may come up.

Where consultation fails, and an actual conflict in land use comes up, then we have set down a dispute resolution mechanism. Municipalities can initiate that dispute resolution mechanism if it wishes. It refers the parties to mediation. If they cannot settle it in mediation there is the option to go to arbitration, if all the parties agree to it.

There are other provisions for local service agreements. These

may be negotiated by the municipality and the First Nations. The local service agreements are to be based on cost of services being similar to people in similar situations.

There are other provisions for regional structures. For example, a First Nation or other people in the area may want joint planning, delivery of services or some other governing structures in a region. In this case it is a permissive clause that enables the parties to set up regional structures. The whole of the population in the region must be included in the consultation leading up to any structure that is established.

The last provision I will highlight concerns reserves. In some communities, there are reserves. In Mayo, the reserve is not within the municipal boundaries; it is the McQuesten reserve, located outside. I should add that there is a clause in the Haines Junction agreement, as was identified earlier, that the First Nation may apply to have lands designated as reserves in the future. So, if there are lands designated as reserves, it is important to negotiate what is going to apply to those lands, what terms of the land claims settlement and self-government agreement will apply. Those details have to be worked out by the parties in order that there is some certainty about how the reserve lands are to be treated.

In most cases thus far, although negotiations and drafting are still underway, we can see that the reserve lands — although they will be called something different from settlement lands — will be treated quite similarly to settlement lands and, for the purposes of self-government, will be treated as though they were settlement land.

That concludes some of the highlights of the self-government agreement; it does not touch upon everything in the agreements, so there may be more questions coming forward.

Chair: Thank you, Ms. Langford. Questions from the committee? Mr. Fisher?

Hon. Mr. Fisher: Jan, would you run over this point again: the Yukon government will supply funding for programs that may be assumed by the First Nations. If, for instance, one looks at the cost of education and if, for some reason, a First Nation decided to take on education in their community for their people, this would not appreciably lower the cost of providing education to the rest of the community. Say it was a 50/50 split and the Yukon government had to take 50 percent of their funding away; from where would the Yukon government retrieve that funding?

Ms. Langford: The agreement states that we will only provide our net savings, once we determine what those are, and it will be a process of negotiation with Canada to determine what our net savings are, taking into account that services to the rest of the population have to be maintained. That puts the First Nation in a position of looking to Canada for funding for the program or their own internal resources, but it is clear in the agreement what Yukon's contribution shall be.

Hon. Mr. Fisher: So, it would be up to the federal government to pick that up?

Ms. Langford: Yes.

Hon. Mr. Fisher: I have another question on the provision of services. You touched on the example of the fire department. You said that the Yukon government would assist municipalities to ensure that their level of service would not suffer if the First Nation took on the provision of some service, such as a fire department. Again, however, where would the funding come from for the Yukon government to provide this additional help to the municipality?

Ms. Langford: One of the other factors we can offset in the calculation of our net savings and net payment to Canada is any loss in tax revenue. I would assume that, when we figure out, on an annual basis or however often, what our contribution to Canada will be as a result of program transfers, we will also be factoring

in any loss in taxes as a result of tax-sharing. Those will be the sources for offsetting anything in the community.

Hon. Mr. Fisher: The tax revenue in communities such as Teslin comes from a total of about 30 taxpayers and has very little to do with the operation of the municipality. Even if you did provide the money that would normally be derived from the First Nation portion of the community, it would have a minimal effect on the revenues for that municipality.

Ms. Langford: Yes. Again, we have to return back to the fact that we would only be giving up net savings. In the situation of a fire department, if a municipality still needed to maintain a fire service to the rest of the people and there were no net savings, we would not be giving anything back to Canada on that.

We hope we will not get into situations where the Yukon will have to be subsidizing it very often. I cannot think of any off the top of my head.

Mr. Cable: I would like to just work through this dispute resolution thing again. When the ink is dry and all the smoke is cleared, the two communities have to get along with one another.

Chair: I will allow you to go on with it for awhile, but there may be other questions from the committee that should be addressed. This could be a very long explanation.

Mr. Cable: It will not be a cross-examination.

Let us just pose an example, so I am comfortable in my own mind how this works. Let us say there is a dog bylaw — which is a big Yukon thing in all the municipalities — and the dog bylaw varies between the First Nations and non-First Nations communities. How would the dispute mechanism work to reconcile any differences that might take place?

Ms. McCullough: Could you tell me what the conflict between the two would be as a result of their having different dog bylaws?

Mr. Cable: Let us just quote an example. Let us say that one permits dogs to bark and the other does not. These are the mundane things that cause friction between communities. How would you go about starting the resolution process?

Ms. McCullough: If, for some reason, the land use was not then compatible, you may have a better recourse going through the territorial government, as an agency, to get dispute resolution. I do not know that you necessarily have a remedy in that case, just the same as you may not necessarily have with adjoining municipalities or adjoining jurisdictions. That is one of the things that is often taken care of through negotiation. The fact is, the First Nation will have powers in those areas.

Chair: I believe Mr. McTiernan had something he wanted to add to this.

I do not mean to interrupt the exchange but I think in practical terms — and unfortunately I do not have a legal background so I cannot speak to some of the legalities involved — these issues have come up in the course of negotiations while we have been trying to deal with ongoing land use questions and land use issues, permits for roads, land use applications in and around communities in areas where negotiations have been going on, and there tends to be a substantial effort on the part of the parties to sit down and try to negotiate a resolution, and I expect that similar type of informal mechanism would still exist where the municipality and the First Nation would be encouraged to at least, on a working level, try to work something out and, if they could negotiate a solution, amend bylaws appropriately. There are instances where one could envisage the territorial government playing some mediating role, or even the federal government, depending upon the nature of the bylaw. The general reference point would be the compatible land use section of the self-government agreement, section 25. Even if an argument could be made that it was not a strictly compatible land use type issue, I think the principles

contained in that section would be ones that we as a government might work toward and push at the table.

If that sort of informal process did not work, I think the recourse then is in the formal dispute-resolution mechanism, about which Ms. McCullough might be able to speak more. I would expect there would be a tremendous effort made to try to sort things out before we got into that formal process. In fact, that is something we will talk about shortly when dealing with implementation, but I would expect, just in terms of the experience we have had over the last couple of years, that there would be a substantial amount of energy and efforts spent between departmental officials and First Nation officials, between municipal officials and departmental officials and First Nation officials on the practical "how does this work" type of thing on the ground, without formal negotiation processes in place, but in trying something, finding out very quickly that if it does not work or we have not thought of all of the nuances to try to find a workable solution without all the formalities in place. That being said, there are instances, of course, where workable solutions might not be found and we are into the broader process.

Ms. McCullough: These types of disputes do arise between the different government jurisdictions. In common law, when there is adjoining land between provinces and a nuisance in one — I say nuisance as opposed to, in this case, land use, or basically a barking dog — and there is not a mechanism to deal with that nuisance and a forum to bring your complaint forward, municipalities and provinces try to deal with the problem through negotiation, and I would think that, once again, that is what we would try to do. Compatible land use sections deal with that land use.

Most of what we could anticipate, that we will not want to deal with, does deal with land use. Noise is a good exception, which I do not think you would term "land use", but it undoubtedly has an effect upon the other.

Mr. Cable: Am I reading this right? If there are adjacent communities, say First Nations and non-First Nations, are we forced into arbitration by these agreements or are the conventional remedies still available?

Ms. McCullough: Conventional remedies will be available.

As to questions regarding standards of evidentiary proof necessary to make cases and how courts interpret the fact that specific actions are legal in the jurisdiction are in accordance with the laws, it is not possible to predict that the case law would be dealt with in the same way as perhaps similar case law has been in the past.

Hon. Mr. Fisher: I think you may have answered this for me, Jan, but as you are probably well aware, band First Nation-owned corporations are currently in a situation where they do not pay property tax. They are in every community in the territory. When the final agreements are reached, will these band-owned corporations then just become regular taxpayers if they are located in the municipal section of the community?

Ms. Langford: There are specific provisions on the tax status of the First Nations government in the agreement, so if a corporation is owned by the First Nation government it may be eligible for tax-free status, as is a government. There are some conditions about how much business they can do off settlement lands. Basically, the rule is that it must do most of its business with residents and citizens living on settlement land to get a tax-free status.

If, say, more than 10 or 20 percent of their business revenue was from people off settlement land, then they would be considered to be a taxable corporation.

Ms. Moorcroft: I have a question about the land use planning bodies we were talking about this morning when we were reviewing the umbrella final agreement. What is the time frame on the setting up of the regional planning commissions? How would that

affect the ability of neighbourhoods and communities that are not already formally organized to organize, for example, into a hamlet council or other agency?

Mr. McTiernan: The time frame for setting up regional land use bodies or regional land use commissions has not been fully determined yet. Priorities for land use planning across the territory would be set as a result of the implementation plans that have to be completed for the UFA and First Nations final agreements. The planning time frame for planning commissions, as they are set up, would be defined in the terms of reference for setting up those planning commissions.

The land use planning agreement that was negotiated, completed and signed in 1987 envisaged a number of different planning areas for the territory, with priority set to deal with Kluane planning, in the first instance. A land use plan was completed for the Kluane area, but planning has not been started in any other area. The whole question of in what order regions across the territory would be planned and the time allotted for planning in each of the regions has to be addressed through implementation plans, and this has not been done yet.

I do not believe that the presence or absence of a land use planning process in an area is an impediment or would impact on the establishment of hamlet status on a regional level, or on the ability of people within a particular area to form hamlet councils.

Hon. Mr. Devries: Just going back to the citizenship code: In the Watson Lake area, for example, many of the Kaskas are intermarried with Tlingits or Tahltans. You had mentioned that there is a special system set up with the Champagne/Aishihik Band. Will every band independently decide on how their citizenship code is set up?

Ms. Langford: Yes. Every First Nation decides what its citizenship code will be, so there may be overlaps between First Nation to First Nation about who can become a citizen. There is some question of whether a person could be a citizen of more than one First Nation. Essentially, I think those issues will have to be ironed out by the First Nations themselves in order to stop any overlap.

Hon. Mr. Devries: Would those decisions be made by the parents? If at some point one band was very successful and another was not as successful in, say, economic development, would there be an appeal process or would they always be stuck with what their parents gave them?

Ms. Langford: It would be up to the First Nation to set up their own citizenship code. However, a distinction must be made between citizenship and the beneficiary status. The rules for being a beneficiary under the land claim are pretty well set out, so that some of the benefits accruing from the land claims for economic development may just go to beneficiaries and not citizens as a whole.

The citizenship really matters for things like whether certain First Nation laws will apply to the person or not.

Ms. Joe: I have a short story, but it leads up to a question. It is in regard to aboriginal justice. Prior to 1982, when I was a justice of the peace, the Kwanlin Dun First Nation had bylaws of their own and were charging certain individuals under those bylaws. One specific one was in regard to dogs at large, with pictures and everything as evidence. There was great confusion as to who was responsible and who had jurisdiction over those bylaws. I do not think it was ever dealt with in the territorial courts, because no one could decide.

My question is in regard to the making of the First Nations laws, how they apply and who will be hearing them. We talk about a dispute resolution, as Mr. Cable has, but are we going to be looking at individual First Nations courts to deal with those First Nations bylaws or are we going to be working in conjunction with the

territorial government to deal with any offenses under those bylaws?

Ms. Langford: In the interim, yes, Yukon government courts will handle any offenses under those laws. The whole area of administration of justice is one that, as I said, is still open to negotiation. The issue you have pointed to is going to be a big one for those negotiations: Will First Nations be establishing their own courts or will they be establishing some procedures within the existing court system, as is happening now with circle sentencing and so on?

Those matters are still to be negotiated. As I said, it is too early to tell what will come about.

Chair: Are there any further questions from committee? If not, I have a couple of questions on self-government.

In giving your presentation you mentioned that as part of the First Nations laws there would be a registry in each of the communities or headquarters. You also said that there would be a central registry.

Where will the central registry be maintained and who will be responsible for it?

Ms. Langford: The subject is still to be negotiated. There is a clear onus on First Nations to negotiate among themselves to decide where the central registry will be and who will maintain it. It is a responsibility of the First Nations to set it up.

Chair: Given that we have four First Nations that are now on the verge of ratifying their land claims and self-government agreements, the laws that they pass will only be registered in each of their communities and there will not be a central registry in effect at this time to research these laws. Am I correct?

Ms. Langford: Those matters are being dealt with under the implementation planning. As to when their registries will be set up or when a First Nation will be passing laws, it is still not clear whether they will want to do that on day one or whether there will be some time delay after self-government comes into effect. That is part of the implementation planning process.

Chair: It is my understanding that there has been no delegation as to who will be responsible for the cost of these registries.

Ms. Langford: At this point in implementation negotiations, the Council for Yukon Indians has not been provided with any additional money or responsibility for that activity. We assume, therefore, that the First Nations are getting funding for that implementation activity, although this has not been spelled out in detail. I would assume that their financial offer from the federal government includes resources to set up the registry.

Chair: I want to follow up on Mr. Fisher's question on the sharing of services and the costs involved. He mentioned that if we got into a situation where First Nations took on the responsibility for delivering a service that ended up with a municipality having a negative cost of providing the same service to the rest of the people in the municipality, that the cost of that would be picked up by YTG to ensure that the municipality does not incur additional costs. Is this a correct assumption? Will this cost be borne by YTG budgets, or is there some recourse ensuring that that amount of funding is reimbursed to us? It is my understanding that any costs involved are to be borne by the federal government, not YTG.

Ms. Langford: I think that clause was to give some assurance to municipalities that the Yukon would be acting on their behalf in both negotiations for what are the net savings for the Yukon in not having to deliver the service and in balancing off any lost tax revenue that we would be negotiating with Canada for those monies in the calculation of our net savings. If all those negotiations go according to the Yukon's calculation of what our net savings are, one would assume there should not be any net loss to the municipality that the Yukon would have to incur.

Chair: Thank you. If there are no more questions, are we going to get into implementation a little bit, or is there more on self-government you wanted to cover?

Mr. McTiernan: Mr. Chair, if it is agreeable with you, we could get into implementation now.

As with a major building, there is a point at which the architects are shoved out of the room and the plans are handed over to the builders and contractors to actually lay the foundations and erect the building. It is the same way with land claims agreements, there is a point at which negotiations with all of the principals involved and all of the fine legal points involved are concluded. Then, the agreements — and, in this particular instance, we have a number of very complex agreements — are handed over to the program managers and the service delivery people to translate the broad spirit in principle and legal obligations in the agreements into workable plans, activities and programs that will benefit people in the communities and the First Nations, and which will allow, as Mr. Cable had indicated earlier, a good, positive and constructive working relationship to be developed between First Nations people and non-aboriginal people in communities.

Implementation plans for land claims agreements and self-government agreements are designed to be practical working plans that make the agreements reality and give effect to the agreements.

The history of implementation planning, in relation to land claims agreements in Canada, has been a patchy and changing one. The first of the modern-day comprehensive land claims agreements, as people know, was the James Bay agreement, involving the Cree and the Inuit of the James Bay region.

The agreement was negotiated in advance of major hydro developments in northern Quebec, legislated, and put into effect, but no provision was made for developing implementation plans or to transfer from the law to practical programs and activities on the ground. It took several years of negotiations between the Cree, the Inuit, the federal government and the Quebec government to actually get implementation plans for that agreement and to get that agreement implemented and working on the ground.

The federal government noted that experience in completing and negotiating its northern comprehensive claims. Consequently, when the Inuvialuit agreement was legislated in the late summer of 1984, there was already substantial effort underfoot to start implementation planning for the Inuvialuit agreement to complete implementation plans for this agreement.

Implementation planning started in October and November 1984, and implementation plans for the Inuvialuit agreement were completed the year after. The implementation plans for the Inuvialuit final agreement, finished after the agreement was legislated, set out the responsibilities that fell on the federal government, the Northwest Territories government and the Yukon government to implement its portions of the final agreement. It also set out a set of activities that would be undertaken by the Inuvialuit corporations to implement their responsibilities under the Inuvialuit final agreement.

Implementation funding to implement the agreement was provided by Canada, and the Yukon government currently receives in excess of about \$800,000 a year to meet its implementation responsibilities under the Inuvialuit land claim.

The implementation planning process was further reviewed by the federal government after its experience with the Inuvialuit final agreement. A new federal policy and new federal guidelines now called for the drafting and completion of implementation plans for land claims agreements before those agreements are legislated. Current federal policy requires that an implementation plan, with costs attached, goes before federal Cabinet at the same time as the land claims package goes before federal Cabinet for

ratification, prior to the legislation of the land claim or self-government agreement in question.

We have been operating under those types of guidelines in developing implementation plans for the umbrella final agreement for the four First Nation final agreements and for the four First Nation self-government agreements.

The planning process is a rational and a logical one and, in some ways, a cumbersome one. It involves taking all of the provisions of the agreements as they have been negotiated, looking at the activities that are required as a result of the provisions of the agreement, determining who is responsible for undertaking the activity and what level of activity should be undertaken to meet the responsibility of the agreement, and setting out all of those activities on a clause-by-clause basis for all of the agreements in what are called activity sheets. Once those activity sheets have been completed, setting out the actions that have to be taken to implement the claim and setting out who is responsible for undertaking the actions and in what time frame, the activities are costed and negotiations are completed between the parties and the federal government on the additional costs that fall to the parties in order to effectively implement their responsibilities under the agreement.

Implementation planning for the Yukon claims agreement has been undertaken on and off since 1989. However, it has been difficult to plan in the absence of finalized agreements. Implementation planning really began in earnest and carried on with a great degree of intensity just in the last year or so as final agreements were completed and as final text was delivered to the implementation planners.

We are currently in the process of attempting to complete implementation plans for the umbrella final agreement for each of the first four final agreements and for the self-government agreements, and to deal with the costing issue with respect to identifying additional costs that fall to the parties in order to implement the provisions of the agreement and to negotiate an appropriate costing arrangement with Canada.

The question of resourcing and funding land claims agreements was first addressed in the context of the Yukon claim in the early 1980s. In 1983, there was a memorandum of understanding between the federal and the territorial negotiators that indicated that all incremental costs associated with implementing the Yukon land claim agreements would be a cost to Canada. That issue was revisited in 1988 and 1989.

In 1988, with the conclusion of the agreement in principle and as part of finalizing the agreement in principle in negotiations, the Yukon government committed approximately \$6.75 million in direct additional costs to implement the Yukon land claim. Five hundred thousand dollars was made available to pre-implement heritage and wildlife management boards and structures. As a result of that commitment, for instance, the fish and wildlife board was reorganized and First Nation representation was established on it, in keeping with the principles of the agreement in principle. The Na-Cho Ny'ak Dun, or the Mayo renewable resources council was established as a result of that commitment.

The Yukon government committed \$3.25 million, matched by Canada, toward the establishment of a training trust, which would be a source of money for training First Nations peoples to meet the new challenges provided by the land claim, from the management of programs by First Nations people to engaging in economic activities, and all of the spin-offs that the claims can be expected to generate in the Yukon.

One million dollars was committed by the Yukon government, matched by CYI and by the federal government, toward the establishment of a fish and wildlife enhancement fund, which could be used to support wildlife enhancement measures — to

build up populations, to improve habitat, or to undertake activities that would increase the population and the dispersion of wildlife in the territory.

The Yukon government committed itself to pay up to 50 per cent of the first \$2 million in compensation to outfitters if compensation is required for outfitters as a result of demonstrated loss of livelihood as a result of the selection of settlement lands. The Yukon government committed \$100,000 a year for 10 years toward implementation costs of the claim.

In that respect, the Yukon government was the first northern government to directly commit funding to implement a land claims agreement. It did so on the understanding, reaffirmed in the 1989 memorandum of understanding between negotiators, that all other incremental costs associated with the claim would be chargeable to Canada.

With respect to where we stand in the claims process right now, we have to complete implementation plans, complete the costing exercise and complete costing agreements to establish what new money is available from Canada to implement the claim prior to a federal Cabinet review of the land claims agreements, and prior to the introduction of land claims and self-government legislation in federal parliament.

All parties are working to try to complete that task as soon as possible so the federal government can address the Yukon land claims and self-government package as soon as possible, and so that legislation can be introduced into federal parliament, we hope, in the spring session of 1993.

Chair: Thank you, Mr. McTiernan. Are there any questions from the Committee?

Mr. Millar: If I understand this correctly, we will be dealing with the First Nations as another government level. Will it be at a municipal level, territorial level, federal level — what level of government will the First Nations have?

Mr. McTiernan: There are general sets of responsibilities the First Nations have. Some involve municipal-type powers and some include territorial-type powers. Our dealings with First Nations will depend very much on which powers they exercise and the way in which they choose to exercise those powers. We could be dealing with First Nation governments on municipal-type issues, but we could also be dealing with them on territorial-type issues.

Mr. Millar: Thank you, that answers my question.

Chair: Are there any other questions from Committee Members?

Mr. McTiernan, is there anything your people have to add to the briefing this afternoon?

Mr. McTiernan: I will check, Mr. Chair, but I think we may have covered matters in a general sense.

We can come forward with any additional information the Committee might want, but we have finished what we had prepared for today.

Chair: Thank you, Mr. McTiernan. With that, I suppose we can adjourn for this afternoon, but I would ask all the Committee Members to reconvene in the committee room for a debriefing and a short meeting.

We will now adjourn.

The Committee adjourned at 2:50 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 2

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Friday, January 22, 1993
10:00 a.m. to 11:00 a.m.

Yukon Legislative Assembly Chamber
Whitehorse, Yukon



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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Whitehorse, Yukon**Friday, January 22, 1993 — 10:00 a.m.**

Chair: Good morning, ladies and gentlemen. As you are aware, we are here today as a committee to meet with the representatives from the Council for Yukon Indians to discuss matters related to Yukon land claims and to First Nation self-government.

I would like to welcome Albert James, vice chair for the Council for Yukon Indians, and Vic Mitander, chief negotiator. I realize that this is a very busy time for those who are directly involved with land claims and self-government talks so I would like to thank you very much for making your time available to us today.

For those who do not know all of us here, I would like to introduce the members of the committee. My name is John Ostashek and I am chair of the committee. Sitting in the front row are: Margaret Joe, MLA for Whitehorse Centre; the hon. John Devries, MLA for Watson Lake; Jack Cable, MLA for Riverside; Mickey Fisher, MLA for Lake Laberge. In the back row are: Danny Joe, MLA for Mayo-Tatchun, and last but not least, David Millar, MLA for Klondike.

Before asking Mr. James and Mr. Mitander if they would like to make any introductory remarks, I would first like to say a few words about myself and the role of the special committee.

Two bills, one respecting land claim final agreements and one respecting First Nation self-government, were the first pieces of legislation presented to the 28th Legislative Assembly when it opened its first sitting on March 14, 1992. Two days later, these bills received second reading, which means that the Yukon Legislative Assembly gave its approval in principle to the legislation. It was clear through the speeches given during that debate that the Legislature was expressing its commitment to the settlement of land claims and self-government.

The Assembly then created the Special Committee on Land Claims and Self-government to begin the committee stage review of the legislation, which is a normal procedure after second reading. The motion creating this committee referred to it *An Act Approving Yukon Land Claim Final Agreements, the First Nations (Yukon) Self-Government Act* and agreements referenced in each of those pieces of legislation.

The Committee is to report its recommendations as to whether the agreement should be accepted or rejected, its findings, if any, related to the subject matter in the bills and its recommendations, if any, for amendment to the clauses of the bills. This report must be presented to the Legislative Assembly within five days of the opening of the 1993 spring session.

Again, I would like to express on behalf of the committee our appreciation to Mr. James and Mr. Mitander for taking the time to meet with us and assist us in the duties that have been assigned to us by the Assembly. At this time I would ask whether either of you would like to make some introductory comments.

Mr. James: Thank you Mr. Chairman. Although Victor and I are here now, Dave Joe will be sitting in with us later for part of this discussion and meeting.

Land claims started in 1973 with the introduction of the document entitled *Together Today for our Children Tomorrow*, compiled by a most respected elder, Elijah Smith. That was the beginning of the process that we are trying to complete at this time.

I believe that we have been working on the land claim for about 20 years, with a lot of people being involved in the process. I believe at this point that we are nearing the completion of that process and would like to see it move into the final stages.

In terms of the certainty for other Yukoners, as well as the First Nations people in the Yukon, we do need the agreements completed and passed through legislation so that we can carry on with

rebuilding of the Yukon and its economy.

I believe that the land claims settlement is a modern-day treaty under section 35 of the Constitution of Canada. In the last six months or so, we have been involved in another process under the Canadian Constitution regarding Indian self-government. We are now trying to finalize the agreement on self-government and have it protected under the Canadian Constitution. The way things are right now, without the self-government agreement, without us looking after our own lives, we will always be under the guidance and under the thumb of the Department of Indian Affairs. That has been the process until we came to these agreements.

I think since the agreements started taking shape, the department has started backing off, allowing us more freedom and more involvement with our own well-being and our own lives. I think that the process involving the Department of Indian Affairs has to come to an end and a new process must begin where we take control of our own lives. I think we have to be allowed to have our successes and be allowed to make some mistakes as we learn the process.

With that brief overview, I will turn the floor over to our chief negotiator, Vic Mitander, who will get into more detail about the agreements.

Once again, Mr. Chair, thank you for allowing us to be a part of this important review of the agreements that have been put forward.

Mr. Mitander: I would like to thank the special committee for allowing us to appear before it and speak about probably one of the most important areas that will affect the Yukon in the future.

In light of what Albert James spoke about, this is a process that has been going on for 20 years. As a matter of fact, come February 14, it will be 20 years since Chief Elijah Smith presented *Together Today For Our Children Tomorrow*. We are still struggling to complete that process. At least now we see a light at the end of the tunnel. Hopefully, that light is not a train coming, but something that will provide the basis for Yukon Indian people and the kind of certainty that people want in the Yukon to move ahead in terms of development of the socio-economic and environmental interests that we put forward.

I think when we look at the land claims process here in the Yukon, we have, from day one, put forward a very important area that reflects our concerns and interests, as well as our rights. That can only be dealt with in part through the land claims process. As well, an important element of that is the self-determination for our people.

We have said for many years that land claims and self-government have to be part and parcel to the resolving of the outstanding issues that Yukon Indian people put forward.

We are tired of having the Department of Indian Affairs control, direct and decide what is best for our people, and to having the decisions made in Ottawa. We want to control our own future, lands and people, to determine ourselves what should happen for our future.

That is why it is important that the self-government be part and parcel of this overall process. At the same time, Yukon Indian people have been involved in a struggle to change federal policy, and the policy has been to extinguish the aboriginal title that we have to this land; extinguished today, as well as for future generations — the children who would follow. That was a major concern to our people, and I think that is one of the major highlights of this agreement today. We do have the right to retain title on settlement lands and that is an important element. This is probably, one of the first areas in Canada to do this and, probably in the western world.

We also have the right to determine the harvesting rights of our people. We have worked out a process to allow all Yukoners to participate, manage and conserve the wildlife resources. That is

an important element that has to be established as well.

As Albert James suggested earlier, we are still pursuing the entrenchment of self-government. That is still an objective that we want to pursue, even though the agreements that we have negotiated with Canada and the Yukon are probably the most advanced, to date, anywhere in Canada.

It also provides the recognition of the inherent right to self-government and the outstanding matter of entrenchment. We have the support of your government to pursue the issue of entrenchment of self-government and we hope we can work together to achieve that objective. If that could be done, we would probably be one of the first areas in Canada to do so.

It has been put on the record by constitutional Minister, Joe Clark, and the Department of Indian Affairs Minister, Tom Siddon, that self-government will be entrenched. The question of when that might occur is something that remains to be pursued.

It also provides the ability for First Nations to deal with devolution of programs and services to First Nation institutions. We expect that process to take place in the future as well.

Despite the progress we have made, a number of major important elements still have to be concluded, and the three parties are now sitting down to determine the implementation plans and the cost to give effect to the obligations and interests that are in the agreements themselves. We all know that, today, Canada is in a very difficult financial position and that may have a dramatic effect on what the outcome of the agreements. We are into the last stages but, at the same time, we also recognize Canada's situation. However, we also have to recognize that we need to move the process ahead as well and we also need to look at the ability to review these matters down the road. If and when Canada is in a better fiscal situation, Canada ought to provide the additional resources to meet the commitments that have been negotiated over the last 20 years.

Four First Nation final agreements and self-government agreements have been completed in the Yukon. There is the ability to move the process ahead. After many years of negotiations, there is a real need to get on to the next stage of implementing the agreements that have been negotiated to date.

The committee should also be aware that there only four First Nation final and self-government agreements have been completed. Ten First Nations have yet to negotiate their land claims and self-government agreements. They are anxious to get to the table and begin that process, but that requires the Government of Yukon and the Government of Canada providing additional resources so those communities can get to the table as quickly as possible. That is a matter that still has to be addressed. We hope that this committee, and you, as Government Leader, will assist in getting the additional resources so that the other 10 First Nations can move as quickly as possible to negotiate their respective land claims and self-government agreements.

We still have to look at the conclusion of the implementation plans, and the federal government has put forward its offer regarding the available resources.

At the same time, as we move toward concluding all of the areas of implementation, there is also a need for the Yukon government to identify the resources and dollars they are prepared to put forward to give effect to the implementation of the agreements that have been negotiated.

Overall, in my closing comments, I think it is important that the Legislature move as quickly as possible to third and final reading, and that the committee move on with establishing the structures for the implementation of the agreements that have been negotiated to date.

The benefits and opportunities that would flow from a settlement of this kind would be very significant. In my view, the

economic opportunities and benefits that would flow to Yukon people would probably have one of the greatest impacts on the economy since the gold rush. Hopefully, the benefits would stay in the Yukon and provide a basis so we could work together in providing certainty to the resource development that might come in future.

I would like to encourage the committee to move as quickly as possible to pass legislation and to move on to implementation. Thank you very much.

Chair: Thank you Mr. Mitander. Two days ago we had the Yukon government land claims secretariate do a fairly thorough analysis of the land claims agreements and the self-government agreements, so rather than have you people do the same thing, I think I will just move directly to the committee to see if there are any questions they would like to ask of you at this point. Are there any questions of the representatives of the Council for Yukon Indians at this time?

Mr. Danny Joe: I would like to know if the representatives of the Council for Yukon Indians are going to travel throughout the territory with this committee?

Mr. James: The problem that we have now is that we are in the final stages of working on the implementation plan and other fiscal arrangements, and so on, toward finalizing the land claim. I think that we do not have the manpower to travel with the committee, but if we can, we will probably get people going to different communities and meet with the committee and people there at the same time. I would like to take this question back and see if we can free up somebody to travel with the committee. Thank you.

Mr. Cable: What sort of time line do you see for the conclusion of the other 10 agreements?

Mr. Mitander: The present time line for the completion of the other 10 agreements is referred to in the UFA; there is a time line of two years after effecting legislation for all First Nation negotiations to be completed. But at the same time, as I understand it, the Dawson First Nation and the Ta'an Gwich'in are at the table right now negotiating their respective agreements. Because of the lack of resources on the federal side and the Yukon side, there are delays. For example, the process involving the implementation plans has delayed those First Nations getting to the table based on the schedule that had been worked out.

If the resources are put in place, we could very well have most of the 10 communities finished off within a year or so, provided the resources are there. Based on today, we probably will be looking at the existing resources that are attached to those negotiating tables — at least two years.

Chair: Mr. Joe, do you have another question?

Mr. Danny Joe: No.

Chair: Mr. Cable?

Mr. Cable: No.

Chair: Well, we brought these gentlemen over here; I was sure you would have more questions than that for them.

Hon. Mr. Fisher: Mr. Mitander, the implementation process will go on in some areas more or less forever, I would assume. An individual First Nation would be taking on certain things shortly after final agreements and then, as life goes on, they would take on more and more services, such as education and so on. Is that correct?

Mr. Mitander: Yes, that is right. Once we have achieved legislation — and under the self-government agreements, there is the ability to do that — I guess programs and services would devolve to First Nations. That would require that First Nations provide notice to government on what programs they would like to take over. There would then have to be a scheduled work plan to negotiate the devolution of those programs. For example, if on

April 1 of this year, they list a number of programs to be taken over, they would negotiate those programs over the balance of the year and take them over, I guess, April 1 of next year.

It is a flexible process that will give First Nations the ability to take over controls and responsibilities over time. I am not sure when that process could occur, but which particular programs will be taken over is something that First Nations will have to determine. I know for certain that one of the areas they would like to focus on is the programs provided by the Department of Indian Affairs to First Nations people in the Yukon.

Then we would focus on other federal programs that are provided to First Nation citizens — the kind of programs that may be provided to First Nations by the Government of Yukon. That is an ongoing process that will probably occur over several years.

Ms. Joe: I would like to thank the two gentlemen for their brief summary of land claims and the historical information. I can relate to a lot of the information that was provided to us because, as Victor knows, I was part of one of the aboriginal groups prior to the CYI being responsible for all First Nations people. It was a long, hard struggle and, after 20 years, I think some progress has been made.

My question is in regard to the responsibility of First Nations taking over programs now provided by the territorial government and Indian Affairs. Is it the intention of the First Nations groups to individually take over those programs provided, for instance, to Dawson or Carcross, or will a governing body such as CYI provide those kinds of programs and services to different individual First Nation groups?

Mr. Mitander: First Nations now control some programs provided by the Department of Indian Affairs. What we see happening is that, once the agreements are in place, each First Nation, on a First-Nation-by-First-Nation basis, would have to work out the kind of arrangements with the Department of Indian Affairs regarding taking over the existing programs. We expect that to be dealt with as soon as possible. The way the self-government agreement is set out now, each First Nation has the authority to take over some programs. They would relate to a central institution by delegating responsibilities, if any, or management of those programs and services. As to how a central institution might play a role on behalf of First Nations to manage or deliver a particular program or service is yet to be resolved.

The basic principle of jurisdiction of control of particular programs or services would be with the First Nation institutions.

Ms. Joe: One of my interests has always been aboriginal justice and how it applies to First Nations people.

I asked a question of the government on Wednesday, in regard to how First Nations are going to be dealing with tribal justice. My question is regarding how you perceive aboriginal justice working in terms of who is going to be responsible for what programs.

We have been provided with some information, and my question is in regard to the kind of laws that will be implemented by First Nations groups. Are we going to be looking at individual tribal courts in different bands, or overall courts that would apply to all First Nations groups in the Yukon?

Mr. Mitander: I can probably answer part of that. One of the things that the committee should understand is that a number of areas have to be negotiated, and tribal justice is one of those areas be worked out.

I understand that people like Chief David Keenan and Dave Joe are involved in beginning that process, setting out what a tribal justice system might look like. That is the extent to which I can provide information to this committee. It may be more appropriate to ask David Keenan and Dave Joe to provide further information as to how this process might occur and the kind of system they might be looking at.

Ms. Joe: It is very possible then that each individual First Nations group would have their own system of tribal justice that would apply to their members only?

Mr. Mitander: That is possible, yes.

Hon. Mr. Devries: Once land claims are settled, my understanding is that, for example, if a First Nations person wanted to build a home on category A land, they could obtain a mortgage through CMHC and use that parcel of land as security. In the event the homeowner defaulted, my understanding is that the band would have the first option to purchase the property in an effort to secure the category A land rather than having the category A lands fragmented.

Is that the way it is going to be set up?

Mr. Mitander: The question, as I understand it, is that the land base that the First Nations would hold would not be fee simple lands. It would be equivalent to, but different from, fee simple lands.

If they went to the bank and borrowed money for a mortgage, the land offered as collateral would have to be fee simple land. There is the ability for First Nations to convert that into fee simple lands. If the person defaults on that, then it would fall under the laws of general application.

One of the other things being considered, from the First Nations' point of view, is trying to maintain the kind of tenure that First Nations have on these lands. If there are lands used for mortgages, one of the things that is being considered is having mortgage institutions controlled by First Nations that could provide loans for individuals. If the person defaults, then it defaults to the institutions controlled by First Nations.

One of the concerns is that they do not want to see the land base alienated over time. That is one of the problems with having fee simple lands converted from the aboriginal overall tenure on lands. That is one of the problems that still has to be worked out.

We need to work out how those kinds of situations may occur, and the kinds of protections that First Nations want to maintain to control their land base in the future and not have it alienated over time.

Hon. Mr. Devries: Would that be an overall policy or would it be incorporated into the individual band's constitution?

Mr. McTiernan: As far as I am aware, it is in each of the First Nations' constitutions that there not be alienation of lands. First Nations have the ability to establish these kinds of arrangements, but it does not prevent them from collectively establishing the kinds of institutions that could provide mortgages.

Hon. Mr. Devries: Would they have the ability to sell their property within and outside of the band membership if they wanted to move on to other things?

Mr. Mitander: The kind of land registry system that we would develop for the individuals who would hold fee simple lands that are carved out of settlement lands would be that the right of first refusal would be with the First Nation that has the jurisdiction in that area. If these are fee simple lands in the open market where a person builds and wants to sell, he is free to do what he wants with it. The principle here is that the settlement lands that are identified and retained by First Nations ought to be preserved for the future. We do not want to have these lands alienated over the next 50 or 100 years. That is the bottom-line concern that they have.

The kind of arrangements you speak of have yet to be worked out among First Nations — the kinds of institutions that could reflect the concerns and interests that would allow for this kind of initiative to take place.

Hon. Mr. Devries: The reason I brought it up is because it is my understanding that this has happened in Alaska, where some of the lands become alienated. Speaking with members of the

general public in the Watson Lake area, that was a concern there.

Hon. Mr. Fisher: Will the First Nations have access to CMHC-type funding, similar to what Yukon Housing Corporation has now?

Mr. Mitander: Yes, that is correct.

Hon. Mr. Fisher: Due to the fact that they have some fairly lucrative programs, I cannot see where a First Nation would have to get in the kind of situation Mr. Devries just spoke about. It really should not happen then, should it?

Mr. Mitander: That is right, it should not happen. But it does happen, does it not?

Chair: Do we have any further questions for these gentlemen?

Mr. Cable: I am just trying to come to grips with the briefing notes.

What incentive would there be in a First Nation to maintain a reserve as a reserve under the *Indian Act*?

Mr. Mitander: Personally, I do not think there is any incentive at all to retain lands as a reserve. I do not think it is in anybody's interest to do that. If you want to develop a particular piece of reserve land and you have to go, hat in hand, to ask the permission of the Minister of Indian Affairs to develop it, there is probably more of a downside to having reserves as opposed to not having them.

Mr. Cable: If you had to design a global relationship with the Department of Indian Affairs, what residual role would you see that Indian Affairs would have when all these agreements are signed and all the self-government agreements are in place?

Mr. Mitander: What I would see is that there would still be the maintenance of these fiduciary trust obligations that the Queen, or the Government of Canada, has taken on because of the long historic relationship between aboriginal peoples and the Queen, or the Crown, itself. That would have to be maintained but, other than that, I think everything else dealing with aboriginal peoples of Canada should be dismantled. The only kind of maintenance in the future would be the maintenance of the fiduciary trust obligation that Canada has to its aboriginal peoples.

Mr. Cable: How would that be expressed in terms of people in the department? Would you see programs being continued?

Mr. Mitander: No, I would not. I do not mean that it continue on the same basis. Because Canada, historically, has had this relationship with aboriginal peoples — in making treaties and so forth — it does not necessarily mean that they control and decide what is best for aboriginal peoples. In terms of the Department of Indian Affairs dealing with aboriginal peoples, particularly in the Yukon, it should dismantle itself. What resources they have should be transferred from Canada to First Nation institutions on the same basis as the federal government deals with its fiscal relationship with the provinces and territories and as a new way of handling these arrangements, fiscally and otherwise.

The basic principle here is to make sure the First Nations, and the people, can be self-determining and not have the Department of Indian Affairs officials continue to be in control and decide what is best for us and for our future. I think that part of it would change.

All I am saying is that the fiduciary obligation Canada has to aboriginal people should be maintained for the future. One of the things that was talked about when the constitutional accord came about was to establish the basis for what this new arrangement should be. That is what I would like to move toward, and I think the self-government agreements and the claims agreements do provide a basis for that. At the same time, however, there has to be some ongoing relationship between the Crown and the aboriginal peoples across Canada.

I do not know if that addresses your question.

Mr. Cable: I am wondering how that is expressed physically. Other than as a principle of law, what would people be doing to give force to that fiduciary duty?

Mr. Mitander: There are lots of examples across Canada where the government has taken certain actions that go contrary to what aboriginal peoples have done. This would establish some obligation by the Crown to ensure that the aboriginal peoples are not prejudiced. Again, we are in the process of trying to establish what this new relationship would be between ourselves and the institutions we set up and the Government of Canada. It may not necessarily be through the Department of Indian Affairs. I guess the best way to characterize it would be to say there would be new federal/provincial relations.

There is a long historical relationship among aboriginal peoples in Canada, and that is changing, but there is the ability to have that recognized in the future, too. What that relationship will be is something we hope to define in clearer terms. However, it is not based on what the Department of Indian Affairs has been doing for the last 100 years.

Hon. Mr. Fisher: Once the land selections have been finalized, what would be the feeling of the First Nations, as a group — like the CYI — toward a transfer of remaining lands from the federal Crown to the Yukon government?

Mr. James: One of the most important areas in this claim is the land, especially for First Nations throughout the Yukon. In terms of looking at the transfer of the rest of the land to the territorial government, we have agreements in the document that talk about the using of Crown lands, and so on and so forth, so those areas have to be respected.

In certain areas where tracts of land have already been transferred — and in the future there will be more lands transferred to the territorial government — the impact of the usage of that land should not affect the First Nations, or vice versa — the First Nation should not do something that will really affect the non-native lands, so to speak. In terms of transferring a huge area of land — if the territorial or federal government signed these documents tomorrow and they were legislated, and if there was a huge area to be transferred right now, such as the rest of the Yukon — I think we really have to sit down and discuss as three parties how all these lands are going to be used, and so on.

Hon. Mr. Fisher: Basically, you are saying then that probably there would not be any objection if the actual land use were determined so that certain portions of land were protected for certain uses. Is that what I am hearing?

Mr. James: Yes. There is a much different outlook on land by native people. We look at it in terms of wildlife habitat, wildlife this and wildlife that. We all know, through past history and such, that we do have problems in this area, especially where we see huge areas that are calving grounds for moose or sheep, or whatever, being taken up. I think those are issues we have to discuss, and we have to look at protection of these areas prior to the transfer of land. We have to look at how the transfer of these lands will impact upon our lands and what is the usage behind it. I do not think we can look at a huge area being transferred overnight; we have to discuss these issues among the parties.

Hon. Mr. Devries: With respect to the land issue in regards to a company, whether it is a joint venture or if a company wants to lease a piece of category A or B land — for instance, to set up a sawmill — would the company have to comply with laws made by the band, or would the existing legislation, such as Workers' Compensation and Employment Standards, apply to the company?

Mr. Mitander: The First Nations develop laws on their land to deal with the environment, and those laws would apply.

A joint venture or the development of a sawmill in a particular

area would have to be subject to the agreements that were negotiated. There would have to be a review and screening of the project by the project's proponents in dealing with that. There would be a review of the environmental, social and economic aspects, and the company would still have to go through the process of getting the necessary approvals and meeting the conditions that may be put forward. Assuming that the company met the laws that the First Nations may put forward with respect to the environment and other aspects, then the plan would go forward.

At this point in time, I do not see that First Nations would develop their own laws regarding the Workers' Compensation Board and other legislation, but they may want to have those laws apply.

I cannot see a situation where the First Nations would develop their own laws when there are laws already in place that they can live with. It is only in other areas, such as environmental standards, which may be higher or equivalent to existing legislation, where the proponent would have to meet the conditions that are put forward by the First Nation.

Hon. Mr. Devries: If they sell products from that sawmill on the retail market, would GST apply?

Mr. Mitander: That is one area that still has to be negotiated under the agreement. There was provision for the First Nations to have general taxation powers. That was one of the areas the Department of Finance raised a concern about, so we had to amend that area before we finalized the agreement.

The way the agreement is set out now is that after the effective date of settlement legislation, we still have to, within three years, negotiate a tax agreement. That tax agreement will deal with questions like GST and others.

Chair: Are there any further questions for the witnesses?

Committee has been very easy on these gentlemen this morning. People must be getting a grasp on the land claims process. Mr. Joe, did you have something you wanted to ask?

Mr. Danny Joe: I would like to get back to my first question. We ask ourselves how many more issues are going to come up in the public hearings in the communities. In my riding, everybody has been working together and they understand each other well. What I am worried about is what I see in the City of Whitehorse. I do not know how well the Kwanlin Dun and the city have been working together so far. In this town a lot of very hard questions are going to be asked. The committee here will have to answer all those kinds of questions, and they are going to be asking that CYI representatives be involved.

Mr. James: As I stated before, we do have a lot of work lined up for us in the next two weeks, but we discussed this issue prior to last week. It came out that we would probably have somebody go with the committee. However, that, again, has to be looked at because of the time frame under which the different agreements have to be concluded over the next short while.

Again, we may not go to every community, but we will probably attend some, and we will also look at our involvement with this committee and travelling with this committee. I will be taking this question back to my colleagues, and we will discuss this issue at that point. Then, we will decide as to who, when and how we will go with this committee.

Chair: Are there any further questions?

Mr. David Joe was unable to make it, and I am sorry he was not able to be here. We may have had some questions for him about the legal end of it. Before we wrap up, would anyone like to make any closing remarks?

Mr. James: In closing, as we said before, it has been 20 years in the making. There have been a lot of rough times, a lot of travel and a lot of family problems as a result of dealing with the claim. However, we are in the process of finalizing the claim now. We

will be dealing with the implementation plans in preparation for presentation to Parliament.

I would continue to stress that the Yukon does need this claim in terms of the economy, the dollars, purchasing power and all of the things that will flow out of this claim to the non-native sector of the Yukon.

The thing that I would like to stress is that we have to move on. We cannot stop now, for the sakes of mining, the territorial and federal governments, and also the Yukon Indian people. This certainty is needed and I think it is time now to turn a page, after 20 years, and look at what we can do to rebuild the Yukon. I would just like to say thank you, Mr. Chairman, and to the committee for allowing us to be here. I wish you well.

Chair: Thank you, Mr. James. Mr. Mitander, you have no further comments?

If not, I would like to thank you for appearing to answer the questions that the committee had for you. I cannot agree more with you, Mr. James, that it is time that these claims come to some sort of finality, so that there would be a better environment for investment in the Yukon and the uncertainties cleared away. I want to assure you that we, on this committee, will do our part to try to move this legislation forward, and as the government of the Yukon we will work very diligently to see that these are concluded in a timely fashion. I thank you again for appearing this morning.

Committee adjourned at 11:00 a.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 3

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**Sunday, January 24, 1993
7:30 p.m. to 10:00 p.m.**

**Community Hall
Beaver Creek, Yukon**



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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)

Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly

Missy Foltwell, Deputy Clerk

Beaver Creek**Sunday, January 24, 1992 — 7:30 p.m.**

Chair: Good evening, ladies and gentlemen. Thank you for coming out this evening. Before we start, I would like to introduce the committee. It is called the Special Committee on Land Claims and Self-Government and was set up through legislation that is in front of the House now. I am the Chair of the committee; my name is John Ostashek. On my left is Margaret Joe, MLA for Whitehorse Centre; on my right is Mickey Fisher, the MLA for Lake Laberge. We also have with us Lesley McCullough from the Land Claims Secretariat; she will answer most of the questions that come before us this evening. We also have with us Doris Johns, who is the YTG representative. Is that correct, Doris?

Ms. Doris Johns: Yes.

Chair: Before we start, I would just like to talk a little about what we are doing. In December, the Yukon territorial government undertook legislation to approve the land claims and the self-government agreements in the Legislature before it they to the federal Cabinet. The bills went through first and second readings, and then the Legislature set up a committee that would go out to all the communities to listen to the communities' views on the land claims and self-government legislation. It is very important that all Yukoners understand the legislation, and we will all have to work together to see that it is implemented and worked properly.

When we say this is a settlement of land claims, in essence, it is really only the beginning. Once we have these agreements, there will be many, many more negotiations over the years as the First Nations accept responsibilities for the different areas they want to pursue and take on the task of administering themselves.

Our job as a committee is to listen to your views and to answer whatever questions you may have at this time. I would like to keep the meeting as informal as possible. Before we get into the questions, I will have Lesley give you a brief overview of the land claims and the self-government agreements; then we will be open to questions from the floor. When asking a question, please identify yourself as the proceedings of this meeting are being recorded, and it will always help to know who was speaking when we go to write our report. With that, Lesley, would you go ahead and give an overview?

Ms. McCullough: I will try to condense the last 20 years into 10 minutes, so if I talk too quickly, please slow me down, and if I get boring just roll your eyes.

The modern land claims process in the Yukon started in 1973. I am sure many people here remember when, what became the CYI, tabled with Ottawa the brief *Together Today for our Children Tomorrow*. That document was an incredibly innovative and new type of land claim to explore at the time. Negotiations were begun by it and proceeded through the 1970s, but at that time the federal government was getting its comprehensive claims policy clear and developing the theories it was going to negotiate upon. Although during that time period, during that decade, the Yukon became party to the claim while previous negotiations had just been between the federal government and the First Nations. A lot of groundwork was covered, but perhaps not a lot of specifics came out of it.

Between 1980 and 1984, there was a lot more concentrated effort on reaching what was hoped to be an agreement in principle that would help lead to a land claim in the Yukon; in fact, an agreement in principle was reached by negotiators in 1984 but was rejected by the Council for Yukon Indians.

In 1985, the negotiation process began again, and in 1987 the federal government changed, to some degree, its comprehensive claim policy. So, for the first time, it was not demanding extin-

guishment of aboriginal title over land. That certainly put a new caste on the negotiations and, between 1987 and 1989, negotiators in the Yukon came to the conclusion and worked toward getting a kind of master agreement that would have provisions applying to all of the Yukon, yet at the same time would be flexible enough to meet the needs of all the various First Nations and the various communities in the Yukon.

In 1988, an agreement in principle was achieved between the Council for Yukon Indians, the federal government and the Yukon government as to what would be in such a framework agreement; and in April 1990, we achieved the umbrella framework agreement. It took a year to fix up most of the wording in it; a lot of concepts were agreed to in principle and, when they were written down, all the parties had to look at them, but in 1991, basically, the legal text was completed. That was at the end of 1991. Throughout 1992, negotiations continued on final agreement with four First Nations in the Yukon: the Vuntut Gwich'in, the Champagne/Aishihik, Na-Cho Ny'ak Dun and the Teslin Tlingit. This happened at the same time as the UFA was being finalized.

There are actually a few provisions in the umbrella final agreement that are still being discussed by the negotiators.

At the same time, at the end of November 1991, a model self-government agreement was reached and, at the same time as First Nation final agreements were being reached with those four First Nations, those First Nations also reached self-government agreements with the governments of Canada and Yukon.

On September 15, the Champagne/Aishihik First Nation ratified their agreements; they are the only First Nation to have completed that process, although the other three are anticipating doing so in the next few months.

In December of 1992, legislation was introduced in the Yukon Legislature; hopefully, it will also be introduced in Parliament by this spring.

The agreements will be ratified by all three parties, and the federal government and the Yukon government will introduce legislation with attached land claim agreements; when that legislation is passed by both governments, the agreements become law and have the force of law.

I will tell you a bit about what is in the final agreements and in the self-government agreements. The final agreements, the land claim agreements, are protected by section 35 of the *Constitution*. That means that Canadian laws cannot take away from the rights set out in them. Among the key elements of all the agreements are enrollment or eligibility for being a beneficiary; they contain an exchange of rights between First Nation citizens and governments. In return for constitutional protection of the rights set out in the agreement, the First Nation gives up certain other claims. There are provisions for monetary compensation for what is being given up. In 1990, when the agreement was reached, it was roughly \$242.5 million, in 1990 dollars. Since then, it has gone to somewhere over \$250 million. It will be shared or allocated between the First Nations in accordance with a formula worked out by the Council for Yukon Indians.

There is also a retention of some 16,000 square miles of land in the Yukon as settlement land. One of the things that was very different about this land claim was the nature of how that land will be held by First Nations. In the past, when treaties were signed or land was given as compensation, First Nations people were taken as any other landholder — "Here is your title; here is your document; your rights are limited to what we know in non-First Nations law." But what was negotiated and agreed to was a new form of holding land, a new form of tenure. It was decided that there would be two categories of land, and in addition, there would be fee simple land.

Under category A, the First Nation holding the land would have

surface rights; they would also have subsurface rights for mines and minerals, which does not automatically go with surface rights in the present land title system; they would also retain aboriginal title to that land.

In category B, they would have surface rights and retain aboriginal title, but they would not have subsurface rights to mines and minerals. To a smaller degree, there is fee simple land, where the First Nation usually takes smaller pieces of land, often around organized communities; there is neither subsurface rights on that land nor is there aboriginal title. Out of the 16,000 square miles of settlement land in the Yukon, 10,000 square miles is category A, which is surface, subsurface and aboriginal title; 6,000 square miles is category B, which is surface and aboriginal title. I believe under 200 square miles is fee simple — quite a small amount in that regard. In addition, there is an extra 60 miles that is being taken mainly as fee simple among the First Nations and is compensation for land set aside in the Yukon — a sort of direct compensation for that.

The final agreements allow continued access to settlement land. Basically, a status quo will remain — that is, if there are routes of access, that access will remain open to the general public but at the same level. So, if you had a trail before that gave access to settlement land, no one could come along with their 10 ton truck and say they wanted access.

There are also provisions for development assessment — how all land will be developed in the Yukon — land use planning. There is also provision for what are called special management areas. These are lands that are not settlement lands but are of such importance to all the people in the Yukon, that the First Nation negotiating and the government decided there should be special management regimes for it. In the Champagne/Aishihik agreement, which is the one before the committee, there are two special management areas. They created Kluane National Park — or it will be created — and they made sure there was First Nation representation on the management body for that park, to achieve the management plan. Sha'washe, or Dalton Post, was also made a special management area. This basically restricts the way in which both First Nations and government may use the land; it has to be used for the benefit of both.

The agreements make provision for the use of natural resources. There is quite a comprehensive water chapter. Eventually, when the *Northern Inland Waters Act* becomes the *Yukon Water Act*, the *Yukon Water Act* will be amended to be in accordance with the final agreement. It also makes provision for a water board to consider things it had not thought of before — effect on First Nations; whether there is a way to achieve what an applicant wants with less impact upon the environment, and that type of thing. There is also provision as to forest resources and the manner in which they are shared among people in the Yukon, and of course there is the fish and wildlife chapter. This sets up a one-management regime in the Yukon; it established the Yukon Fish and Wildlife Management Board, which has been established already. It also provides that in each of the First Nations' traditional territories there will be a renewable resource council guaranteeing equal representation by government and First Nations. The renewable resource council will make decisions on some matters, and it will make recommendations to the Minister on others. The agreement sets out specific total allowable harvests in some situations where there has to be a limitation on hunting; it does the same with fishing for some of the First Nations. It recognizes the shared need for information and sets up structures that will gather that information so that all Yukoners can use it.

There are also provisions for non-renewable resources such as quarries and provisions for resource royalties so that, as the Yukon eventually reaches a position where it can gather money for

non-renewable resources — minerals, oil or gas — the First Nations will get an allocation of what is gathered.

There is also provision allowing for taxation of the First Nations. The infamous section 87 of the *Indian Act* will eventually cease to be of effect in the Yukon and, in return, there is monetary compensation in the amount of \$26.5 million; but that does not take effect for three years from the date of federal land claims legislation.

There are specific provisions for the way government will tax settlement lands. The agreements have chapters dealing with heritage — how heritage items are owned and managed in the Yukon — and there are provisions for specific economic benefits to Yukon First Nations and their traditional territories — specifically, the right to buy into the Yukon government corporation's share of a hydroelectric project or non-renewable resource or the right of first refusal to licences if certain areas eventually become licensed — for example, freshwater sport fishing, outdoor wilderness travel, or outfitting in a much more limited manner than the rest.

The agreement has provisions regarding implementation. We say we will do all these things, but what steps do we actually have to do to achieve them. Right now, negotiations are going on between the federal and Yukon governments and the Council for Yukon Indians as to how to implement the agreement.

There is also a chapter in the final agreement on self-government. I will now turn to the self-government agreement: this was the first claim that recognized the idea of real self-government. By that I mean self-government that was not just delegated down like a municipality, that was not equivalent to a township or something like that — a different form of government for First Nations. Under these agreements, self-government is not constitutionally protected by section 35. During the constitutional debates last year, the federal government proposed entrenching self-government. That, along with many other things, was shot down by the No vote; however, the federal government has stated that it is still its intention to eventually entrench the right to self-government.

Under the Yukon self-government agreements, the *Indian Act* will be replaced and Yukon First Nations will have their own right to government structures. There will be provisions for financing and taxation. It sets up the legislative powers that Yukon First Nations will have. For example, they will have the right to make laws in regard to their own citizens in areas such as child protection, justice and so on, and there will also be laws that are more specifically limited to settlement land. These are often land-based types of legislation such as use of land, nuisance, billboards, what happens on that land. Our agreements provide for a constitution for the First Nation that sets out a code for their membership so that they can decide who will be a member of a First Nation and under what circumstances they will be beneficiaries. The first beneficiaries are those who are enrolled by the Enrollment Commissions, but after that, it is up to a First Nation to decide how people become First Nation citizens.

There are provisions as to how programs and services will be financed and provided by the First Nation, because it is assumed that eventually a First Nation will want to take on a lot of these areas of authority. This will happen through agreements with the federal government, and the Government of Yukon will pass on any savings they have gained through no longer providing those services — if, indeed, there are any savings.

There are provisions on taxation and to what extent a First Nation can tax its own citizens and people on settlement land. Just as section 87 will not be removed for three years, the power to tax citizens and settlement land is also sort of on a three-year hold and those will come into operation at the same time.

There are provisions for justice agreements so that the First

Nation can eventually bring about its own justice system. There is also a time limit on this — by 1999, a First Nation will have full powers for the administration of justice; however, it is possible that, before that time, government and the First Nation will come to an agreement as to how to exercise it. So, administration of justice might occur beforehand.

Each of the First Nations, except Vuntut Gwich'in, also have specific points on how people can live harmoniously on settlement land and in whatever nearby organized community. One example is limited self-government powers in the community. For example, here are several smaller lots within the community of Haines Junction on which the First Nation agreed to have limited self-government powers so that there would not be a conflict between municipal bylaws as to zoning or land use and so on. There are also compatible land provisions when the community and the First Nation believe that their use of the lands will interfere with the other party's use of the land, and there are provisions for mediation and arbitration in that regard.

We have also made provisions for First Nations to reach service agreements with the community. So, for services like water and sewer or fire protection, it will be recognized which party can most appropriately provide those services and how they should be paid for. There are still provisions for regional structures for larger land use plans, if that is what people in both communities want.

One other thing is provided for in the final agreement, and that is reserves. This is also an innovative claim in that, for the first time, First Nations do not necessarily have to give up their reserves. The *Indian Act* will no longer apply and they will be treated as settlement land. However, for whatever reason, if a First Nation wants to retain land that was a reserve as land reserved for Indians, they have that option. We have just completed the draft this week that will make that workable so that it will be an option for First Nations in the future.

I think that is it in a nutshell. If you have any questions, I will be more than pleased to answer them.

Chair: Thank you, Lesley. We are open to questions now, just informally. If you have a statement you would like to make or a question you would like to ask, please do so and we will see if we can answer it for you.

Mr. Rodtko: My name is Brent Rodtko. I was just wondering about the taxation. Are you going to be going into more detail about the costs involved? For instance, it says in one place here that the federal government will assist the Yukon First Nation in developing a payment of property tax for a 10-year period after each Yukon First Nation final agreement. In the first year, it will cover 100 percent of the property tax. What is the property tax?

Ms. McCullough: The Yukon government taxes land, or in the case of organized municipalities, the municipalities tax land within their boundaries — I am sure people here get tax assessments from the Yukon government for their property tax. Reserve land or land set aside was shielded by section 87 of the *Indian Act*. What will now be settlement land would never have been subject to that and will now be subject to property taxation by either the Yukon government or the municipality. Because of that, because Indian people in the Yukon have never been subject to this before and because they do not have the opportunity to tax their own people to make the money up right away, for the the first year, the Government of Canada will pay 100 percent of the tax assessed on settlement lands by either the Yukon government or the municipality. In the second year, the Government of Canada will pay 90 percent of it, and the First Nation will pay 10 percent. In the third year, the ratio will be 80:20 percent, and so on until eventually the First Nation — which, by that time, will be a taxing entity of its own and will have its own businesses and operations — will, at the end of the 10 years, be responsible for paying

property taxes as assessed.

Mr. Rodtko: Could you give me a cost of those property taxes?

Ms. McCullough: No, I cannot because it will depend, one, on what the actual property is and, two, on what the mil rate is. I can tell you, however, that as far as the subsidizing goes, Canada pays it all. It is not a charge upon the Yukon government. Whatever the tax is in the first year, they pay 100 percent of it, 90 percent in the second year, and so on. The Yukon government does not pay it.

Mr. Stephen: My name is Glenn Stephen. I have an uncle through marriage who lives about a mile from the border; he lives out in the bush, with no running water, no electricity, and he lives off the land. The most he probably makes is \$200 a month and he is charged taxes for that cabin.

Ms. McCullough: Are you saying they do charge him?

Mr. Stephen: Yes, they do. They send him a tax assessment.

Ms. McCullough: The Government of Yukon?

Mr. Stephen: The federal government.

Ms. McCullough: Oh, federal — it is a property tax or ...?

Mr. Stephen: Or it could be the Yukon.

Ms. McCullough: I think probably the Yukon government.

Mr. Stephen: What gives them the right to do that?

Ms. McCullough: Luckily, I am here on land claims so I can say that the situation will be no worse because of the land claims agreement. I can turn that over to the government, as to why they tax anybody right now.

Hon. Mr. Fisher: Every improvement in the Yukon is taxed. Whether the land is owned by someone or whether it is Crown land, if there is an improvement on that land, such as a cabin in this particular case, the people are taxed. In a lot of cases, there are a lot of cabins out in the bush the tax people do not know about so, consequently, they are not taxed; but any that they do know about are taxed. It is the minimum tax: \$100 a year.

Mr. Stephen: What legal right do you have to tax them?

Hon. Mr. Fisher: What legal right?

Mr. Stephen: Yes. Is it your land?

Ms. McCullough: There is a constitutional right set out in the *Constitution* of Canada, saying that the Government of Canada, which includes the Yukon and provinces, have the right to tax citizens. I should say though that, after land claims, certainly there is no room for his tax to be increased. I do not know if the land would be settlement land or if it will remain as Commissioner's land or whatever, but that situation will not be changed by the land claims agreement. As it was before, it will be after — although, if it was settlement land, the First Nation would always have the option, as I believe is being explored in Mayo, of paying on behalf of their citizens and not necessarily taxing them back.

Mr. Stephen: Was it constitutional to sign a treaty a hundred years ago? Are you not doing something illegal? Do they not have a legal right to say this is their land? They did not sign a treaty. Does this land really belong to them? Why sign a treaty if these people do own the land?

Ms. McCullough: That is why they are reaching agreements right now. You are quite right. The question has not gone to the Supreme Court of Canada as to what happens when people do not have treaties, were not dispossessed by violent means necessarily or by means where people think, "We are going in; we are defeating you, we are conquering you" — where people were simply dispossessed and their rights were taken away. That is exactly why they are negotiating these agreements now.

On the question of whether there is a legal right, First Nations can and have taken governments to court, but I think it was felt by all parties that whatever settlement a court reaches, it will not be

very responsive to the needs of either. It will be either yes or no propositions and it will not help people live together. That is exactly why these agreements are being signed — well, hopefully being signed, but they are being negotiated right now. There is an outstanding legal and equitable obligation to First Nations people who were dispossessed of what was theirs ...

Mr. Stephen: In other words, you are putting the horse in front of the cart this time, hopefully.

Ms. McCullough: Exactly. There are a few things they are trying to do: one is to try and make up for a wrong that was done. They are trying to redress obligations. Two, they are trying to set out a foundation for two communities and two governments to work together for the benefit of all. Hopefully, that is what negotiated agreements like this will do.

Mr. Stephen: I think it would be a nice gesture for the Yukon, after you have said that, to forget about taxing Tommy, if they realize that is the situation they are in.

Ms. McCullough: As with all policy questions, I defer to the government.

Mr. Stephen: Do you understand what I am saying? If you realize that you are trying to make up for wrongdoings, why continue with the wrongdoings when you have a chance to just forget it for now?

Ms. McCullough: I should say, in all fairness, that these agreements were negotiated on the basis that such tax would continue and that the First Nations, if it is going to be settlement land, would also have the power to tax its citizens. That was considered and it was a negotiated point between the Council for Yukon Indians and the two governments.

Mr. Stephen: There was another thing: they are signing this treaty with you and part of their religion is taken away from them where, for potlatches, they could bring blankets over the border and they are taxed on those blankets, so they still do not have that freedom. Another thing is, when the American government wants to come through and build a road right on their lands, what can the Canadian government do about it?

Ms. McCullough: In regard to that, I will say that I cannot dispute what you are saying at all. It is true. The Jay treaty, the first thing you are referring to, the right to move across the border, was approved by the American government but was never ratified by Canada and has not been followed by Canada.

But I can say, with regard to both that and the dispossession of land when the American government was allowed to build the highway through Canadian land, these are areas that were considered and they were wrongs that were considered when the compensation was agreed upon and when the whole package included in these agreements was reached. Those were definitely features that were thought of and recognized as things that had to be addressed. So, even though there is not a section that says "Jay treaty - not ratified although signed", I think these agreements address a whole bundle of things that have happened in the past, and I think they were brought up and considered and were instrumental with the Council for Yukon Indians in deciding where we draw the line. I cannot speak for the CYI, but I do know that all these things were on their minds when they asked, "What do we demand; what is our bottom line; what do we think our people have to see for the future?"

Mr. Stephen: Canada and the British made up the Jay treaty and they got the Americans to sign it. Now, if you made up a treaty and got me to sign it and I am honouring that treaty, but all of a sudden you are not honouring it because it is not in your best interests any more, what does "signing a treaty with Canada" mean?

Ms. McCullough: I will go into this a bit later, and you might want to discuss this with me on the side because it is off the topic

a bit. But I will just say, on the Jay Treaty, that I believe it was agreed by representatives of both governments and both governments had to ratify it and thereby pass it through the Legislature or whatever process it took. That happened in the United States, but it was not ratified by Canada although it had been agreed to by representatives; both steps have to take place to make it a binding international treaty.

Mr. Stephen: It was like a handshake, right? I cannot see why we still have to do the opposite of what was wanted.

Ms. McCullough: I cannot speak to the motivation ...

Mr. Stephen: That is getting off the subject, but the idea is that the Indians up here are signing a treaty when we cannot trust the federal government ...

Ms. McCullough: They will be signing with all levels of government; they will be signing with the federal government and the Yukon government. Independently of that, once this is ratified by all three parties, it sets up a law — a constitutionally protected law — which the federal and the Yukon governments will be bound by, so that if this treaty is not observed, there are provisions in the agreement itself as to how to deal with disputes. Eventually, it could go to courts to be enforced on the strict letter. That is one thing where it is quite a bit ahead. In its dispute resolution, it is much ahead of past treaties, and I think it reflects the difficulties that First Nations have had in enforcing their treaty rights and the determination that it will not happen again.

Mr. Stephen: In other words, no other form of government will be able to come into Canada to go to war locally with this?

Ms. McCullough: Yes, a small concentrated war. You are asking me to predict about something I cannot. I do not know what country will go to war ...

Mr. Stephen: I want to know how strongly Canada felt about all this.

Ms. McCullough: It felt strong enough to entrench it constitutionally and thereby give its undertaking on that level. I think that is as strong as a government can do, no matter what the degree of its commitment. I think the First Nations were satisfied that they had extracted the greatest surety they could. A hundred years from now there may be revolutions in the street; we may be in an entirely different type of world, but for right now, I believe all governments have given their undertaking and have tried to entrench it as strongly as they could.

Mr. Rodtko: Is there going to be personal taxation, such as for individual persons, or is this still under negotiation?

Ms. McCullough: Section 87 will continue for three years and the Yukon Indian people will benefit from it. At that time, section 87 goes. A First Nation may tax its own people if it so chooses under that regime. There will be federal income tax as well for Yukon people.

Mr. Rodtko: They will have the right to tax with self-government? The self-government will have the right to come up with their own personal tax system?

Ms. McCullough: That is right, yes.

Chair: Do we have any other questions or comments?

Mr. Weihers: Rick Weihers here. I have read quite a bit of this. Obviously, what you are saying is that this is a mere little piece of paper compared to what is behind all this.

Ms. McCullough: This is what is behind all this. If you are referring to your — I am not sure what paper you have in your hand ...

Chair: This is just the information package that highlights the umbrella final agreement and the self-government agreement. What Lesley has in her hand is the umbrella final agreement and the self-government agreement.

Mr. Weihers: What I find is that you have written this up and you have told us what is going to happen. You plainly said this is

what is going to happen. So why are we here? What was the purpose behind this? We can go through all this stuff but it is already happening. What more do we have to say about this?

Ms. McCullough: In terms of what is in this agreement right now: these are what negotiators have recommended to their parties — the negotiators for both governments and for the Council for Yukon Indians. At present, this is not yet the law. It has to be first ratified by whatever First Nation, and it then has to be legislated by the Yukon and the federal governments. So I believe this select committee gives people the opportunity to take one last look at this or point out any concerns they have. It also gives us an opportunity to answer questions you may have about it. This has not become law yet, certainly, and you have a chance to speak to your legislators tonight.

Mr. Welhers: It is my belief though that anything that anybody says in this room is not going to change anything that I have here in my hand or what you have there in that book.

Ms. McCullough: Well, I certainly cannot change your belief or speak to it.

Mr. Welhers: It is true. You are darned right it is. There is nothing, that can change this.

Mr. Stephen: I just wonder why the Yukon government is here and why the federal government is not doing this. You probably explained it and I missed that part.

Chair: I can answer that for you. We are dealing with the legislation that is going through the Yukon legislature. We have to put two bills through the House in order for this to become law after it passes the federal Cabinet. Now, we could wait; we could wait until it passes the federal Cabinet and then do it, but the agreements are already initialled off, and we felt it beneficial to put it through our Legislature so that, when it does pass through Parliament, it will automatically become law then. It has to pass both legislatures.

Mr. Stephen: So you are just keeping abreast or ahead of the game, is that what you are doing?

Chair: We are just trying to have everything lined up so that when it passes the federal Parliament, they will be able to start implementing these agreements because, until it passes both legislatures, they cannot implement the agreements.

Mr. Stephen: I was just wondering — at the last election, I noticed a lot of people voted NDP, then they turned around and voted for your party. I was wondering why a lot of Indians would vote for your party when they knew the land claims were going ahead the way wanted it. Why would they switch horses and go your route. Do they really not agree with all that is said here? Is that why they are going with you, or do they have more confidence in you, or what?

Chair: I cannot speak for them.

Mr. Stephen: Did you ever think of that at all?

Chair: No. Basically, I believe all three political parties in the last election said they were dedicated to finalizing the land claim agreements, so it was a non-issue in the election.

Mr. Stephen: A non-issue. So, if the last government did not bring up what is happening now, you mean this government would have started it?

Chair: The last government had started it, but the legislation died on the Order Paper because the election was called. After we were elected, we said that we would implement the legislation as soon as possible so that the land claims would not be held up. And that is what we did. We called the House back in in December and reintroduced the legislation; it went through first and second reading; now it is at the Committee stage where this committee is going around to communities to hear what people have to say on it. Then it goes back to the legislature for third reading.

Mr. Stephen: Why does your government want this land

claims to go through?

Chair: I think everybody wants to see land claims settled. It has been going on for 20 years ...

Mr. Stephen: Yes, 20 years.

Chair: ... and it has to come to an end at some point. We have to reach an agreement with the First Nations people so that we all can get on with our lives and give us all some certainty in where the Yukon is going in the future. We are here; we work together and we live together, and this is just an outstanding claim that has to be settled. They are settling land claims all across the north, and the Yukon land claims have been dragging on for 20 years now. In fact, I think the 20th anniversary is coming up in early February.

Mr. Stephen: How can your government speed up the land claims? I know some claims are behind still.

Chair: I do not know that we can speed it up, but we can certainly do everything in our power not to slow it down. That is what we are doing. It is just a three-party negotiation, you have to remember — the federal government, the territorial government and the First Nations people.

Mr. Stephen: You said four bands have already gone through and reached final agreement — four out of 14. Could you tell me what is holding up the other ones?

Chair: I will let Lesley speak to that because she is involved in the negotiations.

Ms. McCullough: I would not say it is a holdup. I would say that it is just the process of negotiation. Presently, I think there are five additional First Nations who are in the process of negotiating — the Whitehorse First Nations, Dawson, Pelly and Carmacks are looking to start sometime, I believe, in the spring. I believe it was a decision among the First Nations and the Council for Yukon Indians as to which First Nations felt they were in a position to begin negotiations first. Those were therefore the First Nations with whom the government negotiated.

Because of the limited resources among First Nations people and among government negotiators, I do not think we are in a position to negotiate with everyone at once. But as I said, the original four went on simultaneously although Teslin's took a lot longer; it took several months longer to conclude than the others. There are presently five First Nations either negotiating or planning to commence negotiations in the near future. I do not think government has had any preferences as to which First Nation they are, and I believe that was decided in consultation between the First Nations and the Council for Yukon Indians.

Mr. Stephen: We are talking about nations here. What are the 14 nations? A nation is a nation. What if one nation opts out and decides not to sign a treaty?

Ms. McCullough: We restructured the agreement to date with the concept of traditional territories, settlement land, et cetera. I think we will have to deal with that when we come to it. It should not disturb the agreements reached with the others. You are right — a nation is a nation, and certainly you cannot force people to agree to something they do not want to agree to. That is what the process will be. If a First Nation has a problem with the framework — and I should say that all First Nations did agree to that framework through the Council for Yukon Indians — we look at ways to make it flexible and we can determine what the interests of government and the First Nation really are. It is not an attempt to impose a mould on all 14 Yukon First Nations. The umbrella final agreement was reached in recognition that it addressed the common needs. The reason for the final agreements is to go to each community and address specific needs.

That is basically it; certainly, there is no anticipation that any regime is going to be forced upon people who are not in agreement with it.

Mr. Stephen: Do you treat all the nations equally? Are they

all treated equally? Are some getting less or some getting more?

Ms. McCullough: There is total allocation of resources and the manner in which it is allocated among First Nations was decided, I believe, by the Council for Yukon Indians and the First Nations. The allocation of land may have been decided in consultation with the government, because it was a very difficult question for the First Nations; it is a very divisive matter.

That is basically the way it has been done, so when you ask if we treat them equally, I would reply that our Yukon government negotiates with the First Nation and there are three equal parties at the negotiating table.

Ms. Stitt: Sally Stitt speaking. I have two quick questions. In your introduction, you mentioned \$X million that would be given out. Who is giving out that money — the territorial or federal government?

Ms. McCullough: The compensation is federal.

Ms. Stitt: Throughout Canada, negotiations are going on, so we are talking billions, trillions of dollars. How — and has the Yukon government asked the federal government — are the Canadian people going to pay for this?

Chair: Are they what, I am sorry?

Ms. Stitt: How are the Canadian people going to pay for this? We are already being killed with GST. How are we going to pay all this money for land claims.

Chair: Through the GST.

Ms. Stitt: No, that is supposed to be for something else. I was wondering what they were planning to do. They will have to come up with some plan to produce these trillions of dollars to give out. We have already been killed with liquor, gas and cigarette tax and with GST. What are they going to do next? Have you asked?

Ms. McCullough: I think there is a recognition here on the part of the federal government that they have this obligation, no matter what.

Ms. Stitt: Will they come at the taxpayer to get the money?

Ms. McCullough: Yes, and I am certainly not one to talk in favour of taxes.

Mr. Stephen: What it is an investment — they say, "Come on in with us and start paying taxes." They know eventually they will get it all back later on down the road.

Chair: It is being paid out over a period of years, too. It is not that they get it all at once. It is paid out over 15 years. Also, I believe that once land claims are settled, the economy of the Yukon will move ahead much more quickly. People who want to invest money in the Yukon can do so and know who they have to deal with. When it concerns First Nations land, then they will be dealing with First Nations people; if it is on Crown lands, they will be dealing with the territorial government or the federal government. There will be some certainty in the Yukon. Right now, and for many, many years the federal government has done it and the territorial government has done it — blamed the land claims process because they cannot let somebody have a piece of land, or have prevented people from doing various things. Those things will be in the past.

Once the land claims are settled here, the Department of Indian Affairs will be almost disbanded; that will be a tremendous saving to the government.

I do not think the money will be a problem, and it is an obligation that the federal government owes to the First Nations people. They have taken responsibility for it and are trying to negotiate a settlement.

Ms. Stitt: Will they plan for this now? Are they saving money for it now?

Chair: No, probably not.

Mr. Rodtko: Have there been studies on this? You are thinking that the land claim might be settled in 15 years. Will they pay

out in 15 years?

Chair: No. The pay out is over 15 years, is it not, Lesley ...

Ms. McCullough: Yes.

Chair: ... once an agreement is reached and that is by settling on a band-by-band basis. In the 1984 agreement, all the bands in the Yukon had to agree to it or it could not go ahead, and that is why it broke down. Under the new formula in the umbrella final agreement, it sets out the broad parameters under which the land claims will be settled. Those broad parameters apply to all First Nations people in the Yukon. It is the same with the model self-government agreement.

Each First Nation does not have to accept everything that is in the self-government agreements. They just implement what they want in the timeframe that they want. The same goes for the umbrella final agreement; they may not all be exactly the same, but they will meet the needs and desires of the First Nations people in different areas of the Yukon. As each nation signs on and ratifies their agreement, they can start the implementation and start drawing on the benefits of those agreements without waiting for the rest of the First Nations in the Yukon to settle theirs.

Mr. Rodtko: The States seem to have settled a lot of their land claims a long time ago, as far as I know. I do not mean to offend anybody, but what is taking Canadians so long? Some of their deals took less than five years to complete, yet we started on this 20 years ago.

Ms. McCullough: I think that is a bit of a blanket statement. There are frequently land claims for perhaps smaller areas of land going on through a lot of New York, New England, through Virginia, et cetera. What a lot of people are familiar with is the western American states. They are fairly large areas of land with a form of self-government for very large First Nations — the Navajo, for example.

Alaska's land claims were, I think, settled in 1973, but there have been problems with the concept of how beneficial it was to First Nations — the sort-of corporation model it set up — and we have attempted to learn from that. I do not think you can compare one country to another, because there are probably some regions in both countries that have advanced and some regions in both countries that have been shamefully and woefully slow in recognizing responsibilities.

Mr. Stephen: Is the Canadian government going to help the White River Indian Band with land that they possess on the American side? Will the Canadian government help the Indians talk to the American government with respect to having access to some of their land where their families still live? It is like the Berlin wall.

Ms. McCullough: I cannot speak on behalf of the federal government, but certainly, if you contact the federal land claims negotiators in Whitehorse, they would be able to talk to you quite readily as to what steps the federal government will take in regard to that matter. I cannot speak for them, but I know they can be contacted very readily in Whitehorse. I am sure they would have no problems addressing that matter, either as a question or as a matter of discussion.

Mr. Stephen: I was referring to the Northwest Territories, for example, where they came right into the Yukon and took our land. If they can do that, and the federal government felt it was just and the Yukon government did not — in other words, they did not even pay attention to the Yukon government — I think it is only fair that instead of the Canadian government just looking after their side of the fence, they should communicate with the other side, too, so that something similar can take place over on the Alaska side.

Ms. McCullough: I do not know if the federal government is planning to hold similar hearings, but certainly they have

representatives in Whitehorse for the CYI comprehensive claim, and that is a view that should be put to them.

Mr. Rodtko: Yes, if they play games, then they can play games on a bigger scale; I think it is only just.

Mr. Ledergerber: Say this goes through in the next 20 years, each individual government — the self-government of the natives — and our government all require a certain amount of budget. Is the federal government going to keep paying for that, too?

Ms. McCullough: What is encompassed under the agreement is that, first of all, there is payment in the form of compensation. At this point there are also financial transfer agreements being set up to recognize the cost of setting up governments and the necessity of assisting First Nations in doing this. Then First Nations will optimally have their own financing abilities in the future, as they are given taxing abilities and economic opportunities, which, practically speaking, were denied to them in the past. It is anticipated by First Nations and by government that eventually these will be sufficient to maintain self-government.

Mr. Ledergerber: What would it take to change something like that — what you have in that book? Say the majority of people in Beaver Creek do not like something in here, what would the answer be? "Well, we cannot please all of the people or we would never get anywhere."

Ms. McCullough: Are you talking about now or are you talking about 10 years in the future?

Mr. Ledergerber: In the future. Like Rick said, if you want to change it, what would it take? How many people would it take before changes would be taken into consideration?

Ms. McCullough: There are provisions for amending the agreements on basically the same terms as they were entered into now — approval for the change from the various governments and perhaps ratification of the change from the First Nation. Like other agreements, it can be amended. It will depend on all three governments as to what standards they require before they decide to make a change.

Chair: Changes have been made already, Beat. As long as all three parties agree to them, amendments can be made to the agreements.

Mr. Welhers: For citizens like us, though, who would we actually go and see to change something in this agreement? And how long would it take?

Chair: We are here to listen to the views of people all across the Yukon. If there was something that kept repeating itself as we went along, the committee may make a recommendation to the parties that perhaps they should address that concern, because it was a concern that came up all across the Yukon. That is what these hearings are about — to hear the views of all the people. There might be one specific little thing here that bothers somebody, but it does not bother anybody elsewhere in the Yukon. There might be something somewhere else that does not bother others elsewhere in the Yukon. Nobody, even the First Nations people, are totally satisfied with this agreement. Agreements are just that — they are the coming together from different perspectives. These are agreements settled on by all three parties. This was the best that could be worked out under the circumstances. If there is something really drastically wrong with it and that current runs all through the territory, then it would be up to the committee to decide whether they wanted to make the recommendation. We cannot change it and we cannot recommend changes to it, but we can suggest that the parties all sit down and address the expressed concern.

Mr. Welhers: John, what do you figure would be the final bottom line, dollarwise for, say, the Beaver Creek or White River First Nation? How much money would we be giving them?

Chair: I have no idea, Rick. All I can tell you is that, as Lesley

said, it was in excess of 242 million 1989 dollars. That will be divided under a formula set out by the First Nations people themselves. They are the ones who decide how that amount of money is going to be divided. I am not sure whether it was done on a band basis or on a per capita basis.

Mr. Welhers: You must have some idea, though.

Chair: I do not have any idea. Maybe Margaret does.

Mr. Welhers: If you took \$25 million and spread it over 150 people, even as an organization ...

Chair: It will not be that much, I can tell you that. I can tell you what the Champagne/Aishihik First Nation told me at a meeting not so long ago. They said they were going to get \$27 million, and there has to be 400 or 500 people in their band. Compared to the settlements that are being given in the Northwest Territories, our First Nations people are not being treated very generously. I just talked to the chief of the Tetlit Gwich'in and in Fort McPherson they got \$75 million in their settlement for 900 people, plus \$30 million implementation over the 10-year period.

Mr. Welhers: So these people are going to say, "Hey, how come they are getting so much?"

Chair: They know it. It is the decision they made.

Mr. Albert: That money is not for themselves to spend.

Chair: It is not for individual people.

Mr. Albert: You want to know what they are going to do with that money.

Mr. Welhers: I am just saying that a band can do a lot even with \$20 million.

Chair: The other thing to remember is that when these bands get their settlements, they are not going to want to sit on the money; they are going to want to invest it. It will be put into the country; it will create jobs; it will create wealth for the Yukon.

Ms. McCullough: I should say that the compensation portion that was agreed upon earlier for White River is \$8,472,143 — those are the dollars that are in the 1989 compensation share. By the time agreements are reached, that amount will be larger.

It should be remembered, however, that at this point there is also an obligation on the First Nations to pay back loans made to it by the Canadian government to basically finance negotiations. The repayment of those loans is an outstanding issue in the umbrella final agreement. If that provision is not changed, or the agreement is not changed, to forgive those loans, that would probably come out of the compensation. I do not know what those loans amount to; it is not something that has been negotiated by the three parties, but that is the anticipated compensation under the agreement. Other monies are provided for, but that is the compensation package portion.

Mr. Stephen: It sounds like the Northwest Territories gets \$100 million and if we divided that in half — They are getting about \$20 million compared to the \$8 million for White River. And then you are saying they have to pay back the loan, so they will end up with maybe a couple of million dollars if we are lucky. The White River Band could only break even, so what benefit would it be for White River to sign?

Ms. McCullough: I think there are benefits in the agreement ...

Mr. Stephen: And then they have to pay taxes after they do sign, right?

Ms. McCullough: I think there are benefits in the agreement, but, as I said, I do not know the nature of the loans from the federal government or even whether they have been made at this point, or anything like that.

As to the total adequacy of any agreement you are being asked to sign, you are right: it is always up to the people, and I am sure, when deciding whether to approve it or not, they will consider that in the total fee for the specific settlement land they have available

and will consider the other benefits they may achieve through the agreement. They will consider the compensation package and the tax buy-out. It is part of a package, and I can only hope that people will really study and make themselves familiar with their agreements.

Mr. Stephen: I get a tinge of resentment from one side here of the other getting money, but if they did not bother going ahead and signing this treaty, they would be far better off by not paying taxes and continuing on with their lives the way they are. I think it would benefit them even more if they have their land, because it is still available to them. It is still virgin land.

Ms. McCullough: There has to be a decision by parties whether a negotiated agreement is a better way to deal with outstanding claims than the court action. To this point at least, there has been a decision by the CYI and its member First Nations and by the four First Nations who have negotiated so far and by those who are negotiating. You are quite right, though; what happens when you reach a deal like this is that terms are set down and you negotiate for the best terms available to you; then you decide whether it is a deal you want to take or an agreement you want to be a party to, or is there another avenue open to you and would that avenue be better or worse?

Mr. Stephen: Or would it be still open? Would that avenue still be open so they could continue on with the original treatment of these people? Would that still be there and in place? Could they continue?

Ms. McCullough: I do not think anybody is anticipating forcing anyone to sign any negotiated agreements. If agreements are not reached, they will be outstanding.

Mr. Stephen: So if they do not sign, they can still continue on forever and ever with the lifestyle they have?

Ms. McCullough: I guess you could say that people can continue. They will continue in a context outside the land claims. Whatever is happening is happening. I certainly cannot give guarantees as to what the future may or may not be. That is the nature of a negotiation process. What happens afterwards or "what if" — that is why people make decisions about it.

Mr. Rodtko: Have you heard a lot of dissatisfaction about this so far?

Chair: Sorry?

Mr. Rodtko: Have you received a lot of conflicts about certain issues, and what those issues might be?

Chair: We are just starting the hearings. In fact, this is the first hearing.

Mr. Wehlers: Some people have asked, "Will land claims ever end?" As it stands, the answer is yes, but you have just said that they will be negotiating for 20 years yet.

Chair: Once they are signed off, land claims will end and First Nations people will start reaping the benefits of them, but there are parameters set out under the self-government agreements that they may want to implement themselves. There is no set time for this. Suppose they want to take over child care — they do not have to do it immediately, but at whatever point they decide to do so, they can negotiate the terms and conditions of taking over that responsibility from the government. So there will be ongoing negotiations, just as there are with any government. Our laws never stay the same; negotiations are going on all the time. Legislation is changing all the time and it will be the same under the self-government agreements.

Mr. Wehlers: What about land selection?

Chair: No, once the land selection is done, that is it.

Mr. Wehlers: That is the end?

Chair: That is the end.

Mr. Wehlers: When will that come up in Beaver Creek?

Chair: Whenever they are prepared to go ahead with their

final negotiations; I do not know their timetable.

Mr. Wehlers: Is there any way we can get a copy of land selections before it is finalized?

Chair: I think maps are available now, are they not, Lesley, of reserve lands? I do not think they have selected their final lands yet.

Ms. McCullough: No, the White River has not started its negotiations yet. So no land selections have been made.

Chair: There are reserves set aside there, are there not, for interim protection?

Ms. McCullough: I am not sure of the extent of those lands. I know that, in 1984, lands were protected and some protection has been maintained since then, because the anticipation was that there would be agreements. However, the White River First Nation has been re-realized since then, and I know that land selections and the amount of land is still an outstanding issue with White River and within the Council for Yukon Indians, I believe.

Mr. Wehlers: I think a lot of people, like myself, are concerned about the land selections. Beaver Creek is very limited. There are not a whole bunch of roads you can enjoy any kind of activity on such as hunting or fishing. They could be restricted very easily.

Chair: The right of access is not restricted, is it?

Ms. McCullough: No. I can say a bit about the process of land negotiations. I was not personally a party to the land negotiations, but I do know that some lands are not up for negotiation, such as lands with third-party interests. There are basic negotiating positions that all parties agreed to and, from that point on, governments and First Nations try to negotiate in such a way that they can maximize the interests of all the parties. Certainly, it is not in the interests of any of the parties to attempt to grab all the land or to keep anybody else away. We have not found that in negotiations between government and First Nations in the past. It is a cooperative process. There have been specific areas where there has been a lot of contention, but I think all parties have attempted to work together to reach a mutual solution, because the fact is that, the day after land claim legislation becomes law and a First Nation has its agreement, people will still be the same people and they will still be carrying on the same lives to a great extent and living right next to each other as they always have. Nobody is looking to create a foundation for friction or animosity in the future.

Mr. Rodtko: You said there were 16 thousand square miles?

Ms. McCullough: Sixteen thousand square miles in the Yukon.

Mr. Rodtko: And 1,000 of that was under land claims, right?

Chair: No. Sixteen thousand is under land claims.

Mr. Rodtko: What is left? Is there anything not under land claims?

Chair: There are 186,000 square miles in the Yukon.

Ms. McCullough: I think it is nine percent of the Yukon — under 10 percent anyway.

Mr. Rodtko: So, say I wanted to buy some land that was under self-government land, would I have to be dealing with two governments to get it?

Ms. McCullough: All the First Nations in the Yukon have traditional territories, which were recognized. The White River traditional territory is still a matter, as I said, of some discussion. Within the traditional territory, there are certain rights and obligations, but not all of the traditional territory is settlement land. A certain amount of quantum of settlement land is identified. The First Nation will have ownership of that land — never mind about the extent to which they may exercise self-government powers. They are the owners of it. So if you wish to use that settlement land in some way, purchase it, do something on it, et cetera, you deal with the First Nation as you would with the owner of land. If

it is also land upon which they exercise self-government powers, which will be the vast majority of settlement land, you will also deal with them as a government.

In a lot of ways it should be easier. You should be dealing with them primarily.

The other part of it is that hopefully when we know what the settlement land is, the Yukon government will be in a better position to access, through the federal government, land for other Yukon citizens, because settlement of land claims is one thing that is holding up freeing land for a lot of uses.

Ms. Nieman: When will we see this bill passed in legislation?

Chair: When are we going to pass it? It will be passed at the spring session. It will be brought back in the spring session in March or April.

Mr. Rodtko: How many bands have been settled?

Chair: Champagne/Aishihik is the only band that has ratified their agreements. Three more are signed off, but they have not been ratified yet. Those three are Teslin, Mayo and Old Crow. They have signed theirs off but they have not had their ratification vote on it yet. I believe they have to have three ratified before it can go to federal cabinet.

Ms. McCullough: Yes, I believe that is their internal policy. They are asking for three First Nations ratified and perhaps Teslin, who is in the process of ratification as well. It is not a big requirement, but that is what the federal Cabinet needs.

Ms. Nieman: So what happens if the Yukon government does not agree to this and does not pass the legislation? Are they going to go through a bilateral process? How do you see it proceeding if it does not pass?

Chair: I do not see the territorial government not passing the legislation, personally, but I cannot speak for everyone in the Legislature. I do not know what would happen in that case, but it is not something that I see happening. This committee is attempting to hear the views of the people of the Yukon and try to answer the questions so that we dispell the fears that are in the community as to what is going to happen with this.

You have been involved in it a long time; I have been here for 20 years and I know what the fears of people were when it started. The past 20 years have been a real educational process years and the people have come very close together. As I said earlier, they are certainly not perfect — not from the First Nations' point of view and not from the rest of society's point of view, but they are in agreement. It is a workable agreement.

Mr. Rodtko: In negotiations, have the First Nations put forward what they would use the money for once land claims have been settled? What will it be invested in and how much?

Chair: That is up to them.

Mr. Rodtko: It is up to them?

Chair: It is up to them, certainly.

Mr. Rodtko: So if they get so many millions or billions of dollars through self-government and do nothing with it — there really is not a heck of a lot to do up here ...

Ms. McCullough: I should say, in regard to self-government, that the money available for it has to do with the powers that are being exercised, so I do not see it as a wastrel way of drawing on money. It is tied into services that are being provided, the savings that the Yukon would incur from the First Nation providing those services.

The compensation package is for the First Nation's to use in any way they wish. They have indicated that they want to invest it, but I do not think it is anybody's business but their own as to how they spend their compensation money.

Mr. Rodtko: If you see it that way, then what happens to us? We are responsible for what we do with our money.

Ms. McCullough: I am sorry — could you clarify that?

Mr. Rodtko: The impression I am under is that it does not matter what they do with their money — that is the impression I am getting from what you explained to me. But it matters how we spend our money, right?

Ms. McCullough: No, that is not what I am trying to say. What I was saying is that one of the money components of this is compensation. For self-government, through financial transfer agreements — there are other avenues of financing, but those are tied into program provision and the powers that First Nations exercise; there are also responsibilities on First Nations to finance themselves.

We do not put a restriction on the compensation allotment of this — the total compensation that was agreed to for the Yukon claim and the allocation that each First Nation gets of that amount, just as a company has money and we do not put restrictions on it, or when an individual has money, we do not put restrictions on what they see as a priority. Ongoing payments are part of financial transfer agreements and the terms of the agreements are adhered to, but compensation goes to the First Nation to use in the manner they believe is most appropriate. Who else could make that decision for them?

Ms. Benjamintz: My name is Patty. Once all the settlement money is divvied up among the nations and then 15 years later all the money given to them is gone, what happens? What happens when all that money is gone?

Chair: As Lesley said, the \$242 million is the compensation for past grievances.

Ms. Benjamintz: Okay, but it is being given to them now — 30 years after and it is gone ...

Chair: They can do as they wish with that money. They can invest it as they wish. Under the self-government agreement, any services they feel they want to provide will be cost shared. They will have to raise some of their own money for those services, plus they will be getting transfers from the federal government just as those transfers were coming to the territorial government at one time. If there are any cost savings for the territorial government in a First Nation assuming a service, then those cost savings will be passed on to the First Nation. If there is no cost saving, then they will not get anything from the territorial government.

So, they will be responsible — the self-government agreement gives them the right to be the masters of their own destiny, to provide the services for themselves as they see fit, just as we always have.

Mr. Welhers: Sink or swim.

Chair: That is right, but they can accept as much of it as they want. They do not have to take any responsibilities if they do not wish to, but the opportunity for them to do so is there under the self-government agreements they are negotiating.

Mr. Welhers: So there is no real guarantee — it will go through, but there is no guarantee it will actually work for very long or whatever?

Chair: I see no reason why not.

Ms. McCullough: I think what the self-government agreements are putting the First Nations in positions that are perhaps somewhat analogous to the provinces or territories — that is, there are agreements with the federal government as to funding; there are obligations to raise money on their own. We have had other governments, provincial governments, created in Canada in the past. We started off with four provinces. This is a new form of government under the Canadian Constitution, but there is no reason to think it would be any more or less self-defeating than any government. Certainly, no one has ever been asked for a guarantee before.

As to the compensation package, that is exactly what it is. It is not the cost of running a government on a day-to-day basis — it

is compensation for what is being given up; and what is being given up is a claim to a large part of the territory.

Chair: Are there any more questions? It is quarter past nine; perhaps we will take a coffee break.

Mr. Rodtko: The Beaver Creek or White River First Nation is now completely separate from Burwash, is it not? If there are any negotiations for land, it will be done with White River First Nation?

Mr. Ledergerber: If they said they would like to have this or they would like to have that, and we say we would like to have this — could there be compromising in this situation?

Chair: I think what you have to remember is that the amount of land quantum that the White River First Nation gets has been set out by the CYI, the main negotiating body. I believe they are not happy with the quantum of land they got and they are trying to negotiate for more. It is already set out — whatever land they take has to come out of the 16,000 square miles that has been set aside for the whole land claims.

Mr. Ledergerber: I know that, but should we want a small piece of land, could we get together with them and come to a compromise, or would it have to go right through to the higher-ups?

Chair: For past grievances.

Ms. Patty Benjamins: So, it is not going to be given to them until 30 years after this is done.

Chair: They can do as they wish with that money. Under the self-government agreement, whatever services they decide to take responsibility to provide, there would be cost sharing. They would have to raise some of their own money, but they would also be getting transfers from the federal government, just as those transfers are now coming to the territorial government. If there is any savings in costs to the territorial government by the First Nation assuming the service, they will be passed along to the First Nation. If there is no saving in costs, no money will transfer from the territorial government.

The self-government agreement gives First Nations the right to be masters of their own destiny and to provide the services they see fit to provide for themselves, just as the territorial government has.

First Nations may accept as many of the responsibilities as they want; they do not have to take any responsibilities if they do not wish to, but the opportunity to do so is available under the self-government agreement they are negotiating.

Mr. Heinz Benjamins: This will go through, but there is no guarantee that it will work for very long.

Chair: I see no reason why it will not.

Ms. McCullough: I think what the self-government agreements are doing is putting the First Nations in a position that is somewhat analogous with the provinces or territories. That is, there are agreements with the federal government for funding and there are obligations to raise money on their own. Other provincial governments have been created in the past; we began with four provinces. This is a new form of government under the Canadian *Constitution*, but there is no reason to believe that it would be any more or less self-defeating than any other government. Certainly, no one has ever been asked for a guarantee before.

As for the compensation package, that is exactly what it is. It is not the cost of running a government, day to day, but it is compensation for what is being given up — and what is being given up is a claim to a large part of the territory.

Mr. Rodtko: Are the Beaver Creek or White River First Nations now completely separate from Burwash? So, if there are negotiations over land, they would be with the White River First Nation, would they?

Mr. Ledergerber: If it comes down to land, could there be

some compromising?

Chair: What has to be remembered is the amount of land quantum the White River First Nation will receive has been set out by the Council for Yukon Indians, the Indian negotiating body. I believe they are not happy with the quantum of land they received and are trying to negotiate for more but, as far as it is set out, whatever land they get has to come out of the 16,000 square miles that has been set aside for the entire land claim.

Mr. Ledergerber: I know that, but if we were interested in a small piece of land, does it have to go all the way down from here to the higher ups?

Chair: The negotiators do that — the federal government representatives, the territorial government representatives and the White River representatives will be the ones that will be negotiating the land selection.

Ms. McCullough: Those negotiations have taken place in the past almost exclusively in the communities.

Mr. Ledergerber: Is that brought up before it happens, or do we just get a map later on?

Chair: Third party rights are protected. The First Nation cannot select land that is leased or owned.

Mr. Ledergerber: I know that.

Bev Schlaffke: Can we not see what land they have selected before you guys actually say that it is okay for them to have it?

Ms. McCullough: Usually, there are ongoing briefings in the communities through whatever organizations that are interested, and the maps are prepared. As to the presence of people at the negotiating session, that depends on how comfortable all parties are with that degree of openness. In some communities, for example, there have been representatives of the town council watching the negotiations. In other communities, I think there is more tension between people, so only the three parties have participated.

In regard to organized municipalities, there has been an agreement whereby the Yukon government has undertaken to brief the representatives of the communities — for example, the village council — on what is happening in the negotiations. No one is attempting to have them in the dark; they are not completely public unless all parties feel comfortable negotiating in that atmosphere.

I know that there is a timeline of publicizing the maps will be publicized, before there is any final agreement on behalf of government parties, so they can be revisited. Na-Cho Ny'ak Dun's, for example, were finalized almost a year before the agreement, and there were many small changes to them afterward. That was also a community where the Mayo village council attended regularly and was kept well aware of progress.

Chair: You will be able to see some of the areas in which land will be selected prior to it being selected. That is when you can express concerns to the people and they take them to the negotiators.

Ms. McCullough: It is a bit of a delicate balance. Some land is not yet protected, and there is a quite understandable concern on the part of the First Nations that, if selections are publicized, some people will come forward to establish third-party interests and, essentially, inoculate them from the First Nations. It is a balancing act. The land must be protected but, on the other hand, you must be able to let all of the people in the community know what is happening. That is why it is of interest to these negotiations.

Brent Rodtko: Is there a boundary of how close land claims can actually come to a community? Are you saying that they can come in to claim whatever lands are out here or there?

Ms. McCullough: There is no set idea at all about where settlement lands will be. There is no criteria as to this is inside a municipal boundary, for example, and this is the other. I believe

that in all the communities so far, except Old Crow, of course, there have been community selections right inside organized municipalities. When that happens, what the negotiators of the government look at doing is trying to set up a system by which people can live harmoniously on settlement lands with people off the settlement lands. They look at compatible land use provisions as to what happens if there is a disagreement, and they look at the question of what self-government powers would be appropriate on those lands.

Yes, there are selections right within communities. When those are agreed to by all parties, they are agreed to on certain terms and conditions that make them workable.

If it is a rural block and nowhere near an established community, or there are no other competing interests, there may be no need to have any types of limits on the manner in which it is used.

These definitely are things that are taken into account.

Rick Welhers: Do you not think that the maps will come in here?

Chair: Once the White River First Nation gets into land selection — and right now I understand that there is a problem with the amount of land that has been delegated to them — and once that is resolved, I am sure that there will be a broad map that sets out the reserves. That usually comes out first. That is interim protection, and it gives you an idea of the areas that the White River First Nation would be interested in.

Ms. McCullough: What happens is the First Nations would have protected a larger amount of land than the settlements land, and then they select from that.

Once, there is some surety as to interim protection, then they will be in a position to make the maps much more public. All the negotiating between the parties may or may not be public. Prior to that, hopefully, the maps will have been brought over here.

In the case of Champagne/Aishihik and Teslin, because there were negotiations right up to the end, did not happen. They agreed, at the same time, that there was interim protection. In the case of Mayo, the lands were protected for one year. During that time, selections were made. There was some fine tuning but, hopefully, the idea is that lands will be protected unless the negotiations are proceeding so quickly that that is just an extra step that will slow it down. I have to say that that is our anticipated hope that, in a lot of instances, that will be the case.

Rick Welhers: Should we not know about these lands that are being selected?

Chair: If there are any third party interests in them, the answer is yes. Third party interests are protected. If you have a lease in there, the First Nation cannot claim it. If they are vacant lands, they can be set aside as reserves and put a claim on them.

Rick Welhers: Okay, third party interests is a property where someone has title or a mining claim or whatever.

Chair: Yes.

Rick Welhers: What about the rest of the land that we travel on? If that is land that belongs to the White River Band or whatever, I could be going fishing and travel right across band land and not know the difference.

Should we not be aware of that land, even now?

Chair: I do not think they have even selected them now. We have not even looked at it yet.

There are certain criteria for selecting land, such as, they cannot pick both sides of a river, and so on.

Rick Welhers: You were saying there was a problem with the quantity of land they selected, so they must be selecting something if you are aware of the quantity.

Chair: It was the quantity that they were given was out of the overall 16,000 square miles that was allowed for land claims.

That is a different issue altogether, and the federal government

has maintained that that is all the land they will put up for land claims. The White River Band was unhappy with their allocation out of that. That is a different problem that has not been resolved yet.

Rick Welhers: Will the selection maps come here? There is no negotiating in Beaver Creek at all for those parcels of land?

Chair: The territorial representative at the table is supposed to protect the interests of all Yukoners. That is why they are at the table.

Rick Welhers: Yet, they have no idea of what our interests are in Beaver Creek.

Chair: Are you saying that they have no idea what interests you have in the vacant lands?

Ms. McCullough: What will happen is that, beforehand, the negotiators will meet with interest groups in each community and will make themselves available to people who want to speak to the issue. If you want to do that now, that is fine.

They do prepare themselves. They are negotiating from the viewpoint that they are acting on the behalf of all Yukoners. Certainly, things have to be protected for greater public access, as well. It will not be a case of Yukon self-government negotiators flying into a community, never seeing anyone, going into a locked room and making a deal that will affect people in the community.

In the past, what has happened is that they have met regularly with organizations, such as municipalities and user groups of land, so that they can be made aware of third party interests of every type, whether it is a legal third party interest, such as a person owning or having lease to the land, or of people using the land regularly. The negotiating process is not a locked box process. They make great efforts to make themselves available to the communities. At the start, they brief the communities as to what the negotiating process will be, what kind of input is required and what kind of parameters is put on input. As I said, there are always people who want to sit at the table with the negotiators. That has not been allowed by any of the parties, but it is not an attempt to leave the community in the dark about what is happening.

In the past, the problem of the negotiators has been to get people to give input and get people to come out to public meetings. There are quite a few people here tonight, and that is a good indication of the level of interest. They are not going to negotiate without a background derived from the people in the community.

Chair: You can go now into the land claims office in Whitehorse and see the maps of all the land that has been set aside as reserved land for the selections for the different First Nations that have put their reserves on land. Those facts are all available to the public right now.

Margaret Nieman: The land that is set aside now can be changed. It is not carved in stone.

Chair: That is right, it can be changed.

Ms. McCullough: Those are lands that are protected right now from further third party interests.

Margaret Nieman: So, we cannot go on land claimed right now unless we have their permission?

Chair: No, the reserved land just means that no one can take a lease on it or stake it or anything like that.

Ms. McCullough: You are referring to settlement land, when you say land that is claimed. I am not a land negotiator but, basically, a larger area of land is identified for protection. The First Nation will say that they are interested in choosing their land within this area, as this is their traditional territory, and they state their uses. That will often be protected to whatever degree.

However, when settlement land is chosen by a First Nation and agreed to through their agreement and legislated, there is access and use in accordance with the terms of the final agreement. You are right that, in regard to hunting use, for example, for fish and

wildlife, there is a difference between category A and category B land. Category A would be exclusively for the First Nation and category B would not.

All the land in the traditional territory that is not settlement land is still government land for the Crown or commissioner. All people would still have access to it, as much as before. In regard to category A land, there are still provisions to access as of reaching agreement with the First Nation.

Bev Schlaffke: For A land, I understand that we have access to it on roads but, if you want to hunt or fish on A land, you would need permission from the White River Band?

Ms. McCullough: You ask the owner. Yes.

Rick Weihers: On A land, it is exclusive for them?

Ms. McCullough: Yes, it falls to the First Nation. You ask the permission of the owner.

Bev Schlaffke: If they say yes, you are able to do that and if they specify an area, that is the only area you can go on and if they say no, you have to respect that?

Ms. McCullough: Except in accordance with the agreement, yes. It is just like walking on anyone's private property.

Rick Weihers: I think everyone is looking forward to seeing those maps.

Chair: All I can say is from what has happened in other negotiations. There has been a lot of anxiety but, once the maps were out, there really was not many problems with them.

Ms. McCullough: It seems to me that in every community there has been a lot of interest in the maps, because people want to know what type of land there is and how to act accordingly. It will simply be up to the negotiators to get them out in the public as soon as they are able to do so and, at the same time, protect them from being subject to third party interests right away.

Rick Weihers: I think there is a total of about three little areas they have closed off around here as parcel A. There are only two roads in the entire area and there is hardly any recreation for anybody.

Ms. McCullough: I think when the negotiators come into the community, these are the types of things they can be made aware of. Certainly, this is the type of the thing that the First Nation knows, and it will be a product of the negotiation. It is a lot of sloggling to arrive at an agreement that meets the needs of all the people. That is why it has taken a long time.

The nice thing is that we have seen it go progressively faster as both the governments and First Nations learn this. It makes us feel a little better.

Beat Ledergerber: How much land in the Aishihik has been settled?

Chair: How much land did they get?

Beat Ledergerber: Yes. I just want to go back to this wolf kill. If they have their land, why do they not take care of their herd and see that the wolves are no longer a problem?

Chair: They do not have any land yet.

Beat Ledergerber: They do not have it yet?

Chair: No. They have signed for it.

Beat Ledergerber: Could they take care of their own?

Chair: No. Wildlife issues are managed jointly.

Ms. McCullough: Unless it is of a purely local nature.

Chair: They will have an allocation for harvest, but there will be wildlife councils that will be making recommendations to the Minister.

Chair: Is there anything else that you want to discuss?

Freda Nieman: I just want to mention something to the people of Beaver Creek. Now you are beginning to know how we felt when our lands were taken.

We were forced to live on a reserve. Now you have a feeling of how we felt.

Eddie Albert: Is the White River Band the smallest band in the Yukon?

Chair: I guess it is.

Ms. McCullough: Yes, it is.

Margaret Nieman: I will just let you know about the band. Enrolment is not complete in all communities. Another thing is that part of the negotiation is that there are other factors that are involved. We have so many status Indians on the list, yet there are other non-status on reserves. That issue has to be cleared up before it goes ahead.

Ms. McCullough: That is true. Being a status Indian and being a beneficiary under this agreement is not the same thing. Of course, what has happened with the White River First Nation is that it was basically subsumed under another one, not of its own volition, and its members are more likely to be transferred to any of the other bands, because they did not have a connection to the one they were stuck into. That has to be reassessed before there is finalization.

Margaret Nieman: Yes, when the negotiators talk about it being the smallest band, I cannot see them verifying that, because they do not know themselves. Everybody always says the White River Band is the smallest, but it is not.

Ms. McCullough: The other thing is that it does not necessarily matter.

Margaret Nieman: It does matter.

Ms. McCullough: It is going to matter to someone; someone is going to be the smallest, but you are right, there are other factors that are taken into account. Allocations are not supposed to be made totally on population. The point is the negotiations take place with the First Nation, whomever is government and whomever its members are. That is what is important.

Eddie Albert: I have just come up with this question. How is it that the band has been offered such a small piece of land?

Chair: What has happened is that there is about 16,000 square miles the federal government has set aside for land claims. That was to be divided between all the First Nations in the Yukon. The First Nations organization decided on the ratio that was being allowed between the First Nations. It was not something the federal government said to the White River First Nation, that this was all it was going to get. It was the First Nations themselves who decided on the land quantum for each nation.

Margaret Nieman: I would just like to mention one thing Rick was worried about. Once White River selects their land, the other areas he thinks will continue on that area — hunting, fishing or whatever — he has to remember that the other areas are also protected. They will be special management areas on those lands. There is going to be a change that they should be aware of.

Ms. McCullough: I think the nature of all land management is going to be different.

There may or may not be special management areas in any particular area. If it is realized that there is a joint interest with all the parties and if it is a special management area, depending on why, there may or may not be restrictions on its use. Some are special management areas because of particular heritage values — either First Nation or non-First Nation. Some are because there are particular wildlife habitats there, et cetera. So, whether it is a special management area depends on whether it is an area that is of interest to both the First Nation and government and the land use will depend on what kind of land it is.

Rick Weihers: Are the restrictions already planned?

Margaret Nieman: There was a problem with the Snag area in the past few years. There have been people there looking for gold and mining and things like that. There are graveyards there. There are big areas all over that we do not even know about. How can we govern them?

Ms. McCullough: There should be two ways to deal with areas that are graveyards or whatever. In a lot of cases, they will be selected by the First Nation as settlement lands, because they are of particular importance to them — this importance is not shared by non-First nations people — and they want to have exclusive control over it. Special management areas are appropriate when there is a shared interest by the people, such as the Dawson Post area, Sha'washe Lake, which has very important heritage values to the Champagne/Aishihik people and, on the other hand, also has importance for recreation usage for all Yukoners. Both First Nation and government decided that was an appropriate area for special management.

There were other heritage areas for Champagne/Aishihik where there are no other particular interests, so they chose that as settlement lands, so that they could maintain exclusive control over it and how it is used.

Glenn Stephen: Is the land selection based on population of bands? Is that how it is done? Are there other reasons, too? It cannot be based on population alone, because, in regard to White River, historically, if they had been let alone, without government interference, they would probably have even more members. With the shuffle they did with Burwash, they probably would have had lots more members from marriages or whatever.

Ms. McCullough: It is not just based on population. I do not have an easy answer, because it is not something in the agreement. Basically, population is a factor, use of the land is a factor, the commercial value, and if there is no commercial value, the renewable resources aspects of the land and the lifestyle of the First Nations, and so on. There are questions such as should the First Nation in Whitehorse, for example, get the land that the Vuntut Gwich'in got in their claim?

You are right, there are a collection of factors. I can undertake to get that information for you. I do not know if it was done according to a specific formula or on the basis of a more general approximation of what was thought to be equitable among the First Nations, given that there was a total.

I can undertake to get that information to you, if you want.

Glenn Stephen: Yes, what I am getting at is that the White River would probably have ended up with more land if there were not the Americans border there. I think the Canadian government should compensate them. They have traditional lands on the other side of the border, and should be compensated more on this side, like a trade-off.

Ms. McCullough: That is a question for the federal government. I do not think that this land claims process bars the possibility of trans-boundary or trans-border land claims.

Glenn Stephen: So that is feasible, then.

Ms. McCullough: I do not know the specifics of the White River situation.

Doris John: The trans-boundary issue has to start with the people. I think the trans-boundary concerns within White River concerns the upper Tanana area and, I guess, in a way, it concerns the whole First Nations.

The issue has to be dealt with through the First Nations.

Glenn Stephen: I think not only White River should be involved. All the First Nations should stand behind you and work hard on that. You should not stand alone, because you are just a new nation. You have enough to handle, just organizing, never mind all this land claims and trying to figure all that out; you need to get established as a nation again.

Doris John: As a member of a First Nation that has come into the ball game 18 to 20 years late, I do not think that we should be rushing into this whole thing. I am sure that other First Nations will want to go ahead to sign the final agreement.

As far as I am concerned, I am happy with the process that is

happening. It has been slow going for the White River First Nation. I think land claims is a really important issue and we should be concentrating on it, for my children, one hundred percent. I am hoping that it will all happen soon.

Bessie John: I am part of the White River Nation. I am an old woman. I cannot say yes to my people until I get 600 square miles. I cannot take my land to throw away one dollar or even a million dollars that I get back from the government. That is many dollars for me. I was born on the land. It is my blood there. I cannot sell it for \$20 million.

Our loss would be Indian people's loss. I see government people. This is us talking to the Government of the Yukon now. The hour I see you sign that paper for me saying how much square miles I can take, I will say sign. You give me one dollar for my land.

Just like government all over the Yukon, they listen to me and tell me that I cannot touch it. Until I get more land for the White River Indian. The other nations have their land. Us, we have not done that. We have land all over. We are dogs or rabbits or whatever. We are not Indian people to the Government of the Yukon. I cannot sell it for one dollar or \$20 million. What about my grandchild. Kids are born after me. Maybe tomorrow and each day, I can see my grandchild behind me just like the leaves grow outside a tree. That is our life. We agree with it.

Yet government people are there every day we grow up. That is our medicine. That is the dream right there. I come from a world where there was no hospital. Why does government want to take the Indian land. If my grandchild come behind me and grow in this world. Every minute of this world and every step, my great people grow.

How Indian people are. You see us growing and you guys do not know a damn thing about where Indian people come from. They come from this world. They just grow up. The moss grow up. Can government do that?

The day government people get my land, my grandchild, it will be bad. Eighteen billion dollars is not enough. They spoke special words. They talk about 16,000 square miles shared among Indian people. Share between Indian people my blood and my heart, the same world where we stayed. Right there, share and share. Our people should think about Indian people. They are not right.

Why do you want to take my land? What do you want it for? If I take that money, I get one million dollars. The next day, from my pocket it is gone. You guys are not going to do that to me. Government is going to sweep me out. I will have no money. I know how big money is.

We will have to give more and more land. White River will be gone.

Margaret Joe: I think, Bessie, what we all have to remember is that this is an Indian land claim. There have been many reasons why it has taken 20 years up until now. Each government, no matter what political stripe, has always maintained that what we want is a land claim that is fair to all people, because of the evolution of the territory.

It is a very difficult process, as Freda said. She listened to Rick and all of the other people talking about their concerns. What a lot of people forget is what you were talking about, where you had an abundance of land and there was so much movement and the aboriginal people moved around. It is a very difficult process and 20 years is a long time. As Doris was saying, she wants to take her time, because she wants to ensure that, in the end, she will get something she can live with.

We have to be very careful, because we want to see a claim that is fair to all Yukoners. That is a very difficult thing, as we can see here tonight. On our very first meeting, there are questions being asked and one can see the fear in both groups. In the end, we would

like to be able to pass legislation that we are supporting. We hope that, in the end, we will be able to feel that what we have done is something that is fair to all Yukoners.

We must remember that, in the end, it is a land claim settlement that is very important to everyone in the Yukon.

Chair: Thank you, Margaret.

Rick Weiher: I think sometimes that there is a lot of hostility created, on the part of the government, between the native people and the singular white individual in land claims. I think that everyone can live in harmony. I think sometimes the government sits on the other side of the fence and creates hostilities between the people.

Chair: I do not follow you.

Rick Weiher: I find that a lot of native people refer to white people as the government. We do not have anything to say. I do not think we do.

As I mentioned earlier, this is very mild. We do not have a hell of a lot to say.

Chair: I think all people have had a lot to say over the last 20 years of negotiation. Those are all taken into consideration in the final agreements.

Rick Weiher: You people have been working in government too long.

Chair: No. I am talking about interest groups. I have been in the Yukon for 20 years. I just got involved in government. As an interest group, we had a lot of input into the land claims process.

The views of all Yukoners are taken into consideration in that final package.

Rick Weiher: What interest groups are you referring to, John, before you were in government?

Chair: The Outfitters Association, the fish and game association and those kinds of groups had a lot of input into the land claims process.

Rick Weiher: A lot of people are not involved in those groups, John.

Chair: I am just talking about some special interest groups. There have been public meetings for years and years, throughout the Yukon.

They cannot go on forever. At some point, there has to be an agreement.

Rick Weiher: I do not know, I have been here for eight years and we have been hearing a lot about land claims. This is the first I have heard about how this is going to happen and that is going to happen. We have heard about so many things.

Chair: There are other hearings that have gone around the communities for years. This is not the first hearing that has gone around to the communities.

Rick Weiher: Well, I have not seen too many here.

Chair: In the last eight years?

Ms. McCullough: Last summer or the summer before last, I believe there were self-government meetings.

Chair: Mr. Penikett was here about one year ago.

Ms. McCullough: It is natural that as things get closer to the culmination and we reach an agreement, the interest level will inevitably rise and we must work to make information available at that time.

Eddie Albert: We have to consider, also, that we cannot always blame government for wrongdoings, no matter which government.

Chair: That is right. Thank you.

Eddie Albert: I asked a question a while ago about why the White River Band has been allocated such a small piece of land. You answered me, but all I heard around here was "the god-damned government took the land we had; that god-damned government, son of a bitch".

Now, will you answer me one more question? Is it the band's fault or your fault?

Chair: I do not know what you mean.

Eddie Albert: Is it the band negotiators? Take a look at the government. Is that what you want?

Beat Ledergerber: You and I form the government. That is what we got. You only get what you ask for.

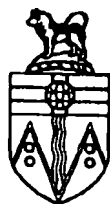
Eddie Albert: In 18 years, there has not been enough cooperation. I always heard that with cooperation, you can do lots of things. Everyone is criticizing the guy next door. There is no harmony. There is no cooperation. Nobody knows each other. That is how it is.

It does not matter to me which government is in. The guy does a good job or he should be fired.

Beat Ledergerber: If this is a long way down the road — say, four or five years down the road — if all we get out of this is like now, where we have arguing about land here and there and money, when that thing is closed, can we get people? Not likely. *(inaudible)*

Chair: Well, thank you very much for coming out this evening.

Meeting adjourned at 10:00 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 4

Official Transcript

**Monday, January 25, 1993
2:30 p.m. to 4:20 p.m.**

**Community Hall
Burwash Landing, Yukon**



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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

- THAT a Special Committee on Land Claims and Self-Government be established;
- THAT the Committee be comprised of seven members of the Legislative Assembly;
- THAT Hon. John Ostashek be the Chair of the Committee;
- THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;
- THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;
- THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;
- THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:
- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
 - (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
 - (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
 - (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;
- THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;
- THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;
- THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:
- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
 - (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
 - (c) to hold public hearings,
 - (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
 - (e) to print such papers and evidence as may be ordered by it; and
- THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Burwash Landing, Yukon**Monday, January 25 — 2:30 p.m.**

Chief Johnson: We will start the meeting by listening to the government. Then, there are a few questions the Kluane First Nation will have on problems with the implementation of the land claim.

With that, I will let YTG go ahead.

Chair: Thank you. The first thing I want to make clear is that we are here representing the Legislative Assembly. We are not here representing the Government of the Yukon. This is a committee of the Assembly to hear the views of Yukoners on the two pieces of legislation we introduced in the House in December of last year. This is legislation that approved the umbrella final agreement and the self-government agreements.

These bills have gone through second reading in the House, and they are now at the Committee stage. When we go back this spring, they will go to third reading. This committee will present a report to the Legislature. We will be listening to people, and we will make a recommendation to either accept or reject the legislation. We do not have the ability to amend the legislation on the agreements. The only thing we can do is to comment on what we have heard.

That is what we are here for: to listen to the views of the people.

Before I go much further, for the record, I would like to introduce myself. I am John Ostashek, and I am the Chair of the committee. On my left is Margaret Joe, the MLA for Whitehorse Centre. On my right is Mickey Fisher, MLA for the Lake Laberge riding.

Land claims is very important to all Yukoners. It is only once land claims and self-government agreements have been finalized that there will be some certainty to what is going to transpire in the Yukon and that people from all walks of life will know what lies ahead for them when they contemplate any business or other endeavour they wish to undertake.

There is still a lot more work to be done on the land claim, but this is another step in the process, as you are all aware. Once this has passed our Legislature, and when it passes the federal Cabinet, it will automatically become law.

I will not go into that too much. I am very happy to be here, and I want to listen to your views. This meeting is being recorded so, prior to voicing your views or asking questions, please identify yourself for the record, as that will help the committee when it is writing its report.

I would also like to introduce Lesley McCullough, who is with the Land Claims Secretariat. She will give a brief overview of the land claims and self-government agreements to date.

Ms. McCullough: As Mr. Ostashek has said, I am going to give a brief background and fairly sketchy outline of the final agreement and the self-government agreement. This may be old news to you. You may already be familiar with it. Just bear with me, or correct me if I say anything wrong.

What we would call the modern claims process began in 1973, with the presentation of the brief "Together Today for our Children Tomorrow" to the federal government. That was presented by the Council for Yukon Indians. The presentation of that brief initiated land claims negotiations, which continued throughout the 1970s.

During that time, the federal government was in the process of re-examining its comprehensive claims policies, so a lot of valuable groundwork was laid. Today, we may not see a lot of the concrete product of that but one thing that happened during the 1970s was that the Yukon became party to the negotiations, so they became tripartite negotiations.

Between 1980 and 1984, the parties worked together with the goal of achieving an agreement in principle. That agreement in principle was reached by negotiators in 1984. However, it was

rejected by the Council for Yukon Indians. In 1985, the negotiations process began anew, and the early concept was that it would be a kind of master agreement that would have addressed the common needs of Yukon First Nations people, but could somehow also be flexible so it could be adapted to the needs of each First Nations community.

One very important thing that happened in 1987 was that the most recent federal comprehensive claims policy was re-examined and, at that time, the federal government, for the first time, took the position that First Nations negotiating a claim, or treaty, with them did not have to give up their aboriginal title on land that they were retaining. That put a very different focus to the negotiations in the Yukon.

Between 1987 and 1989, there was work on a framework agreement for the Yukon and, in 1988, there was an agreement in principle as to what would be in the framework agreement.

In April, 1990, the umbrella final agreement was negotiated and, over the next year, until 1991, there was work on the legal text, putting everything that had been agreed to into words. Once you do that, you find that a lot of things you thought you had agreed on were not thought through. Therefore, there was some re-negotiation.

In 1991, there was a legal text, and it is basically the legal text we have today, although there have been some amendments to it agreed to by all the negotiators. There are still a few amendments that are outstanding and are being considered right now.

In November, 1991, a self-government agreement was reached among the parties. Throughout the course of 1992, final agreements and self-government agreements were reached with the Vuntut Gwich'in First Nation, the Na-Cho Ny'ak Dun Band, the Champagne/Aishihik First Nation and the Teslin Tlingit Council.

Last September, the Champagne/Aishihik First Nation ratified the final agreement and self-government agreement. The other three First Nations that have reached agreement will be beginning the ratification processes in the very near future. In fact, Na-Cho Ny'ak Dun had it set for this very time period. It has put it off until the end of March. Both Teslin and the Vuntut Gwich'in were looking at a March date, or the end of February.

Yukon legislation was introduced in the Yukon Legislature in December, 1992. The federal government will introduce its legislation before mid-summer, whenever their spring session is. That is the time frame the negotiators are aiming for.

There are a few key points about the final agreement. They are protected by section 35 of the Constitution, which means that the laws of Canada, passed by parliaments or provinces, cannot take away from the right enshrined there.

One of the key elements of the agreements is the provision on the enrollment, or eligibility, of beneficiaries. The agreements contain an exchange of rights between government and First Nations. In return for the constitutionally protected rights set out in the agreement, the First Nations give up other claims they may have to other things.

There is provision for monetary compensation, and I would stress that it is compensation I am talking about now. It is in the amount of \$242.6 million, and that is a 1989 aggregate value. There are provisions for a retention of settlement land in the Yukon of 16,000 square miles. One of the most innovative thing about this claim is the format that was drawn up to deal with land in the Yukon. To describe it is a better way, it is the way of holding land, land that the Canadian legal system had not known before. Now, we have category A land, which is basically land on which the First Nation will have surface rights, subsurface rights and aboriginal title; category B land, which is surface rights and aboriginal title, but no subsurface rights; and fee simple, which would only be surface rights. There is a relatively small amount

of fee simple land, compared to the other, because it breaks down to roughly 10,000 square miles of category A and 6,000 square miles of category B land.

In regard to land, the agreements also make provision for continued access to settlement land by all people, disputes on land issues — for instance, surface rights; and for development assessment and land use planning — and land use issues being dealt with before awards in those areas.

There are provisions for special management areas, which could not be settlement land but are areas of such recognized special significance, both to First Nations and to government, that it is agreed that the best way to deal with these is through co-management, or shared management. Therefore, both government and First Nations have a guaranteed input into management plans and guaranteed representation on the management boards.

In the Champagne/Aishihik agreement, for example, there are two special management areas, being Kluane National Park and Sha'washe, or Dalton Post. While these areas are not settlement lands, the First Nation has a guaranteed representation input into their management. The agreements also make provision for other natural resources. For water, it will eventually be revamped because of the *Northern Inland Waters Act* and the Yukon Territory Water Board. There is a position to share forest resources. There will also be very important provisions about fish and wildlife. That chapter creates a shared management regime for fish and wildlife in the territory, recognizing that you cannot manage these populations in isolation. It creates a fish and wildlife board, with guaranteed First Nations representation. In each First Nations traditional territory, there will be renewable resource councils, which can decide some things and, in regard to other matters, make recommendations to the Minister responsible. They also direct the priority in allocation. You may be aware of the Sparrow decision of the Supreme Court, which basically recognizes priority for native harvesting for consumption, spiritual use or traditional cultural use.

Chapter 16 of the agreement tries to recognize that decision and those rights in a workable way for all Yukoners. It also recognizes the need for information for all wildlife populations and conservation, and it sets out ways for First Nations and government to work together to achieve that. There are provisions in regard to quarries and the use of mines and minerals, and there are some provisions in regard to resource royalties, basically stating that First Nations will receive a guaranteed share of the Yukon's royalties from minerals, gas and oil.

The agreement also sets out what will be the future taxation regime for First Nations. It deals with section 87 of the *Indian Act*. It originally had been thought that section would be done away with at the coming into effect of these agreements. Now, there will be a three-year moratorium while section 87 continues in effect. However, during that same three-year period, First Nations agree to delay their personal taxation power. The two are tied together.

There are provisions for the taxation of settlement lands by government, and there are also important chapters dealing with heritage resources and with economic opportunities. The economic opportunities chapter provides for an opening up of Yukon government employment but, specifically, it provides rights to the First Nations to buy into the Yukon government share of any non-renewable resource development or hydro electric project.

It also sets out a regime for allocating the First Nation a priority share of licences in certain areas, for example, commercial freshwater sports fishing, commercial wilderness adventure and, to a much more limited extent, outfitting.

There are provisions in the agreement to carry out implementation, the process whereby it is agreed by the parties how the

provisions of the agreement will actually be carried out. Negotiation on those is going on in Whitehorse right now, as the parties attempt to have implementation plans ready to present to the federal Treasury Board, which would have to put its seal of approval on them before the agreements and legislation go to the federal Cabinet.

There is also a chapter dealing with self-government. This is not constitutionally protected at this time. During the last round of constitutional negotiations, it was part of the package that was defeated. The federal government has stated that it remains committed to constitutionally entrenching self-government, but there are new proposals on the table right now for changes to the Constitution. At present, it would not be constitutionally entrenched.

The self-government agreement defines the authority of First Nations over their settlement land and over First Nations, physically. It would replace the *Indian Act* and allow First Nations to choose their own governing structures and the methods they believe would work best for them. It also provides for financing and taxation on both the people and the settlement lands as a means of support of the First Nations' governing structure.

The self-government agreement sets out the powers that a First Nation will exercise. Some of those powers are jurisdictional in regard to management of citizens, not as to where they are located but to the fact that they are citizens.

One example is child welfare matters. Other powers are specific to management of settlement land. Those are powers that point directly to land use principles, environmental issues, billboards — from the mundane to the extremely important.

The self-government agreements provide for the First Nation achieving its own constitution and setting out its own citizenship code, so it is clear to people how they become citizens of the First Nation.

There are provisions in the agreement as to First Nations increasing the provision of services to their own citizens. Of course, there are also provisions for the financing of those services — financial transfer agreements between Canada and the First Nation. There is also a Yukon contribution to the net savings. The Yukon may or may not achieve a saving when a First Nation takes on the provision of some services.

It is fairly detailed in regard to taxation. There is a power from the First Nation to levy property taxes and also, eventually, income taxes, although there is a three-year delay on that. Taxing is still a matter under negotiation right now. There is a provision in the agreement that if other Canadian First Nations are able to negotiate better tax arrangements or tax provisions with the federal government, those arrangements can be incorporated into the Yukon First Nations agreement.

Among the First Nations powers is the administration of justice. The agreement we have negotiated provides that that will not necessarily be triggered until 1999. However, if the First Nation and government agrees beforehand, they can enter into agreements to provide for the First Nation provision of the administration of justice. At present, it is anticipated that federal laws will continue to apply. However, when a First Nation acts in an area in which it has jurisdiction, it is able to oust a Yukon law in that same area.

There are also provisions in this agreement that will provide for the harmonious use of adjoining land that belongs to the First Nation and is part of an organized community. For example, when there are smaller lots of settlement land inside a community, there would be limited self-government powers on those lots, to the extent that is negotiated. In the past, we have found that, in the three communities that have adjoined a larger, more organized municipality, those self-government powers that have been

restricted have dealt with land in terms of billboards, zoning, air pollution, and that type of thing.

There are provisions for mediation and, eventually, binding arbitration if a First Nation and an adjoining community disagree on the use either of them intends to put the land to, that is, if either of them says, "You can do that on your share but it ruins my use of my land," there are provisions to deal with this.

There are provisions to allow for entering into local service agreements between communities and the First Nations, depending upon who is the appropriate body to provide these services and what is the most expedient way of doing it. There are also provisions for regional structure for joint planning groups at a larger level, et cetera. We have recently finished the provisions for reserves, although there is a limited number of existing reserves in the Yukon right now. Some First Nations have outstanding specific claims. It is anticipated that a First Nation will be able to choose whether to take the land that would be the subject of settling a specific claim as a settlement land or as a reserve.

The regime that is being looked at now is that the reserve will not be an *Indian Act* reserve, if it is decided to take it that way. It would be land reserved for Indians out of the Constitution, but the *Indian Act* provisions would not apply. For all intents and purposes, it would be treated as if it was category A settlement land and aboriginal title would, therefore, either adhere to it, or else the right the First Nation had to it would be the same as if it did have aboriginal title. That is what is being anticipated right now and being drafted for use in the Teslin and Mayo agreements.

In a nutshell, that is what is in the final agreements and self-government agreements.

Chair: Thank you. This is a very complex set of agreements, and we could not possibly give you an in-detail analysis of it. However, this gives you a brief overview of how land claims and self-government works. At this point, you are welcome to share your view or questions. Please identify yourself before speaking, so we can have it on the record.

Chief Johnson: On our side of the table, we have some concerns about self-government committees, commissions and boards and the commitment of YTG. Some of the concerns we have are facing us today in the Council for Yukon Indians and also in Kluane. Do you want to give them?

Mr. Cant: My name is Timothy Cant, and I work in land claims for the Kluane First Nation. Some of the concerns we have is acknowledging the time constraint of the upcoming federal election; I understand it has to be before September. Does YTG believe it can work within this time restraint and push it ahead, so at least one of the four bands can finalize its agreement?

Ms. McCullough: As you know, YTG has problems with the implementation offer that is on the table, but it has said that it will continue to work toward the deadline the federal government has to work out an agreement in that time. Because the time period is so short, the Yukon has had to avail itself of more resources and bring in more people to work toward that goal. The outstanding issue is still there, and it is the subject of work every day. I do know that the Yukon government is continuing, with the implementation planning working group, to work toward achieving that deadline.

Mr. Cant: The concern is that there are band members from here who have been attending some of the meetings in Whitehorse. They are open to band members. They have seen some of the apprehension in YTG regarding the federal government proposal. They are somewhat concerned about where the government is going from here, because they are not too excited about the offer. Is it going to slow down the process for our band to get ahead?

Ms. McCullough: I will not be making any decisions as to what offers are finally accepted or upon what terms, but as I said there has been a public undertaking, and I know that within the

land claims secretariat right now they are working toward that deadline. Any final decisions will be made at a political level, but the work is ongoing right now. I certainly do not think that any members of the secretariat have slacked off or felt there was no need to work toward that very tight time frame. It has brought in additional people on contract who have worked on implementation in the past, so we can work toward more twin tracking. It is a political decision.

Chief Johnson: I do not know what the method of the YTG is, but it is all government agreement. Is that where the nervousness has come into it on the YTG side?

Ms. McCullough: I think there is particularly a concern about the amount of funding available to YTG with regard to self-government, but I could not speak as to the exact aspect of where the *(inaudible)*

Chair: I will just add to that. As you are aware, our negotiators do not feel they can do any kind of a job in implementing the land claims and self-government agreements with the amount of funding that is being offered by the federal government. At the same time, while we have to define the amount of money that has been put on the table as unacceptable at this point, we are continuing to work at the negotiating table to continue to cost out the implementation costs, knowing full well there is a deadline the Yukon First Nations people are trying to meet. We understand, and the last I heard is that the deadline is slowly being pushed back a little bit. I understand the Mayo band is not ready to ratify their agreement until some time in March.

I have met personally with Mr. Siddon on the implementation money, and we are writing letters back and forth at all times. We are aware of the deadline the First Nations are trying to meet, and we are trying to do everything we can in our power to keep within that deadline. We want this legislation to be through our House this spring so that, when the package does go to the federal government and is approved by Cabinet, it will automatically be ready for implementation, because our legislation will already be in place.

Mr. Cant: The reason I asked the question I did is that I have had band members approach me on the fact that the previous government fully supported the self-government and the UFA. As has been stated, the self-government and UFA package was ratified by all 14 First Nations in December 1991. They just wanted to hear from the new government its support regarding this package.

Chair: I believe we have just demonstrated our support by calling the House back in December to bring the legislation back. Believe me, the present government has demonstrated support for the umbrella final agreement and the self-government agreements. We are very concerned with the amount of funding that is being given to us to implement these agreements.

Mr. Cant: So are we.

Mr. Johnson: Mr. Ostashek, what do you personally see as the overall purpose of why these land claims are in the process of being negotiated and implemented in the first place?

Chair: Once the land claims negotiation and self-government processes are completed, there will be some certainty as to what is going to transpire in the Yukon. Right now, major developments are still waiting, and some of them have been waiting for many years, until they know with whom they have to deal and where. Once land claims are over, they will know specifically whether they have to deal with a First Nation, with the territorial government, or with both.

I see prosperity coming to the Yukon when self-government and the land claims agreements are finalized and being implemented.

Mr. Bernie Johnson: I went through the agreement a couple

of times, and I noticed that there is very little touched on, at least in detail, concerning water supplies. Does the government have any long-term hydro-electric projects for various parts of the Yukon that are either proposed or in the planning stage that we might not know about?

Chair: I will let Lesley answer that. She has been dealing with that.

Ms. McCullough: In the UFA, there are provisions for the Yukon government to identify 10 possible hydro-electric sites for which compensation would not be paid for land if expropriated. Land expropriated for all other hydro projects would come under the expropriation chapter and compensation would be payable.

These sites would be specifically listed in the final agreement of the First Nations that would be affected. There are two in the Na-Cho Ny'ak Dun, there is only one in the Champagne/Aishihik, the hydro-electric project, which is already in existence.

If you like, I could provide a list of those 10 sites, although I think there are only nine that were actually agreed to. Other hydro-electric projects that might be taken on by the government in the future would be subject to compensation for expropriation. Of the nine that were identified, I do not think all of them are anticipated to be developed, but they put in the top nine that were the most probable. If you would like a list of them, I could provide it.

Mr. Cant: It might be good for the negotiators.

Ms. McCullough: I do not think there were any in this First Nation, but I will check on that.

Mr. Bernie Johnson: I have not heard of any.

Ms. McCullough: I am quite certain there was not, but I will check and get that information to you.

Mr. Bernie Johnson: One more thing is that, in 1969, shortly before the land claims process started, Jean Chretien, then Minister of the Department of Indian Affairs, stated that there was no way that 6,000 native people in this territory can control 40 percent of the nation's resources. We have 40 percent of the nation's resources here in the Yukon Territory. What interest do the big multi-national corporations, such as Alcan, Exxon or Texaco, have in a more expedient land claim being proposed and accepted?

Ms. McCullough: To the best of my knowledge, they have had no role in it whatsoever.

Mr. Bernie Johnson: Not a role in it, but their ...

Ms. McCullough: Like many other corporations or individuals, they would have a greater interest in seeing some surety as to who controls what land, who has what powers, who they deal with so that if they are going to make an investment they know the proper people with whom to deal in regard to that investment. I do not know whether or not that would have been a factor in any decisions in the past, however, the surety of who is the proper party to talk to, who manages and controls what resources in what areas would be of assistance to them in making their investment decisions. Does that answer your question?

Mr. Bernie Johnson: There is definitely an interest on the part of the multi-national corporations to get at the resources of the Yukon. What previous deals have been made between governments beforehand or now? Are there any contracts with them?

Chair: To the best of my knowledge, there have been none with the territorial government concerning any major projects scheduled for the Yukon. I am not aware of any that the previous administration has made, either.

Ms. McCullough: The only thing I can think of that is not on topic, but similar, is the northern pipeline. The federal government established easements for the use of the northern pipeline and that is something that negotiations have been dealing with in the case of Champagne/Aishihik and Teslin Tlingit. The Yukon government had no agreements with Foothills Pipe Line, or any successor

of that, although they continue to try to keep abreast of what developments, if any, are happening with that.

Chair: The only thing I can add to that is that, regarding the pipeline right-of-way, they still have that easement.

Ms. McCullough: They have a titled easement.

Chair: It has just been extended.

Mr. Johnson: Regarding the Indian self-government aspect, I would like your opinion on how they see the native self-government, being that it is going to be within the confines of a European constitution. This is not Indian self-government, as far as I can see, because it is contained within parameters of a European philosophy. It is contained within the boundaries of what they would like to see, and the overall objective of that would be to have control. Self-government is not self-government at all. The parameters were being set somewhere else and being titled Indian self-government. I would like your thoughts on that.

Ms. McCullough: Briefly, what has happened in the negotiation process is what I will address. The greater philosophical issues I will leave to the Members of the Committee.

When negotiation of the model self-government agreement was initiated, the aim was an attempt to make self-determination a practical reality within a modern context. This was the aim of all parties, by the two governments and by the Council for Yukon Indians and the representatives of the four First Nations that were negotiating. There was a recognition that structures or ways of life that had existed before European settlers disrupted them absolutely could not be reconstituted exactly as they were, and that the task of the negotiators was to find a model that would be workable for First Nations people in the 1990s and in the future. In the model self-government agreement, and as expressed in the First Nations self-government agreement, was the model that was agreed to by the negotiating parties, the Council for Yukon Indians being among them.

It allows for individual modes of government, for example. At present, the Champagne/Aishihik First Nation, in their constitution, provides for a two-clan system based on an elected model. The Teslin Tlingit self-government agreement and constitution, on the other hand, provides for a government by a general council, a chief appointed by consensus, five clan representatives chosen by their clan.

The attempt was to come up with a model that would leave the most flexibility for a First Nation to express self-government in a way that was most effective for it. As to whether a negotiated form of self-government is ever true self-government, either legal or or practical, will affect self-determination, is a major philosophical issue. It was probably one that was grappled with by the negotiators before they dealt with this question.

Mr. Bernie Johnson: What money is the YTG prepared to commit to implement the co-management provision of the UFA, such as the fish and wildlife board, heritage board, or a commission that YTG has an interest in?

I would like to know if your government is willing to commit fairly commit to information under these conditions, that the money is up front and that for the boards and commissions in the Yukon Territory that are going to be established after the land claim is settled?

Ms. McCullough: I am not entirely familiar with the implementation process going on and the money that has been discussed in the past. I believe the basic agreement was that the implementation would be funded by the federal government. The Yukon government committed to provide money for the training trust and the wildlife enhancement trust. In regard to boards and commissions, it also, basically, pre-implemented a Yukon fish and wildlife board. I believe the money that has cost so far has been in the nature of \$500,000. I could get more exact figures.

With respect to self-government, the agreement was that the Yukon's contribution would be in the passing back to the federal government its net savings from not having to provide services any more.

Originally, when the AIP and the UFA as being negotiated, specific financial undertakings with regard to the trust indentures of the training and fish and wildlife enhancement were made. I believe the Yukon additionally undertook, as an extra obligation to pre-implement the fish and wildlife board, and it has also pre-implemented the Mayo renewable resource council, so that these organizations would be up and running by the time the land claims agreement came into effect. However, definitely, the federal government was to provide implementation funding.

Chief Johnson: In your department, there seems to be a lot of nervousness over board and commission funding. On account of that, I am not getting a straight answer from the government on the boards and commissions and management of different areas. We also have a nervousness on our side of the table. I would like to hear from John that YTG is prepared to implement the co-management provision in the UFA.

Chair: As you are aware, neither CYI nor we are happy with the amount of money that has been provided for boards and commission. We are mostly not happy with the amount of money that has been provided for implementation. We are going to continue to work on that problem to try to resolve it. As to what the amount of money is, I cannot tell you at this time. I am waiting for a recommendation to come out of negotiations.

Chief Johnson: We know what the federal government's offer is, and the negotiators know. Here is what we have in the pot. If YTG, in the near future, does not accept the offer of the funding that is available for self-government, and YTG decides to walk from the process if the federal government is not willing to increase its offer, I would like to hear your comments on that. We are working in a time frame, and the questions I am asking today I would like to hear some comments on. We are also on a time frame, and we also have the same offer. We are also hearing the feds saying the country is broke. A lot of the bands went through a lot of work preparing for self-government. When the latest offer was received, all that work was nothing — all the man years that were put into it by the 14 First Nations. I want to know if you are not offered enough, is the government going to pull out of the talks?

Chair: It is not our intention to pull out of the talks. We would be doing a disservice to the First Nations people if we were to accept the amount of money that is being put on the table now and, then, did not have enough money to fulfill our obligations under the implementation agreements. We do not have any other sources to go to for money, and that is why it is such a great concern to us. The Yukon government is not very healthy financially, either, so we have to be assured that it is the federal government's responsibility to provide the implementation funding. We and our negotiators have held back from agreeing to the figure they thought they would be comfortable with for implementation. If we were to accept the offer that is on the table now, we would be doing a disservice to everybody involved in negotiations, because the money would not be there for the implementation, and it would be held up at the implementation stage.

Chief Johnson: So, you are saying that, whether your government gets what it is asking for — the low figure that the federal government has offered YTG and the CYI — your government is committed to going ahead anyway.

Chair: We will continue to work to try to get more money. At the same time, as Lesley said, we are continuing to cost out the implementation costs to get as good a handle on it as we can. Right now, with all the work we and the negotiators have done in paring

back costs to a bare minimum, there is still not enough money being offered by the federal government. We will continue to pursue that. At the same time, we are going to continue to work on costing the funding of the implementation agreement, watching very closely the time lines before us to have the first four First Nations ratify their agreement.

Mr. Cant: Some of the questions that have been presented are concerns that band members have raised while watching some of the negotiations taking place. It is a concern of ours as to what commitment the government does have. You have stated today that the government has strong intentions of fulfilling both the UFA and the self-government agreements.

A follow-up question would be, what do you think the prospects are of increasing the funding from the federal government at this time within the time frame that has been identified? It is a concern, and a lot of band members are getting seriously concerned, because they feel that if this does not happen with this federal government, possibly the next federal government may not be as strongly in favour of doing it.

These are concerns that have been raised by band members, and they wanted me to raise them with the Government Leader.

Chair: Unless something has happened today, my understanding is that CYI has not yet accepted the money that has been offered for the implementation of the boards and commissions that have to be set up. There are still outstanding issues on that that must be agreed to. I do not think that the government is dragging its feet. We are very concerned about the amount of funding, and we are going to work as long as it takes to get that funding, keeping an eye on the deadline that is facing the first four First Nations.

Mr. Cant: I was not implying that the government was dragging its feet. I was just raising the issue that it is obvious the money is quite low, and it is very difficult for the YTG to accept this amount. I was wondering how you feel about doing it your way.

Chair: I am always the optimist. I met with Mr. Siddon in Yellowknife, and my people are drafting a letter to him right now, going over every detail of what we see as the cost of implementation. He said he would take a look at it. I will be meeting with him shortly in Ottawa, and I will be pursuing it.

Mr. Cant: I have one other question. The development of the lake shore policy guidelines is a tough one for us to get into at this time, because we have not approached the table to start to develop the band final agreement. Once again, it is a third-party encroachment within the Kluane traditional territory. I acknowledge that Champagne/Aishihik has ratified its final agreement, and the lake shore policy guidelines can work within their traditional territory. However, at this early stage of the game, it is going to hamper a lot of land selections that have not been selected at this time by members, and so on. We are limited in finances and human resources.

I believe a letter was drafted from CYI to YTG acknowledging the concern from all 14 First Nations that it is a little early, at this point. Do you recall the letter at all? We are asking for them to slow it down right now, because there is so much going on at land claims, and this lake shore guideline policy will affect Kluane Lake. There are a lot of band members saying that we want to get people here and start the selection process, but we are first going to watch the land claims meetings. There is too much going on.

Can they identify one area for lake shore guidelines? They are going for the whole Yukon. If Champagne/Aishihik finalizes its agreement, why not just work within its traditional area?

Chair: Lesley, do you have anything to say on this?

Ms. McCullough: No, I am not familiar with that.

Mr. Cant: Yvonne Harris is the one.

Ms. McCullough: That is right. It is not something that is

done by the land claims secretariat.

Chair: Is this a YTG policy that is being developed?

Mr. Cant: Yes.

Ms. McCullough: I would assume that it is.

Mr. Cant: It is called the lake shore guideline policy, and it will affect us. She is referring back to a greater Kluane land plan, which has not been adopted by the Kluane First Nation, or White River.

Ms. McCullough: The (*inaudible*) has not approved that, either. This is something done by Renewable Resources.

Mr. Cant: A lot of band members are concerned about that, and would like it to slow down. It does affect the land claims process.

Ms. Mary Jane Johnson: Based on the federal government's fiduciary responsibility to the native people in the Yukon, how are they able to transfer their obligation for education, the land and the management of the land, as well as the social programs that affect native people, to the territorial government?

Chair: I am going to have to pass that on to Lesley, because she is more familiar with it than I.

Ms. McCullough: I understand that you want a policy answer to that. There are three parties to this agreement. The territorial government's position has been that Canada certainly has outstanding fiduciary duties. This agreement, negotiated by the three parties, is an attempt to realize that the practical fact is that some of these programs are delivered to all Yukon people. In some areas, First Nations have stated to the federal government that it has a fiduciary duty toward them and that the federal government has not made good on that. To some extent, it may be met by the Yukon government programs. Certainly, on the part of the Yukon government there has been no desire or attempt to take on any fiduciary responsibilities, and there has been a recognition that there is an ongoing fiduciary duty in many areas on the part of the government. As I said, that is what this agreement is attempting to address.

Ms. Johnson: I am wondering about the programs that have already been transferred from the federal government. It is the federal government's fiduciary responsibility to look after the education of native people. In that regard, when residential and mission schools were closed down in 1964, education was transferred over to the territorial government. This umbrella final agreement, and the Kehoe Report, deals with education, skimming on the very top.

Bernard just mentioned about attaining self-government. Self-government comes from what you are able to pass on to each generation and the governing of your home, of your individuals and, from there, your community. The umbrella final agreement does not deal with the transfer of land and the development on that land, other than very little compensation that is being allowed for in the agreement.

Under what kind of statutes, in Canadian law, does the federal government have the right to transfer its fiduciary obligation to another government?

Ms. McCullough: I do not think there has been a transfer of any fiduciary obligation. I do not think any government has taken that position.

Chair: YTG delivers education, but there is also a letter that does not absolve the federal government from its fiduciary responsibility. The same would be negotiated in the health transfer, that, while we deliver the services, the federal government acknowledges its fiduciary responsibilities.

Those are two areas that I am aware of.

Ms. McCullough: Education is one of the areas in which a First Nation can make laws and provide policy. The position negotiated so far under finance is that the First Nation will finance

those programs and policies under agreements that the federal government will finance.

That is one of the areas where First Nations may well adopt jurisdiction: health services and education services. Looking at the self-government jurisdiction areas, there is an attempt to examine and articulate, where possible, the areas where the federal government does have a fiduciary duty. I think we all know that it is not possible to make an exhaustive list, because we may not discover all areas, so we need a rider in the agreement. There certainly was an attempt to state the areas where in the past there had been recognition of fiduciary duties: health, education, child welfare, cultural areas.

Ms. Johnson: When you are talking about self-government and the transfer of a federal government responsibility, even if they do still have an obligation, the territorial government in this instance has allowed for only a certain amount of enhanced Native studies within the parameters that are allowable for in the education system. It is the same thing in the case of child care. The same thing is being put in place with the health and social services program.

Bernard was talking about the parameters that are allowed when you are dealing with government, and we just incorporate that into our thinking, and that is not our way of thinking. People outside of a native community have a hard time trying to incorporate a different way of thinking into the way they have been brought up. What is written down on paper, based on the parameters that are set up by people down south, they come up and negotiate on behalf of the Yukon people, with the native people. There are parameters that the native people of the Yukon have to live by. When you think about self-government, I do not believe that kind of thinking is applicable. Certainly, when you look at what things have already been negotiated by other First Nations on the self-government agreement, there may be some leeway, but that leeway is very minimal in most instances.

Another point I wanted to make, and Tim made a little note of it, is that when we come to looking at land, each First Nation has a traditional territory within the Yukon. Within that traditional territory, certain lands are picked out — settlement lands, community lands, A and B lands and site specific. Those lands can be looked after and governed to a certain extent by the native people within that traditional territory. However, the territorial government already has a different department planning policy that will go out into the public and then get passed in the Legislature of the Yukon that affects different traditional territory. One thing that was just mentioned here is the cottage lots around lake shores.

There is a whole list of things and we can just keep going on and on. Your land claims department has been really busy, but that is something you have to be aware of and you, as the Government Leader, have to also be aware of that. It is not very courteous for us to sit down to negotiate in good faith, when somebody over here is ready to implement something that both parties are not even aware of.

Ms. McCullough: I should just say that I agree with you. Unfortunately, my information is limited. I do know that when the land negotiators do come to negotiate with the First Nations, they are in a position to hear the concerns about this type of thing. Beforehand, they simply canvass all the various government departments for anything they are doing now that might have an impact upon land use or land management. If so, we want to know about it. We want to make sure that anything like that is harmonious with the proper negotiations of land claims.

I will personally apologize. I know that the Kluane regional land use planning that has been going on, and I know that there are concerns by both the White River and the Kluane First Nation, and I believe you have representatives on the planning commis-

sion, but the First Nations were not provided letters of support, which I think is what the federal government is asking for.

I do not want you to take my ignorance of this as an indication that the land claims secretariat has not been paying attention to this issue. I have to say that the reason we are trying to pay attention is because we agree that it is vital that we do not negotiate on one front and then try to achieve something else through the back door and end up bargaining in bad faith. It is difficult, in a large government, where people do things separately, and every attempt is made to avoid that happening, but we are always happy to have anything like that brought to our attention.

Ms. Joe: Mary Jane, I am wondering about the kind of legislation you are talking about. Since the new government has taken over, there has been no substantial legislation, except for the two documents that we are dealing with right now and what these hearings are all about.

I can speak for when I was a part of the government, and the kind of legislation we brought into the House. If you are talking about legislation that was passed during that period of time, we always tried to make sure that anything that would affect the land claims in any way would be subjected to a proper consultation process — and people accused us a lot of consulting too much and not doing anything.

In a lot of the things we were doing at that time, I know there was a great deal of dialogue going back and forth. John can deal with any situations that are happening right now, as Tim has mentioned, but I wondered what you might have been talking about in the past that might have been changed that drastically affected anything that might happen in the future for land claims, such as which acts? I wonder whether or not we should take blame for legislation that was passed that might affect your land claim in the future.

Ms. Johnson: I am looking at what is written down and self-government. If you look at child care, the framework does not allow for one nation of people to say this is how we are going to look after our native children here in the Yukon. What does matter is how we are going to look after our children. All it allows for is to take child care, as it is written down in documents in Ontario or Alberta, and passed up here in the Yukon. The Yukon looks at that and takes a few general notes, and says "this is how we are going to have our child care in the Yukon, and this is how it applies to all Yukoners".

It does not allow for us, within that, to say this is how children are going to be looked after outside the settlement land and, if the rest of the native people want to look after their children that stay on settlement land and reserved land, then they are allowed to.

Ms. McCullough: I think what you have been saying is that no matter what provisions have been made in previous laws in regard to education and child services, we cannot just graft a First Nations viewpoint onto an existing law. It may be better than what was, but it is just not good enough. I think there is a recognition of that fact in the self-government agreement. Specifically, the First Nation will have the power to enact laws in relation to these subjects in regard to their citizens — education being one, child welfare another, et cetera — so it is not just limited to where the child or the person will be geographically, and the First Nation will have the authority to bring about laws that are not necessarily models of what the Yukon might do or what Alberta might do, or are not First Nations' versions of those laws, but they are laws that enable or assist them to create the foundation they need to deal with those situations in the way that is best for them.

In regard to the legislative powers, there is a recognition of what you said, that you cannot just add a First Nations component to a law that has been drafted ignoring that perspective. It may be better, but it will not be good enough, and there is a recognition

that only by recognizing that the First Nation has the legislative powers is the only way that these issues will be properly addressed.

I think that is what the self-government agreement is attempting to do, and perhaps I did not articulate it properly. It is to recognize exactly what you have said and recognize the First Nations' inherent right to deal with those issues in an appropriate manner for First Nation citizens.

Ms. Joe: It was very clear when the committee met with the CYI and they introduced their overview of the land claim. We had questions in regard to the same thing you are talking about. At this point in time, we are dealing with legislation that all Yukoners have to comply with. Sometimes, they do not fit the needs of Yukoners. When the Champagne/Aishihik took over part of its child welfare, it was able to do things that the government would not have been able to do under this legislation. For instance, for a child that would be taken into custody as a result of some abuse in a home, they allowed the band to deal with it in a different way. With YTG, that child would have been put into a foster home.

Because they were looking after the care of the children themselves, they were able to do, to the best of their knowledge and ability, what they thought was right and, in many cases, it was. In the presentation from the CYI, we asked about the laws and bylaws by individual bands, and whether or not there would be laws like, for instance, a child welfare law that would be for all the First Nations people. We got information back that there could be individual band laws that would apply to that First Nation alone so that, under self-government agreements, as far as I understood, it would be permitted, so that you would no longer be bound by any laws that we might have. There are some laws that would continue to supersede other laws, like the *Criminal Code*, and things like that, but other laws would apply only to the First Nations band in regard to child welfare, education and other things like that.

Ms. McCullough: That is correct. If the First Nation chooses to legislate in regard to that area, the Yukon law is inoperable. If the First Nation legislates its own child welfare legislation, the Yukon act is no longer valid to the extent that the First Nation law provides for.

Ms. Johnson: The Roman Catholic Church receives educational grants for its educational facilities in Whitehorse; it receives a certain portion of its money from the territorial government, or perhaps a majority portion, to educate children in the Roman Catholic faith. How is it that one religious sector in the Yukon can benefit from dollars that are supposed to be used for the whole of the Yukon in educating, from pre-school right up to adult and post-secondary education?

Ms. McCullough: In regard to the Yukon's anomolous situation, there is also constitutional protection for the Roman Catholic education, as provided by the federal government. That has flowed through to the Yukon. I believe only Ontario has institutionalized Roman Catholic funding, but a lot of provinces make agreements in that regard, and also make agreements with other faiths, as well. While the Roman Catholic Church may have some constitutional protection, that does not necessarily mean — I cannot talk on behalf of the Department of Education — that it is necessarily exclusive, either. That they may have protected rights, it does not mean that other agreements or arrangements cannot be made.

Ms. Johnson: When I look at what the Roman Catholic Church in the Yukon Territory is allowed, and what happens here in Burwash Landing, like the tribal school, and the kind of negotiated process, there is still today a memorandum of agreement that is supposed to be signed for our children here in Burwash Landing to be educated at Destruction Bay. We have been arguing for years that there is a need for a school here. Burwash Landing is the oldest community on the Alaska Highway, going north, and

why is there no school here? The Destruction Bay school, which is 10 miles down the road, and which we were allowed to go to after 1964, is still sitting there. Every few years, they slap more paint on that building, and say that is the school our kids are going to go to.

This community has asked for a school year after year. We still have all the curriculum in place that was drafted up when the that school was here. A lot of that is still used in different schools. A lot of it was used by the CYI in developing the curriculum they have in place. When we talk about self-government, and we look at what it allows by a religious organization, and not allowed for aboriginal resident in the Yukon, it is in black and white. I do not think it is fair.

Chair: It is my understanding that the model of the self-government agreement gives each First Nation the ability to take on whatever services they wish to take on. If you wish to take on the educational responsibility for the children in this community, once the self-government agreement is finalized, you will have the right to do that. Then, from my understanding, you can make your own laws in that respect.

Ms. McCullough: That is what the basis is.

Chair: That is what the basis of the model self-government agreement is. At any time, if you want to take on the responsibility for child care, you may do so, and then you can make your own laws.

Ms. Johnson: Then you come right back, in this day and age, as to where the funding is going to come from.

Chair: If there are net savings for that government, the savings will go to the First Nation. If there are not enough net savings, the rest will have to come from the federal government.

Ms. Johnson: I could just go around and around on that one. Would the school be a territorial government obligation because of the transfer of education from the federal government to the territorial government to the native people of the Yukon? We look at how much money that school operated on and what it takes to operate a school in Destruction Bay. Year to year, there was a lot of savings by this school here, with no support and a lot of conflict with the territorial government, with the Progressive Conservative government and the Education Minister at that time, Dan Lang.

Mr. Cant: We acknowledge that, once the band final and self-government agreement is signed by a First Nation, devolution will take place, devolving the services from DIA and YTG into the community for self-government. That is what it is all about. The concern that a lot of members share is that their babies are growing up through all these years of waiting for the devolution to take place. As Mary Jane has stated, the requisition has gone in, year after year, asking for a school to be built here so they can raise their children under an education program that they see as more fit for their children.

By the time Burwash will possibly sign the band final agreement, it may be two or three years, or possibly more. In that process, a lot of the babies born today are going to be outside of grade 1 to grade 7 that is provided at Destruction Bay. Destruction Bay is a non-native community, and a lot of native people would like to bring the school system back to the native community.

Waiting for the finalization of the self-government and land claims package is kind of like waiting too long, as far as all the parents here are concerned. For that reason alone, I think it should be seriously addressed outside of the land claim package. Everybody keeps saying wait until the land claims is finished. They say that YTG is having a difficult time with the finances being offered. It may not go through in this legislation.

Even for a band that has already ratified its agreement, like the Champagne/Aishihik, it might take another year or two, even for them at that level of completion of their agreement.

So, you can see that all the babies that are at pre-school age right now, and there are 10 newborns in Burwash in the past few years and, right now we have five or six kids in that school. All of a sudden, there are going to be 10 or 13, with most of them from Burwash.

It does not seem right in 1993 that the Native people cannot administer their own education system.

Chair: Why was the school discontinued here?

Mr. Cant: I do not know. Perhaps lack of kids.

Ms. Johnson: There are allowed to go to grade eight up here.

Chair: I am talking about when you had the school in Burwash.

Ms. Johnson: The kids are allowed to go to grade eight in the community, then they have to commute to be fair to your children. You cannot have a primary teacher who is looking after kindergarten to grade six teaching junior high, teaching physics and geometry, and giving all those children a fair chance to learn and be able to get by in the rest of their grades, when they have to go into Whitehorse or Haines Junction to high school. You have to move out of the community. When one family moves out of the community, because they have a high school student, they are taking two or three other children. That was the case when the school had to close down, because there were only five kids.

If there is a school built here in the community who can teach the children at a competent level at least up until grade 10, you would probably not hear any flak from us for a while. When the community filled up, we would probably be wanting a Yukon college here.

In the meantime, the need will come up again and again for a school here in the community.

Chief Johnson: I think there is agreement on that.

Ms. Johnson: It is just a memorandum of agreement signed by the superintendent.

Chief Johnson: We will wrap this meeting up. YTG supports self-government, boards and commissions, and is going to try to finalize its work to meet the time constraint that is put on it. You said today that you support all these areas, like the boards and commissions, self-government, and you will try to finalize the agreement in the House this spring.

Chair: We will be going back to report on the two pieces of legislation that we are discussing now. That will put into place the mechanism to proceed to the federal Cabinet and the implementation stage.

Chief Johnson: Do you fully support the package as it is written?

Chair: We support the umbrella final agreement and the self-government package. We have real concerns about the money we are being offered for implementation.

Mr. Johnson: In looking at the past 500 years, at the track record of the treaties laid down by the people who "discovered the New World", in those 300 treaties, not one was ever lived up to. What can you say that will make us think that this agreement will not go the same way? You just cannot trust the federal, territorial and, basically, European governments built on deceit and what have you, and on numerical count. What is to say that this agreement will not go the same way as the rest of the 300 treaties that have been signed?

Chair: I cannot give a guarantee for any times into the future.

Mr. Johnson: I do not want a guarantee.

Chair: At this stage of negotiation, your people are being represented at the table. Agreements have been reached by CYI, the territorial government and the federal government. They are trying to get them enshrined in the Constitution.

Ms. McCullough: The First Nations final agreements will

be. In regard to that, certainly there is no foundation for mistrust.

Ms. McCullough: It is possible that the government is entrenching this obligation constitutionally. Also, rather than have general treaties or short explanations, it is hoped that it would be bound by operable principles and are intended to be very explicit about obligations set out, as is the implementation process.

The government has bound itself, as much as it legally can, through these agreements and it is our belief that a court would enforce the stated intentions. As to broader questions about what the future will bring and how people will act, all I can say is that at this point everyone's intention is that they will be bound by the letter as well as the spirit, and there has been an attempt to entrench that obligation to the greatest extent possible.

Ms. Mary Jane Johnson: When we look at the co-management of lands within the traditional territories of each First Nations as outlined in the umbrella final agreement, it mentions law that applies to the co-management of those lands and First Nation input into certain areas of management. There are boards and committees to be set up during the implementation process of the final agreement. It allows First Nation people to have certain input and in some instances there will be boards established. How closely is the territorial government going to follow the recommendations that come from these boards and commissions at the advisory level? Or is this something that is in place and looks good on paper.

Ms. McCullough: It was not negotiated just to look good on paper; it was negotiated to be a working system. Depending upon what sort of area it is, what type of co-management that the special management area is, through land use planning, in some areas the boards will make decisions themselves. Most of the boards do have First Nation input up to 50 percent. In other cases, the board makes recommendations to the Minister. I think the pattern has been in the Yukon with all governments and Ministers, whether they are called advisory boards or are operating in an advisory capacity, I think Ministers take the recommendations of those ... (*sound is temporarily lost*) ... once again, one cannot have guarantees as to how, in any individual situation, what would be the appropriate decision and who would make it.

I do not believe that any of the parties thought that this was just an attempt to waste time and only put it down on paper. It was meant to be a working system.

Chair: I think all three parties at the table are negotiating in good faith, and want to come up with an agreement that will be workable. If we do not come up with an agreement that is workable, it is in no one's best interests.

Chief Joe Johnson: For the future, I certainly hope it is workable.

Chair: I certainly do, too.

I wish to thank everyone very much for attending this meeting and expressing your views.

Mr. Bernie Johnson: I would like to thank the committee for coming here to hear our views. Thank you.

Committee adjourned at 4:20 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 5

Official Transcript

**Monday, January 25, 1993
7:30 p.m. to 8:10 p.m.**

**Community Hall
Destruction Bay, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

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- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
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- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
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THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

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Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly

Missy Follwell, Deputy Clerk

Destruction Bay
January 25, 1993 — 7:30 p.m.

Chair: Thank you for coming.

I would like to introduce the committee. My name is John Ostashek; I am the Chair of the meeting. On my left is Margaret Joe, the MLA for Whitehorse Centre. On my right is Mickey Fisher, the MLA for Lake Laberge. With us from the Land Claims Secretariat is Lesley McCullough. She will answer your questions as best as she can. If we cannot answer them, we will get the answers back to you.

As you know, in the Legislature in December, we introduced two bills: one pertaining to the umbrella final agreement and one to the self-government agreements. The agreements were attached to these bills.

This committee was struck by the Legislative Assembly to go out to all the communities of the Yukon to listen to the views of Yukoners pertaining to the umbrella final agreement and self-government agreements.

We are here to listen to your comments and views and answer any questions you may have.

Other than that, I think I will just have Lesley give a brief overview of the umbrella final agreement and self-government agreements and then we will accept questions.

Ms. McCullough: This will be pretty dry, especially with a small group. Bear with me and I will try to go through it quickly.

I will give a little historical precis first and then explain a bit about what is in the proposed final agreement and self-government agreements.

It began in 1973 with a model process when CYI presented its brief *Together Today For Our Children Tomorrow*. Negotiations proceeded through the 1970s, although we do not see a lot of results from that. At the time, the federal government was beginning to clarify its position on claims and, during that decade, the Yukon became a party to that process. It became a three-party process.

Between 1980 and 1984, the three parties worked together, trying to get an agreement in principle. Although the negotiators initiated one in 1984, it was rejected by the Council for Yukon Indians. In 1985, the process began again. The idea was that there would be a master agreement that would meet the needs of First Nations in the Yukon, but would also be tailored to be sensitive enough to meet the needs of each individual First Nation.

In 1987, the federal government changed its claims policy in quite an important way. It was the first time it said that it would not insist on extinguishment in regard to the land that was retained by First Nations. It would not insist on extinguishment of aboriginal title. Aboriginal title still is something that has not been defined. This is one of the reasons why the First Nations were loathe to extinguish it.

Between 1987 and 1989, work on a framework agreement proceeded. In 1988, there was an agreement in principle as to what it would contain. In 1990, an umbrella framework agreement was reached and in 1991, the legal drafting of it was completed.

There are four outstanding issues, but they are relatively minor, technical points. In November 1991, a model self-government agreement was reached among the three parties. During the course of 1992, First Nations final agreements and self-government agreements were reached with Champagne/Aishihik First Nation, the Vuntut Gwich'in, the Na-Cho Ny'ak Dun and Teslin Tlingit Council. Of those, Champagne/Aishihik ratified the agreement on September 15 and the other three First Nations are beginning to initiate the ratification processes now.

The land claims final agreements are protected under section 35 of the Constitution.

The key elements provides for enrollment or eligibility of beneficiaries. It contains an exchange of rights. The First Nation exchanges rights they may have to large areas of the Yukon for the constitutionally protected rights that are set out in the agreement. There are provisions for monetary compensation. The 1989 aggregate was \$242.6 million. There has been inflation and interest built up, and that is to be divided up between the 14 First Nations.

There is 16,000 square miles of settlement land in the Yukon. There is 10,000 square miles of category A land, and that is surface rights and sub-surface and aboriginal title. The remaining 6,000 has surface rights, with no sub-surface for mines and minerals, plus aboriginal title. In addition, there are much smaller amounts of fee simple, which has no sub-surface rights and no aboriginal title. It is just the type of ownership one would get when buying land in the Yukon.

The agreement makes provision for continued access at status quo levels to settlement lands. If there are needs or demands for greater access or continued use, it can go to a surface rights board. There are provisions for a development assessment of the use of the land for joint land use planning. There is a provision for special management areas, which are those areas that may not be settlement land chosen by a First Nation, but are of particular interest to both the First Nation and government. These are specific provisions for co-management of it. The provisions depend upon what the management area is. The special management areas in Champagne/Aishihik are Kluane National Park and Sha'Washe/Dalton Post.

There are chapters recognizing the importance of water. There is some revamping or perceived future revamping of the water board. There are forest resources and provisions regarding fish and wildlife, which creates a shared management regime of all wildlife populations, except those that are strictly local. That would probably be a small one: non-migrating animals. A shared management team sets out total allowable harvest for First Nations in situations where limits have to be placed on what is harvested. You may be aware that the Sparrow decision basically gave first priority, or allocation, to Indian subsistence harvesting. What the land claim agreement tries to do is balance this right recognized by the Supreme Court with the bona fide needs of other users. They set out a formative allocation.

There are provisions as to quarries and continued use of identified quarries by government. There are provisions for resource royalties — that is when the Yukon receives royalties on mines and minerals or oil and gas, there is a provision for sharing that with the First Nations.

There are also provisions allowing for taxation of First Nations and First Nation citizens. Eventually, section 87 of the *Income Tax Act*, which gave a tax exemption, to some degree, to Indian people, will be done away with in three years. At the same time as it is phased out, there is a phase-in of their power to tax their citizens. There is also specific taxation for property taxation of settlement land, which will occur immediately after the agreement is phased in.

There are chapters dealing with heritage resources and economic opportunities, mostly in the areas of guaranteed right to invest in Yukon Government's share of hydro-electric projects, non-renewable resource projects and rights to first refusal to licences in the areas of freshwater fishing, commercial freshwater sports fishing, commercial wilderness adventure travel and, to a very limited degree, outfitting. Those are to a ceiling, basically.

There are provisions as to communication — how the parties get together to agree on how to carry out and finance what is happening in the agreement, and there is also a chapter on self-government.

Pursuant to the chapter on self-government, the parties have been negotiating self-government agreements. These are not constitutionally entrenched now, although the federal government had intended to do so in the last constitutional package that was defeated. They have still said that that is their intention, but no one has any time line on that.

The self-government agreements define the First Nations' authority to govern their own people and set up the government structures that will be most acceptable to their own people and will replace the *Indian Act* structures.

It provides financing and taxation for First Nations. It provides for First Nations to make their own laws to govern themselves and make their own laws in certain areas. There are two different types of areas: they have jurisdiction to make laws in regard to their own citizens, wherever those citizens may be in the Yukon, in regard to things like health or education. There are also land-based self-government powers, which are in effect only on settlement land and deal with areas connected with land use planning, zoning and that type of thing.

There are provisions for a First Nation to prepare their own constitution, setting out the government structures and citizenship code, so that we know who is eligible for citizenship and what the criteria are.

There are provisions for financing of self-government, partly through transfer agreements with the federal government and partly as First Nations take on most services to their own people. The Yukon government will contribute its net savings for no longer providing those services — if there are any net savings. To some degree, First Nations eventually will be self-financing, as well. They will have the power to tax after the three-year delay or when that taxation is done away with. There are also provisions to tax (*inaudible*) property on settlement land.

There are provisions so that, by 1999, a First Nation will be able to exercise the administration of justice. Up to that time, they will not, unless they reach some sort of agreement with government as to the way in which to do it. The idea is that, hopefully, it will be a phased-in process.

The other really important element of the agreement is the fact that there will be First Nations settlement land and non-settlement land abutting each other. I think all parties wanted it to be handled in a harmonious way and not lead to friction. There are provisions in regard to settlement land inside organized communities with limited self-government powers. For example, when a municipality has zoning provisions et cetera, the First Nation, as part of the negotiating process when they select that settlement land, they may be asked to give if they would be willing to give up the self-government power with regard to zoning or billboards or land use so that it would be compatible with what is happening in the greater jurisdiction.

There are other provisions for compatible land use, so that when land is next to each other, one party does not use their own land in a way that is harmful to the other parties. For example, they could not have polluting things on the edge of one. They would not have an amusement park abutting a graveyard — that type of thing. There are provisions for mediation and, eventually, non-binding arbitration.

There are provisions to enter into local service agreements. Those services previously delivered by the government or the municipality may be delivered by the First Nation, or agreements may be reached with the First Nation to pay them for their services.

There are also agreements as to greater regional structures, districts, land use planning districts and that sort of thing. There can be products of joint planning between First Nations and non-First Nations.

Just as a last note, there are provisions as to how reserves are

handled. Basically, there are very few reserves in the Yukon. There are none in this part of the Yukon — *Indian Act* reserves, that is. There may be some potential for specific claims brought by a First Nation, for a reserve. The model that has been looked at to date is that, although those may be retained as reserves, the *Indian Act* will not apply. They will still be reserved for Indian people. For all intents and purposes, they will be treated as though they were settlement land. Hopefully, they will distinguish it.

Those are the agreements.

Chair: Thank you, Lesley. As the proceedings are being recorded, please identify yourself before you ask any questions or make any comments.

We are all yours.

Jim Flummerfelt: I have one question. I would just like to say that, on my part, and for a lot of people I have talked to, they wish it would be over and be done with it.

Over the years, it seems like a lot of people have been holding it up somewhere along the line. They are either making too much money or they do not want it settled or something. That is just what it seems like sometimes. There are too many lawyers with their hands in it.

Chair: Yes, it has been a long process. There is no doubt about that. As you know, Jim, and I know, back in 1973, when the process started...

Jim Flummerfelt: I realize it cannot be done overnight.

Chair: ...there were a lot of hostilities, a lot of mistrust, emotion and unfounded fears. Over the years, I think it has been a learning exercise for us and the First Nations people. There is no doubt that there are many people who feel the same way you do. I know that many First Nations people would like to see this process over with so that there would be some certainty in the Yukon.

I believe that when we have that certainty in the Yukon, the Yukon will prosper. People will know what parts of the Yukon are governed by whom and whom they must contact in order to proceed with whatever endeavours they decide to undertake.

Yes, I think that everyone in the process would like to see the agreement signed off and ratified and the process continue until all 14 bands have negotiated agreements.

Ms. McCullough: I have only been working on it for the last year, but I can tell you that the people working on it, no matter how much money they are making, do not want it to go on forever. There was a really good feeling in the last year when the First Nations actually signed the agreement; it was wonderful. It is a wonderful feeling to go on to the next step.

What you really see is that a lot of this has happened since 1987 and 1988. A lot has been accomplished in that time. The first 15 years were laying a slow, tortuous groundwork. The thing is, someone is always coming up and saying, for example, "You did not address water rights," but it is a nice feeling for it to proceed for everyone.

Jim Flummerfelt: Yes, but the person on the street does not know that; they only read the newspapers and listen to the radio. At the start, there were a group of lawyers in the first round of negotiations. Suddenly, they either got rich or they were fired. Then a new group of lawyers come in...

Ms. McCullough: Or discouraged.

Jim Flummerfelt: ...and all of a sudden, there are a whole new set of problems. They go around and around again. Pretty soon, they are gone and a new set comes in and then there are another new set of problems. It never seems to end.

I guess it is a matter of education. That is what it seems like to the person on the street.

Ms. McCullough: Oh, yes. It has taken a long time.

Chair: In 1984, an agreement was signed and we were very

close to a settlement when that fell apart.

Jim Flummerfelt: What will be the mandate for the First Nations regarding game management in the self-government agreements? Will they have control over just the game on their own lands or what?

Ms. McCullough: I believe they can make laws in regard to local populations. There is some discussion as to what exactly local populations are, but I think there is some consensus that it is non-migrating species that will stay there. It would probably be species that do not travel in herds. There may be some control of their ability to make laws in regard to those, but the vast majority of fish and wildlife that people in the Yukon deal with and use will be under shared management.

The Yukon Fish and Wildlife Management Board, which has already been set up, has guaranteed First Nation and government representation. In each First Nations' traditional territory there will also be renewable resource councils set up, which will also have government and First Nations appointments. They will give direction and advice to the Minister in regard to some issues. For limited issues, they will have some decision-making power. Mayo already has a renewable resources council, but that is an area that cannot be managed in isolation, on or off settlement land. It is an issue that is of vital concern to all Yukoners.

Dawn Jennings: I was hoping there would be more people. I was hoping I would become more updated and get more information about what was going on. I do not have a question at this point.

Ms. McCullough: I bet you know a bit more now than you did before.

Dawn Jennings: A little bit. I feel a bit like you do, Jim, in that I am hoping to see it settled and things be finished and finalized.

Ms. McCullough: The good thing that I have seen in the last year since we started negotiating with other First Nations is that the process is faster. We are negotiating with Dawson and there are hurdles, but where it took a couple of years of negotiation to reach final agreements with the first four, it really has moved much faster because government and First Nations sat down with each other and said, "Let us not goof around with this. You have settled for this in the past, we can work with this model, so this is how we are going to do it." It seems to be proceeding more quickly. That may be optimism on my part.

Jim Flummerfelt: When this agreement is reached and everything is ratified, or whatever you call it, and this land is turned over to the First Nations and they receive their other commitments, is that the end of it?

Chair: Not really, it is only the beginning when it comes to the self-government agreement.

Jim Flummerfelt: I can see that carrying on.

Chair: The umbrella final agreement, the monies and lands they get should be complete. Self-government agreements are ongoing negotiations. A band does not have to accept any of the responsibilities under self-government if they do not want to. They have the ability at any point to take on, say, the delivery of education in a community. They would then negotiate the parameters of taking over the responsibility for education and they could pass their own laws to govern that section. This allows them to move at whatever speed they feel comfortable with, so there will be ongoing negotiations.

Jim Flummerfelt: That is all I really wanted to know.

Chair: Thank you for coming out.

Meeting adjourned at 8:10 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 6

Official Transcript

Tuesday, January 26, 1993
7:45 p.m. to 8:55 p.m.

Arena Mezzanine
Haines Junction, Yukon



PRINTED ON RECYCLED PAPER

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ON
LAND CLAIMS AND SELF-GOVERNMENT**

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Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Miller (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Haines Junction, Yukon**Tuesday, January 26, 1993 — 7:45 p.m.**

Chair: Thank you for coming out tonight on this cold Yukon evening. Your MLA is hiding behind the post over here. I asked him to open the meeting, but he refused so I guess I can open the meeting myself.

For the record, I would like to introduce myself and the land claims committee. My name is John Ostashek; I am Chairman of the committee. On my far left is Margaret Joe, MLA for Whitehorse Centre; next to Margaret Joe is Dan Joe, the MLA for Mayo/Tatchun; John Devries the MLA for Watson Lake; on my far right is Jack Cable, MLA for Riverside; and Mickey Fisher, MLA for Lake LeBerge.

This committee was appointed by the Legislature last December after two bills were introduced in the Legislature to approve the Yukon land claim final agreements and the self-government agreements.

The agreements attached thereto were referred to this committee, which was to go out to the communities and listen to people's comments on the umbrella final agreements and self-government agreements.

Tonight, we will be discussing the umbrella final agreement and the self-government agreement of the Champagne/Aishihik First Nation, which was the first First Nation to ratify an agreement. We are here to listen to your comments on the land claim and the self-government agreements, and with the assistance of the Yukon Government land claim officials who are with us, we will try to answer your questions.

At this point, I would like to introduce those officials to you: the head of the Land Claims Secretariat, Tim McTiernan; on Mr. McTiernan's left is Leslie McCullough; and on Mr. McTiernan's right is Karen Armour. Also with us, sitting in the audience, is Mr. Ken Kane, who is employed by CYI to follow the hearings, take notes and to answer any questions that you may have.

The settlement of land claims is very, very important to every Yukoner. It is imperative that we have a thorough understanding of what the land claims process is about so that we can work together in the coming years to ensure that the Yukon is strong and vibrant.

I cannot suggest for a moment that the land claims process is a simple task. I am sure that even the people who have been working on these agreements for many years do not understand each and every clause of the agreements. The agreements are very complex. A lot of work still must be completed to put into practice what the negotiators who have worked long and hard to put on paper the items that individual First Nations have said is important to them.

Signing this legislation does not mean it is the end; it is only a good beginning. With the self-government agreements there will be ongoing negotiations as each First Nation decides to take on services that they want to provide to their people. At that point, there will be negotiations with the federal government and the territorial government to take over those duties.

I hope tonight that we will be able to have a very open and informal discussion. This meeting is being taped, so when you make a statement or ask a question, please identify yourself so that the people who are doing the transcribing will know who asking the questions. There is coffee available at the back of the room; help yourself at any time.

Prior to our starting questions I will ask Mr. McTiernan to give you a brief overview of the UFA and the Champagne/Aishihik self-government agreement.

Mr. McTiernan: Thank you Mr. Ostashek.

As Mr. Ostashek has indicated, we are in the final steps of completing land claims agreements and putting land claims agree-

ments in place for Champagne/Aishihik First Nation and for other First Nations in the territory.

This is a process that started in 1973 with the presentation to the federal government of the Yukon Indian comprehensive land claim, a claim entitled *Together Today For Our Children Tomorrow*. It is a process that has carried on since 1973 to date, where we now sit with the Champagne/Aishihik final agreement and self-government agreement having been ratified by the First Nation, and with the Champagne/Aishihik final agreement and umbrella final agreement and the self-government agreement approved in principle by the Yukon Legislature with first and second readings of separate land claim and self-government bills.

We are in the second to last step with these hearings before the legislation that has been introduced into the Yukon Legislature is put forward for third and final reading and approval.

To put the Champagne/Aishihik land claim and self-government agreements into effect, federal legislation remains to be completed. All the parties at the negotiating table are moving as quickly as they can to ensure that federal legislation is drafted and introduced to Parliament as quickly as possible to give full effect to both the land claims agreement and to the self-government agreements.

There will be two pieces of federal legislation introduced, just as there are two pieces of Yukon Government legislation to give effect to the agreements.

There will be legislation that will ratify land claim final agreements and constitutionally protect land claims final agreements under section 35 of the Constitution.

There will be separate legislation that will give effect to the self-government agreement and self-government powers of the Champagne/Aishihik First Nation. The Yukon Indian people have long argued that self-government legislation should be constitutionally protected, just as land claims legislation has been constitutionally protected. That is an issue that is still being pursued and the Yukon Government and CYI have undertaken to work together closely, in support of one another on that issue.

The land claims negotiations have been underway for close to 20 years. It will be 20 years next month. As indicated a moment ago the, land claims process started with the Yukon Indian claim called *Together Today For Our Children Tomorrow*.

Claims negotiations in the 1970s were essentially bi-lateral negotiations between the federal government and the Yukon Indian people.

In the late 1970s and the early 1980s, with the emergence of responsible government in the Yukon Legislature, the Yukon Territorial Government lobbied the federal government and was successful in obtaining separate status at the negotiating table.

By the time we entered the 1980s there were three parties negotiating for Yukon land claims agreements. Between 1980 and 1984 there was a substantial amount of work done on an agreement in principle with respect to the Yukon land claims, much of that work having been spearheaded by the Champagne/Aishihik First Nation on the Council for Yukon Indians side.

An agreement in principle, as you know, was presented to a leadership meeting of the Council for Yukon Indians in the summer of 1984. The agreement was not endorsed at that time for a number of reasons.

In 1985, efforts were made on the part of the three negotiating parties to re-start negotiations and to address some of the outstanding issues that had been raised at the CYI General Assembly that had rejected the 1984 agreement in principle.

The outcome of that work was a restructured process that paid attention on two levels to the overall issues and aspects of the land claims agreement that would be common to all of the 14 First Nations in the Yukon. At the same time, this process paid par-

ticular attention to the specific needs and specific issues that focused on the aspirations of each individual First Nation.

There was an effort made between 1987 and 1989 to work on both the framework and an agreement-in-principle that covered common elements of all land claims agreements in the Yukon Territory, as well as to carry on community negotiations that would address specific issues, such as land selection, wildlife harvesting rights and the special interests of each of the separate 14 Yukon First Nations.

That work became focused in late 1987 and early 1988 toward a series of steps that have happened between the summer of 1988, where an agreement in principle was negotiated and shaped. The agreement set out the framework of all the issues that would be covered by both an overriding umbrella final land claims agreement and particular First Nation final agreements.

The agreement in principle that was reached in the summer of 1988, finalized in the fall of 1988 and publicly released in 1989 was the ground work for negotiations toward an umbrella final agreement, which gave more detail to the agreement in principle and set out the range of issues that would be covered in each of the land claims agreements with each of the 14 First Nations.

The umbrella final agreement, the same as the agreement in principle, had committed governments to negotiate self-government agreements with each of the Yukon's 14 First Nations.

This was the first time in the history of comprehensive claims in the Canada that governments had committed to negotiate self-government at the same that they were negotiating comprehensive land claims agreements.

The legal text of the umbrella final agreement was released in 1991. At the same time that the work on the legal text was being finalized for the umbrella final agreement, work on an overall model self-government agreement had been started. That work reached its conclusion in November of 1991, when the three parties to the negotiations, the federal government, the Yukon Government and the Council for Yukon Indians, completed negotiations on a model self-government agreement.

That model self-government agreement has been the basis for the negotiation of self-government agreements with each of the First Nations.

These self-government agreements, to date, have been negotiated at the same time that final, comprehensive land claims agreements have been negotiated with the First Nations.

At this point, we have final, comprehensive land claim agreements with the Vuntut Gwich'in of Old Crow, Na-Cho Ny'ak Dun of Mayo, the Teslin Tlinglit Council and, of course, with the Champagne/Aishihik First Nations.

Those final, comprehensive land claim agreements stand together with the self-government agreements.

As you know much better than I do, on September 15, 1992, the Champagne/Aishihik First Nations ratified its comprehensive land claim agreements and self-government agreements.

The ratification allowed for the re-introduction of land claims legislation into the Yukon Legislature. Land claims and self-government legislation was introduced in December of 1992.

With first and second reading, as Mr. Ostashek has indicated in his opening remarks, the Legislature established a special committee on land claims and self-government to conduct these hearings.

The land claim agreements, both the umbrella final agreement and the specific provisions in each of the First Nations final agreements, set out a number of obligations on the part of government and set out a number of rights and benefits for First Nation people and for First Nations.

In terms of the general structure of land claims agreements there is a bulky and weighty package. For each of the First Nation

agreements so far, these packages, when you go through them, include general text set out clause by clause and chapter by chapter. Embedded in the text there is a series of clauses that are blocked off with block lines. The clauses that are inside the boxes that are blocked off are specific provisions particular to each First Nation final agreement.

The general text of the agreements capture all of the provisions of the umbrella final agreement — the provisions that will be common to all of the land claims agreements across the territory.

We have with us some copies of the final land claims agreements. We have behind us land selection maps that give people an understanding of the land parcels that have been selected by the Champagne/Aishihik First Nation and we also have text of the Champagne/Aishihik First Nation self-government agreements. The agreements set out general provisions in the self-government agreement, as well as specific provisions that relate to the application of self-government powers on the lands selected by the Champagne/Aishihik First Nations.

In general, the land claims agreements cover seven or eight different areas. The agreements provide, first and foremost, a closure to the land claims process — a finish to the negotiation of land claims, if you like — setting out the rights and benefits that First Nations will retain, including the amount of land and the financial compensation package that First Nations will retain, in exchange for a surrender of outstanding title to the remaining lands in the traditional territory of the First Nation. These remaining lands will be managed and developed by government for general social, economic and community good, with the involvement and participation of First Nations in the management processes as set out in the agreements.

As well as setting out certainties in the land claims agreements and closing the long-standing negotiation process, the land claims agreements define who the beneficiaries are to the claim — specifying the First Nation to the claim — and also the criteria that First Nations will use in enrolling beneficiaries under the claim.

The agreements also set out the amount of land available and selected by the First Nation in the claims process, as well as defining the specific land parcels that have been agreed to by the land negotiators — land parcels, as I have indicated, that are captured on maps, similar to the maps on the wall behind us.

In total there are 16,000 square miles of land that will be retained by Yukon First Nations, together with 60 square miles of land in lieu of reserves that are known to exist or that could potentially exist as a result of legal searches and legal title searches. There is also the opportunity for the establishment of special management areas through land claim agreements, and I will talk about special management areas in a moment.

The amount of land selected by the Champagne/Aishihik First Nation totals approximately 950 square miles — I am off by a number of square miles, but it is approximately that amount of land. The land selected is held in both category A and category B title.

Category A lands include sub-surface title to minerals, oil and gas resources, as well as a package of surface rights, including fee simple-type rights and aboriginal title. Category B lands include the same package of surface rights that category A lands have, but they do not incorporate sub-surface title.

There are also site-specific parcels of land that include cabin sites, fish camp sites and a variety of small parcels in the rural area, as well as specific sites held in fee simple within the community of Haines Junction.

As well as setting out the amount of land that will be retained by the Champagne/Aishihik First Nation, the land claims agreements set out land access provisions that guarantee access to Crown lands by First Nation people and also provide provision for

access onto and across undeveloped settlement lands for non-aboriginal people, or non-beneficiaries of the Champagne/Aishihik First Nation.

The land claims agreements also set out land management processes, such as a land use planning process and a process that will evaluate the social and environmental impacts of development projects.

Both of these processes will involve representation from the Champagne/Aishihik First Nation and representation from nominees of government at large. The processes will be managed to ensure compatible land uses so that impacts on settlement lands are minimized and impacts of activities on settlement lands and non-settlement lands are minimized.

The objective and the principle will be to ensure integrated and coordinated land management as First Nations exercise their land management rights and as government continues to manage the remaining lands in the traditional territory.

The other categories of land that is provided for in land claim agreements are special management areas. Special management areas include national and territorial parks, historic sites and special wildlife areas — areas that are of common interest to First Nation people and to government. This would include areas that have special value that is recognized in the agreement and that are protected in the management regimes.

In the Champagne/Aishihik's First Nation final agreement, Kluane National Park is set out as a special management area, as is the Dalton Post area known as Sha'washee, and provisions are made for the designation of the Tatshenshini River as a Canadian heritage river.

Other special management areas are set out in other First Nation final agreements that cover specific heritage sites, for example Rampart House in the Old Crow agreement, or special wildlife areas, for instance the Nisutlin Delta in the Teslin Tlinglit final agreement.

The land claim agreements also set out the rights that will continue to be vested with First Nation people and First Nations, including rights to harvest wildlife, rights to trapping concessions, rights to use forest resources for domestic and subsistence purposes and rights to use water for domestic and subsistence purposes.

Wildlife harvesting rights and trapping rights are set out in a major chapter in the final agreement, chapter 16, which details the rights of First Nation people to harvest, for subsistence, and specify a harvest allocation/harvest sharing formula for moose in circumstances where there is a total allowable harvest for moose set in the traditional territory.

The basic principle of the wildlife harvesting chapter is the principle of conservation. Wildlife is to be managed to ensure its conservation and harvest is to be managed to ensure that the wildlife population levels are maintained at a sustainable level.

Where there is need for a restricted harvest, to ensure conservation, a total allowable harvest is established and a sharing formula kicks-in that provides access for First Nation people to harvest moose. It also provides for where there are more than 15 moose available in the total allowable harvest for a share in the harvest between First Nation people and non-aboriginal harvesters.

The final agreements also set out the financial compensation package available to First Nations. Overall in the Yukon land claim, there is \$242 million available in 1989 dollars to the 14 First Nations. There is also \$26 million or so in compensation to First Nations for a buy out of the section 87 tax exempt provisions of the *Indian Act*. For the tax exempt buy out, there is a three year moratorium, matching the three year moratorium on First Nations exercising their taxation rights and powers under self-government

agreements. There is a need to cross-reference those sections of the final agreement with the self-government agreement.

The final agreements also detail economic issues and economic opportunities for First Nations beneficiaries.

In the Champagne/Aishihik First Nation agreement, there are economic opportunities for the Champagne/Aishihik First Nation in Kluane Park, with respect to issues such as the right of first refusal to provide horses to the National Parks Service or to operate commercial horse riding operations in the park. Other examples would be to operate motor assisted boat tours in the park or the operation of regular, commercial motor vehicle service in the park. Other economic opportunities address the involvement of the Champagne/Aishihik First Nation, if they so wish, in hydro development projects — such as purchasing equity shares in any project within their traditional territory.

The agreements set out resource revenue sharing provisions, whereby First Nations can collectively benefit from shares in resource royalties from oil and gas production within the Yukon.

There are also training provisions set out in the final agreements.

The umbrella final agreement commits government to negotiate self-government agreements. Those self-government agreements, as I indicated, to this point have been negotiated together with final agreements for the First Nations.

The umbrella final agreement also sets out the requirements of the implementation plans, to ensure the implementation of the final agreements. Currently, the negotiators from the three parties are completing implementation plans for the umbrella final agreement, the self-government agreements and for the First Nation final agreements.

The umbrella final agreement also provides for two trusts: a wildlife enhancement trust, with million dollar endowments from each of the three parties, to be used to support wildlife enhancement projects; and a training trust, with endowments from both the federal government and the Yukon government of \$3.25 million each, to provide for training for First Nation beneficiaries to take full opportunity and to be prepared to implement the land claims.

I feel like I am saying nothing, but taking a long time to say it, in some respects, but there is an awful lot of detail in the agreements. I will leave aside the final land claim agreement for the moment and move on to the self-government agreement and provide you with a brief outline of what is in self-government agreements and then perhaps pause, because questions might get at the detail of the agreements much better than I can speak to them in general terms.

Land claims agreements meet the outstanding obligation of the federal government to conclude treaties with all of the First Nations in Canada. Because of that outstanding obligation to conclude treaties with all of the First Nations in Canada, land claim agreements are protected under the Constitution as all previous and existing treaties have been protected.

Self-government agreements help to redefine the relationship between First Nations and government. To this point, since Canadian confederation — and indeed before it — the relationship between First Nation people and government have been defined by the provisions of the *Indian Act*, which sets out the relationship between Indian people and the federal government. To a greater extent in the last few years provincial and territorial governments have been tucked in under that general umbrella.

Self-government agreements replace the *Indian Act* with legislation and agreements that will allow First Nations to establish their own governments and make their own decisions without referring their decisions to Ottawa for approval and final endorsement before they can be put into effect.

Self-government agreements will allow First Nations to establish their own forms of government. They vest an obligation on First Nations to run their governments in a fair and open manner, reflecting the interests of all of the citizens of the First Nation.

Self-government agreements set out the provisions for citizenship in a First Nation, which can be a little different than the provisions for being a beneficiary under the land claim agreement.

Self-government agreements also provide for First Nation constitutions that set out government structures and the way in which government is conducted.

Self-government agreements provide for a set of authorities and responsibilities for First Nation governments to conduct their own affairs, make their own laws for their own administration, replacing the provisions of the *Indian Act* that deal with band government.

The agreements set out the powers that Indian First Nation governments have on their own lands for the management and protection of their own lands and set out the jurisdiction that First Nations have over their own citizens for the delivery of services and programs. The jurisdiction that First Nations have for the delivery of services and programs to their own citizens extends to off settlement lands, as well as on settlement lands.

Having set out the structure of government in self-government agreements, or at least allowed for First Nation governments to be established in self-government agreements, and having set out the powers of First Nation governments and self-government agreements, the rest of the self-government agreements then deal with the mechanics of how self-government will be implemented.

There are provisions for the transition of service delivery from the territorial government, for the most part, to First Nation governments through the orderly transfer of power, the notification of each other — both the territorial government and the First Nation government — when they are enacting laws in areas of jurisdiction that each has responsibility for, and when First Nations want to deliver services in an area of jurisdiction. For example, if First Nations want to exercise their rights to deliver health care services, social assistance programs, educational programs, set environmental standards for land use on settlement lands or establish zoning standards for land use on settlement lands, First Nations notify government and negotiate with the federal government, with the involvement of the Yukon Government, for the resources that are available to First Nations to exercise those powers and the mechanisms for the transfer of powers, so that the details of money, timing and what will continue to be delivered by the Yukon government and what will be delivered by First Nation government are all sorted out in later negotiations.

In particular, negotiations will take place on taxation issues and will take place on the delivery of aboriginal justice powers.

Finances, taxation, aboriginal justice and the application of self-government powers on lands in and around communities are all dealt with in self-government agreements. In some instances, in and around communities, the application of self-government powers have been limited on specific small parcels of lands in communities.

There are provisions in the self-government agreement that allow for compatible land use, to be negotiated between municipalities and the First Nation, to ensure the orderly development of land, both First Nation as well as municipal land, so that land development and land use for First Nations in municipalities do not run afoul of each other.

I should probably stop, because I have gone on a lot longer than the 10 minutes that I have been allowed, and deal with your questions. Thank you.

Chair: Thank you, Tim. That, ladies and gentlemen, will

give you an overview of a very complex set of agreements, but at this time we will entertain any views or questions that you may have. We will answer your questions to the best of our ability.

The floor is now open for questions — you must have done a good job of explaining it Tim.

Mike Crawshay: What happens if a non-native has a trapline that, when land claims is settled, ends up being in settlement A lands — like the lands where they get all the rights. What happens with his or her trapline?

Mr. McTiernan: There is provision for continued access to the trapping concession as long as the trapping concession is held in good standing by the non-aboriginal person. The land claims agreements deal with the continued use of a trapping concession by the concession holder. The land claims agreements provide for succession rights in some instances to immediate family of a trapping concession holder.

Over time, within each of the traditional territories, the pattern of trapping concessions will move to the ratio that is set out overall in the agreements, which is across the territory, roughly a 70/30 ratio — the existing 70 percent category 1 traplines and 30 percent category 2 traplines. The existing concession holder continues to exercise his or her rights, continues to have the trapline concession and as long as he or she keeps it in in good standing can continue trapping on the trapline.

Mike Crawshay: But if that person wants to sell the trapline, then First Nations get the first crack at it to buy it, or do they just get it?

Mr. McTiernan: Well, the difficulty with talking about and selling traplines is that the concession is passed by government from one concession holder to the other and that will be done in terms of the provisions of the agreement.

There are improvements on traplines, and stuff, that a concession holder may have built or developed over time and, quite frankly, I cannot answer specific questions in terms of what can be done in terms of disposing of those improvements, but it would certainly be a case that on category A lands the basic land holder is the First Nation in question, and that would have to be taken into account in disposing of any improvements on the trapline.

Mike Crawshay: When all this stuff gets transferred over through the self-government process, and bit by bit it gets negotiated and a new bureaucracy is created in each First Nation's territory, is there anything in the negotiations to make the federal bureaucracy smaller, or do we end up with two bureaucracies?

Mr. McTiernan: We hope so.

Mike Crawshay: There is nothing in the agreement that says it is going to get any smaller.

Mr. McTiernan: We are dealing with implementation right now and cannot get into the details of the negotiations, as such, but it is very clearly understood that as the First Nations begin to pick up on and exercise their powers and responsibilities the Department of Indian Affairs' presence will dwindle, and will diminish over time.

There is an argument that DIAND should be wiped away totally, and that certainly is an argument that has been carried by First Nations. What will happen is that DIAND program delivery will disappear. There will need to be some form of relationship between First Nation governments and the federal government in the negotiation of financial transfer agreements and ongoing government-to-government-type negotiations.

All of the money that is made available to First Nations to exercise their power flows through the federal government. In instances where the Yukon government has cost savings because it has stopped delivering a program to First Nation citizens, those cost savings will flow back through the federal government to the First Nation in question. All the financial dealings on the delivery

of programs and services by a First Nation will occur with the federal government. There will need to be some office where those negotiations take place, but there will not be two sets of people running around the community delivering two sets of programs, in parallel.

Chair: Any other questions?

Marc Tremblay Let us say that under the agreements Champagne/Aishihik gets the land, the money and they get to decide whatever the deal is — for one lump sum or whatever — can the band members say "well, there are 535 of us; there are \$535 million; we each get a million bucks and that is it", or does the money go into trust and a process for investing it developed?

Mr. McTiernan: The First Nation government, I guess, with the involvement of the First Nation beneficiaries, would decide that. That is one of the things that is different about this claim than any other claim, and there are people sitting here who can probably better explain it than I can.

This is the first comprehensive claim of the modern claims in Canada where a new form of Indian government has been established at the same time the claim is being put into place.

The Inuvialuit claim in the western Beaufort and with the James Bay Agreement, with the Cree and the Inuit in James Bay, there were corporations set up to manage the land, the money and to be involved in wildlife management. There were different corporate entities without the same sort of general, single government structure that will be made available to the self-government agreements. In fact, governments will be reestablished by First Nations to actually deliver on the management of the money and stuff, and I cannot speak about how that will be done, but it will be an internal decision made by the government representatives of the Champagne/Aishihik First Nation.

The money flows over 15 years, so it does not come in a lump sum, and money management, I would expect, will be a real important issue to make sure that cash flow is managed properly, but, I really cannot speak to the particulars of how a First Nation would do that.

Mr. Tremblay: (Inaudible due to background loud speaker in use) ...

... (inaudible) ... implementation package. I understand that you are still negotiating the implementations and you do not want to get into the details of that, but is the Yukon government (inaudible)

...

Mr. McTiernan: By the money that is made available to the First Nations?

Marc Tremblay Yes, and in terms of implementation by the Yukon government of getting (inaudible) ...

Chair: That stage that we are at right now is that the federal government has made an offer to First Nations people and also to the territorial government. My understanding is that the First Nations people have sort of accepted the offer, but they have not signed it yet; there are still some kinks to work out.

The Yukon Territorial Government at this point is not prepared to accept the offer that has been made and we are still negotiating with the federal government to try to make the case that we require more funding to implement the land claims and the self-government agreement.

We would be very irresponsible if we were to accept the amount of money that is being offered to us now because it would not be enough to even do a mediocre job of implementing the land claims, so we would be in a situation where we would have self-government and land claims agreements that have been negotiated and ratified and there would be no money to implement them.

We are going to continue to make our case to the federal government, keeping in mind the deadlines that the First Nations people are facing to try to get their claims before the federal

cabinet.

Does that answer your question?

If there are no more questions, maybe you would like to take a 5- or 10-minute break to look at the maps and then we will reconvene for a few minutes to see if there are any further questions. You can get a cup of coffee and talk to the negotiators, if you like, and we will see if that raises any more questions or not.

Recess

Chair: We will reconvene the meeting. You have looked at the maps and we will entertain any further questions there are at this point.

Mr. Brewster, do you have a question?

Hon. Mr. Brewster: I have been asking questions all my life. I would not want to embarrass the committee.

Unidentified Speaker: You have done a very good job of explaining all the nitty gritty.

Mr. McTiernan: That is the first nice thing that has been said.

Chair: Well ladies and gentlemen, if there are no further questions I would like to thank you for coming out this evening and listening to what we have to say. We hope this has given you a better understanding of the land claims agreements and self-government agreements.

Thank you.

Committee adjourned at 8:55 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 7

Official Transcript

**Monday, February 1, 1993
7:40 p.m. to 8:25 p.m.**

**Robert Service School
Dawson City, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Miller (Kondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Folwell, Deputy Clerk

Dawson City, Yukon**Monday, February 1, 1993 — 7:40 p.m.**

Chair: Good evening, ladies and gentlemen. First of all, I would like to thank you all for coming out this evening.

For the record, my name is John Ostashek. I am Chair of the select committee. I have with me, on my right, Dan Joe, MLA for Mayo/Tatchun; on my left, Jack Cable, MLA for Riverside.

I see that we have in the audience Mayor Jenkins. I am glad to see him here this evening. We also have Steve Taylor, Chief of the Dawson band. Welcome, gentlemen.

This committee was appointed by the Legislature last December. The bill approving the Yukon land claim final agreements and the First Nation self-government bill were referred to the committee, as were the agreements that were attached to them.

The committee's main task is to seek the views of Yukoners on this very important legislation, and the agreements. It is then to report its findings to the Assembly this spring, along with its recommendations as to whether the agreements should be accepted or rejected. Committee does not have the right to amend the agreements.

We are here to listen to your comments this evening on the land claims and the self-government agreements and, with the assistance of the Yukon land claims official, Karyn Armour, we will try to answer the questions you may have.

The settlement of the land claims is very important to every Yukoner. It is imperative that we all have a thorough understanding of what it is all about, so that we can work together over the coming years to ensure that Yukon is strong and vibrant.

I cannot suggest for a moment that understanding them is a simple task. I am sure that even those people who are working on them do not understand each and every clause of the umbrella final agreement and the self-government agreements. A lot of work still has to be done to put into practice what the negotiators have worked very hard to put on paper, and what each individual First Nation has said is very important to them.

The signing of this legislation and these agreements is not the conclusion of land claims. Rather, it is a very positive beginning. All of us, native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change overnight and it will not always be easy, but, with care and dedication, we can be certain that all Yukoners will benefit from the Yukon land claims.

I hope that we can have a very thorough, open and informative discussion tonight. We plan to be very informal, but we are taping this meeting to help the staff prepare its brief. For that reason, when you speak I would ask that you identify yourself for the record.

As I said at the beginning, we are here to listen to your comments and answer your questions as best as we can. Coffee is available; please help yourself at any time.

If, as we go along, anything is said about which you want more detail, please feel free to jump in. Ask questions. If it is agreeable to you, the official from the land claims secretariat will give a brief overview. Then I will turn the meeting over to the floor for discussion and questions.

Ms. Armour: The land claims process began in 1973 with the presentation in Ottawa of the claim *Together Today For Our Children Tomorrow* to the federal government. The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement of the federal government that outstanding claims issues remain to be resolved.

Negotiations continued during the 1970s, as the federal government re-examined its claims policy. The early negotiations were bilateral, between the federal government and the Council for Yukon Indians, which had become the negotiating organization

for the First Nations.

In 1978, the Yukon became a party to the negotiations and now participates as a distinct and separate party from the federal government.

Between 1980 and 1984, there was much work done by negotiators on an agreement in principle. The completed document was rejected by the leadership of CYI in 1984. In 1985, the process began again, and in 1987, the federal government produced a new comprehensive claims policy that enabled the negotiators to craft a master, or framework, agreement for the Yukon that would be sensitive to the needs of different First Nations communities. This first step of the process would establish the territory-wide structures. The second step would focus on the specific rights and commitments for each First Nation.

During the early stages of the renewed negotiations, there was an attempt to conduct the two steps in parallel. Gradually, community negotiations were set aside and the focus was on completing the territory-wide agreement-in-principle. This agreement, or AIP, was reached in November, 1988.

Between 1989 and 1990, the three parties used the AIP as the basis for negotiating the umbrella final agreement, which was completed in March, 1990. The UFA sets out the general provisions for the comprehensive claim in the Yukon. It took another year or so to complete the legal drafting and to finalize the text for public release.

During this period, the community negotiations resumed, and between 1991 and 1992, the first four of the 14 First Nation final agreements were concluded with the First Nation of Na-Cho Ny'ak Dun, the Vuntut Gwich'in First Nation, the Champagne/Aishihik First Nations and the Teslin Tlingit Council.

In parallel with the completion of the first four, a model self-government agreement was negotiated by the three parties. An agreement was reached in November of 1991. This model serves as a framework for the finalization of the First Nations self-government agreements. The four First Nations that have concluded final agreements have also concluded their self-government agreements.

Legislation was originally introduced in the Yukon Legislature of June, 1992, with the Vuntut Gwich'in final agreements. It was re-introduced in December, 1992, with the Champagne/Aishihik First Nation final agreements. We are hopeful that the legislation will be introduced in the federal Parliament before the early summer of 1993.

The outstanding issue is the completion of the implementation plans, which are being negotiated presently by the implementation planning working group, made up of representatives of the CYI and the two governments. The working group essentially takes the finalized agreements and translates them into operational plans to give effect to the agreements. The implementation plans also set out the money that will be paid by the federal government to First Nations and the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution. Land claim agreements will essentially be treated as treaties, with constitutional protection. Some of the key elements to the agreements are that final agreements set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. They also provide for an exchange of rights between governments and First Nations that will compensate First Nations for relinquishing their outstanding claim to title on all the lands in the territory, and will provide government with certainty over ownership and management of the lands and resources that have been surrendered by First Nations.

The umbrella final agreement, or, UFA, also provides for monetary compensation for what has been given up. The financial

compensation is \$242.6 million, in 1990 dollars. The money will be divided among the 14 First Nations and will be paid out over 15 years. This compensation package also provides for a \$25 million buy-out for the tax exempt status of Yukon Indian people.

The agreement sets out the amount of land retained by First Nations. There is a total of 16,000 square miles of settlement land, which is approximately eight percent of the Yukon. That 16,000 square miles is divided into 10,000 miles of category A lands, which have title to the surface and the subsurface, and 6,000 square miles of category B lands, which is surface title only. There is also a small amount of fee simple lands, primarily small parcels within municipal boundaries. There is also an additional 60 square miles, which will be allocated among the First Nations, of land available for selection in lieu of existing reserves and land set aside. Aboriginal title will be retained on both category A and category B settlement lands. I believe that this is the only claim in Canada, to date, that permits aboriginal title to be retained on settlement lands. When we take a break, there are maps here of the Vuntut Gwich'in and the Na-Cho Ny'ak Dun final selections.

The agreement also makes provisions for continued access to settlement lands and sets out a process to resolve any access related disputes. Any conflicts between the use of the surface and the subsurface in category B will be referred to a surface rights board, also established through the claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nation representation in management decisions and will provide advice to both the Minister responsible and the First Nation.

Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide basis and on a regional level. There will also be boards that will deal with water management, heritage and land use planning. A development assessment process will be established that will evaluate the economic and environmental impacts of major development proposals. The role and involvement of First Nations on development assessment panels would depend on whether the impacts of the projects would fall on settlement lands or non-settlement lands.

In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and the territory-wide fish and wildlife management board on issues that range from fish and wildlife management within the traditional territory to forest management and the establishment and management of special management areas. These special management areas will be described in First Nation final agreements and will allow for the protection and management of critical areas that are important to both government and First Nations because of their special or distinctive wildlife, heritage or natural resource values.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. Details of any special economic measures that are negotiated with a First Nation will be found in chapter 22 of that First Nation final agreement.

There is also a provision for First Nations to access royalties from any oil and gas resources developed in the Yukon. I believe it is 50 percent of the first \$2 million worth of resource royalties and ten percent of any royalties above \$2 million.

The agreements also provide details regarding taxation provisions on settlement lands. For example, there will be no taxes for unimproved rural settlement lands and fee simple lands are

subject to taxation in the same manner as other fee simple lands throughout the territory.

In addition, there are chapters on water management, forestry and heritage. The heritage chapter provides for First Nation ownership of the Indian heritage resources directly related to the culture and history of the First Nation in question; it provides for management of its own heritage resources.

The umbrella final agreement also provides for the establishment of a training trust. A committee has been established to identify training needs for First Nations, to enable Yukon Indian people to meet the requirements of the claim.

In each First Nation final agreement, the First Nation final agreement includes the umbrella final agreement and specific clauses, which are outlined in boxes within the final agreements. Each First Nation final agreement sets out the specific provisions that have been negotiated for that First Nation final agreement. These may include specific access provisions or the details of any special management area that may have been included. There is also a land chapter, or, an appendix at the back of each agreement, which sets out the amount of land for the First Nation — a description of the parcels. It identifies any existing third-party rights, any existing uses of the land, such as leases, easements, and so on, and any other special provisions associated with the land parcels.

The fish and wildlife chapter sets out the harvest allocation provisions of each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes. Both the Yukon First Nations and government recognize the importance of fish and wildlife to all Yukoners. The agreements provide for the sharing of resources and resource harvesting opportunities. Until a total allowable harvests needs is established, each First Nation will continue to harvest within its traditional territory all species to meet subsistence needs.

The UFA commits governments to the negotiation of self-government arrangements with each First Nation. These agreements will not be constitutionally entrenched at this time. Both the Council for Yukon Indians and the Yukon government continue to lobby the federal government to change that policy.

Self-government allows the people of a First Nation to have control over their land and communities and recognizes the authority of their own government structures. The model self-government agreement forms the basis for specific self-government agreements with each First Nation. Self-government applies on settlement land and to beneficiaries or citizens of a First Nation.

The essential elements of the model self-government agreement will be contained in all self-government agreements. These agreements will allow for the establishment of First Nation governments and the replacement of the band structures as they currently exist under the *Indian Act*.

First Nations will have their own governmental procedures, and constitutions providing the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Self-government agreements will define the jurisdictional authority or powers that are available to First Nations. The structure, provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibilities under their areas of jurisdiction in a flexible manner and according to the priorities set by the First Nations.

Self-government agreements will also provide for financing and taxation arrangements. The money available will come from a variety of sources, but the dollars made available from govern-

ment will flow through the federal government through financial contribution agreements. Generally, these agreements establish mechanisms for continuing relationships between First Nation governments and various levels of governments, from federal and territorial to municipal.

Federal laws are paramount over First Nation laws, unless the parties agree otherwise. Territorial and municipal laws stay in place until such time as a First Nation decides to enact a law.

There will be a public registry of First Nation laws. Each First Nation will set up a registry system. As well, there will be a central registry of laws, formed by all First Nations.

With respect to aboriginal justice, First Nations will have authority over administration of justice on their settlement lands. However, that power has been delayed until 1999, or sooner, to allow the parties to negotiate what that would mean.

On community lands, each self-government agreement may differ slightly. The Vuntut Gwich'in First Nation final agreement has very little in this section of their agreement as there is no municipality or municipal interests. In Mayo, Teslin and Haines Junction, there are provisions where there are limited self-government powers on small parcels of land within municipal boundaries. This has been the general rule. There is no authority for zoning, administration of justice, control of construction, pollution and so on. The powers that First Nations have agreed not to exercise are listed in an appendix to First Nations self-government agreements.

Another provision that applies to community lands is compatible land use, as most problems that could arise from disputes regarding self-government agreements will likely focus on land use. There are provisions that encourage the parties to resolve a dispute through mediation if they are unable to resolve the problem through consultation first. A municipalities may initiate this dispute resolution mechanism, if it wishes. There is also an option to go to arbitration if all parties agree.

There are also provisions for local service agreements to be negotiated by the municipality and First Nations. The local service agreements are to be based on the cost of services being similar to people in similar situations.

The details of all of these areas of the agreements are set out in each self-government agreement.

These are the highlights only and not everything contained in the umbrella final agreement, the First Nation agreements and the self-government agreements.

I am prepared to answer any questions. There are some areas of the agreement that I am more up on than others, but I will try to address questions.

Chair: Before we proceed to the questions, I would also like to introduce to you Ken Kane, who is representing CYI. Just stand up, Ken, so everyone recognizes you. I am sorry I missed you before.

As I said earlier, we would appreciate it if you would identify yourself before you make your comment or ask your question. We will now open up the floor to comments or questions.

Please do not stampede to the mike, folks. By the way, it is not necessary for you to go to the mike. You can speak from your seat. Are there no questions? This is too easy.

Ms. Armour: I cannot believe I did such a thorough job.

Glen Everitt: The rep. here, Ken Kane, in Dawson, had stated that, if elected, you would call the Legislature together within 45 days and that you were really happy with the process that the previous government had taken in developing this in the past and that you would pass it. I was wondering what happened to make you change your decision and go ahead with this process.

Chair: We did not change our decision at all. We did call the Legislature back in December and we went through the same

process that the previous administration was going to go through, and that is to go through first and second reading of the bill. The bill was then sent to this committee to take it on the road and hear the input and views of the people of the Yukon and for them to ask whatever questions they had to familiarize themselves with the document. This committee will report back to the Legislature within five days of the Legislature being recalled in the spring and make its report. Then the Legislature will deal with third reading of the land claims and self-government legislation.

Glen Everitt: That is in the spring of 1993?

Chair: Yes.

Peter Jenkins: In discussions held at the Association for Yukon Communities meeting with the previous head of land claims, Shakir Alwarid, he made a statement that there would be no net costs to the municipalities for the implementation of the land claims and self-government agreements. Can you confirm that? Is it indeed a fact?

Chair: I will ask Karyn to answer that for you.

Ms. Armour: I am not ducking the question. Unfortunately, it is not an area of the agreement that I am up to speed on. I will endeavor to answer your question as soon as I can. I am not able to answer it this evening.

Chair: I can follow up on that a little. There is not supposed to be any net cost to the Yukon government or to the municipalities for any services that are taken over by First Nations people.

Ms. Armour: That is not a signal that it is otherwise.

Peter Jenkins: Following up on that area, could you tell us about what you are considering on a territorial level with respect to conflict of interest guidelines for First Nations elected officials and municipal elected officials. I think one of the elected municipal councils can be members of the band or First Nation and does not necessarily go in the reverse order. Is anything contemplated or anticipated in this area with respect to potential conflict of interest situations?

Ms. Armour: My understanding would be that that would be something that would have to be part of the First Nation constitution or the City of Dawson's operating procedures. I do not know if that would be covered in territory-wide conflict of interest guidelines. That is my guess.

Peter Jenkins: You must, like us, have sections dealing with conflicts. Why would that not be addressed there?

Ms. Armour: Again, this is not specifically a land claims question. I am just guessing.

Chair: I will endeavor to get you an answer to that and write you a letter on what I find out.

Chair: We will now take a five minute break. You can get a coffee, take a look at the land claims maps here and, when we reconvene, perhaps some questions will be raised.

Recess

Chair: I will call the meeting back to order. Are there any more questions or comments.

Peter Jenkins: For the benefit of all, would you elaborate on how we are going to fund all these wonderful boards and organizations that are being put together during the implementation of land claims, with no net cost to the Government of Yukon and no net cost to municipal governments.

Chair: I understand that the federal government is to foot the bill for it. Will you buy that?

Peter Jenkins: The federal government is going to pay all the costs?

Ms. Armour: The federal government has identified money for the boards and committees.

Chair: That is double talk, now, Karyn. The federal govern-

ment has identified some money.

Ms. Armour: It is in negotiation at the moment. That is part of the implementation negotiations that are ongoing now.

Chair: Also, the amount that has been designated by the federal government has not yet been accepted by CYI or the territorial government.

Peter Jenkins: If anything is going to blow it all apart, it is going to be the lack of money. Then what happens?

Ms. Armour: We hope not. We are looking at what has been offered to see if it is all doable, but we have not completed that review.

The First Nations are doing the same. That is part of the process that is taking place this week in negotiations. It is to review the dollars that have been identified and review the obligations.

Peter Jenkins: As it stands now, from all reports, I am hearing from both sides of the table that there is not enough money there to do what has to be done. Can you confirm that?

Ms. Armour: It is not the amount of money we had expected.

Chair: If there are no more questions, if you want to walk around and visit, we will be around here for a while. If there is anything you want to comment on to us privately, we will be happy to hear from you.

Glen Everitt: I guess the lack of questions shows that we already support this document.

Ms. Armour: That is great.

Chair: Thank you all for coming out.

Committee adjourned at 8:25 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 8

Official Transcript

Tuesday, February 2, 1993
7:40 p.m. to 8:45 p.m.

Community Hall
Mayo, Yukon



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)

Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly

Missy Foltwell, Deputy Clerk

Mayo, Yukon

Tuesday, February 2 — 7:40 p.m.

Chair: Good evening ladies and gentlemen. I would like to thank you for coming out on this cold winter evening. It is nice to see you here.

For the record, I would like to introduce myself. My name is John Ostashek and I am the chair of the Special Committee on Land Claims. To my left is your MLA, Danny Joe; to my right is Jack Cable, MLA for Riverside.

I see that we have with us in the audience the Chief of the Na-cho Ny'ak Dun, Robert Hager and Eric Fairclough from Carmacks/Little Salmon First Nation, as well as Mayor Mike McGinnis and the municipal council. Thank you, gentlemen, for coming this evening.

This committee was appointed by the Legislature last December. The bill approving the Yukon land claim final agreement and the First Nation self-Government bill were referred to the committee, as were the agreements attached to them.

The committee's main task is to seek the views of Yukoners on the legislation and these agreements. The committee will then report its findings to the Legislative Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected.

The committee does not have the right to propose amendments. We are here to listen to your comments about the land claim and self-government agreements. To assist us, we have a Yukon Government land claims official, Karen Armour, who will try to answer some of your questions. We also have with us Ken Kane who represents the Council for Yukon Indians.

We will try to answer whatever questions you may have. If we are unable to answer your questions tonight, we will take them with us and provide you with written replies.

The settlement of land claims is very important to every Yukoner. It is imperative that we have a thorough understanding of what land claims are all about so that we can work together over the coming years to ensure that the Yukon is strong and vibrant.

I cannot suggest for a moment that it is a very simple task, and I am sure that most of the people working on the claims at the negotiating table, over the months and years that have passed, could not say that they have a full knowledge of each and every clause of the agreement.

Much work remains to be done to put into practice what negotiators have worked long and hard to put on paper and what each individual First Nation has said is important to them in specific agreements that have been signed to date.

The signing of the settlement legislation is not the conclusion of land claims. Rather it is a very positive beginning. All of us, both native and non-native will have to be patient as we travel down the long road of implementation.

Things will not change overnight and it will not always be easy, but with care and dedication we can be certain that all Yukoners will benefit from Yukon land claims.

I hope that we will be able to have an open, informative discussion here tonight. We plan to be very informal, but as we are taping these meetings so that transcripts can be prepared and attached to the committee's report, I would ask that you identify yourself prior to making comments or asking any questions.

As I mentioned at the outset, we are here to listen to your comments and to answer your questions as best we can. As we go along, if you hear something that you wish to have further detail on, please feel free to jump in and ask a question.

If it is agreeable with you, I will have the official from the land claims secretariat give a brief overview of the umbrella final

agreement and the self-government agreement.

Ms. Armour: Thank you, Mr. Ostashek.

The land claims process began in 1973, with the presentation of the claim entitled *Together Today for our Children Tomorrow* to the federal government in Ottawa.

The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement of the federal government that outstanding claims issues remain to be resolved.

Negotiations continued during the 1970s as the federal government re-examined its claims policy.

The early negotiations were bi-lateral between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations.

In 1978, the Yukon became a party to the negotiations and now participates as a distinct and separate party from the federal government.

Between 1980 and 1984 there was much work done by negotiators on an agreement-in-principle. The completed document was rejected by the leadership of CYI in 1984.

In 1985, the process began again and, in 1987, the federal government produced a new, comprehensive claims policy that enabled the negotiators to craft a master, or framework, agreement for the Yukon that would be sensitive to the needs of different First Nation communities.

The first step of the process would establish the territory-wide structures, and the second step would focus on the specific rights and commitments for each First Nation.

During the early stages of the renewed negotiations, there was an attempt to conduct the two steps in parallel and, gradually, community negotiations were set aside and the focus was on completing the territory-wide agreement in principle. This agreement, or AIP, was reached in November of 1988.

Between 1989 and 1990, the three parties used the AIP as the basis for negotiating the umbrella final agreement, or UFA, which was completed in March of 1990. The UFA sets out the general provisions for the comprehensive claim in the Yukon.

It took another year or so to complete the legal drafting and to finalize the text for public release.

During this period, the community negotiations resumed and, between 1991 and 1992, the first four of the 14 First Nations final agreements were concluded with Na-cho Ny'ak Dun, the Vuntut Gwich'in, Champagne/Aishihik and the Teslin Tlinglit Council.

In parallel with the completion of the first four, a model self-government agreement was negotiated by the three parties and an agreement was reached in November of 1991.

This model serves as a framework for the finalization of First Nation self-government agreements.

The four First Nations that have concluded final agreements have also concluded their self-government agreements.

Legislation was originally introduced in the Yukon Legislature in June of 1992, with the Vuntut Gwich'in final agreement and was reintroduced in December 1992 with the Champagne/Aishihik First Nation agreement.

We are hopeful that the legislation will be introduced in federal Parliament before early summer.

The outstanding issue is the completion of the implementation plans, which are being negotiated presently by the implementation planning working group. The group is made of representatives from CYI, the First Nations involved in the first four agreements and the two governments.

Essentially, the working group takes the finalized agreements and translates them into operational plans to give effect to the agreements. The implementation plans also set out the amount of dollars that will be paid by the federal government to First Nations and the Yukon Government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution. The land claim agreements will be treated as treaties, with constitutional protection.

Some of the key elements of the agreement are that the final agreements set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. The agreement also provides for the exchange of rights between governments and First Nations, that will compensate First Nations for relinquishing their outstanding claim to title on all the lands in the territory. The agreement will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The UFA provides for monetary compensation for what is being given up. Financial compensation consists of \$242.6 million in 1990 dollars. The money will be divided among the First Nations and will be paid out over 15 years.

This compensation package also provides for a \$25 million buy-out for the tax exempt status of Yukon Indian people.

The agreements set out the amount of land retained by First Nations. There is a total of 16,000 square miles in settlement land, which is approximately eight percent of the Yukon.

The 16,000 square miles of land is divided into 10,000 square miles of category A lands, which have title to the surface and sub-surface rights and 6,000 square miles of category B lands, which consists of surface title only.

There is a small amount of fee simple lands, primarily small parcels within municipal boundaries. There is an additional 60 square miles of land available for selection in lieu of existing reserves and land set aside.

Aboriginal title will be retained on both category A and category B settlement lands.

I believe this is the only claim in Canada that permits aboriginal title to be retained on settlement lands.

When we take a break, there are some maps that set out how the lands are divided. The Na-cho Ny'ak and the Vuntut Gwich'in maps are what we have available this evening.

The agreement makes provisions for continued access to settlements lands and sets out a process to resolve any access related disputes.

Any conflicts between the use of the surface and sub-surface on category B lands will be referred to a surface rights board, which is also established through the claim.

The UFA also details the involvement of First Nations with government in the management of natural resources.

A variety of boards and committees will be established to allow for First Nation representation in management decisions. The boards and committees will also provide advice to the Minister responsible and the First Nation.

Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide and a regional level. There will also be boards that will deal with water management, heritage and land use planning.

A development assessment process will be established that will evaluate the economic and environmental impacts of major development proposals. The role and involvement of First Nations and development assessment panels will depend on whether the impacts of projects will fall primarily on settlement lands or on non-settlement lands.

In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council. These councils will provide advice to Ministers, First Nations and the territory-wide Fish and Wildlife Management Board on issues ranging from fish and wildlife management within the traditional territory, to forest management and the establishment and management of special management areas.

These special management areas will be described in each First Nation final agreement and will allow for the protection and management of critical areas that are important to governments and First Nations because of their special or distinctive wildlife heritage or natural resource values.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements.

The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. Details of any specific economic measures that are negotiated with the First Nation will be found in chapter 22 of their final agreement.

There is also a provision for First Nations to access royalties for many oil and gas resources developed in the Yukon. I believe it is 50 percent of the first \$2 million worth of resource royalties and 10 percent of any royalties above \$2 million.

The agreements also provide details regarding taxation provisions on settlement lands.

For example, there will be no taxes for unimproved, rural settlement lands, and fee simple lands are subject to taxation in the same manner as other fee simple lands throughout the Yukon.

In addition, there are chapters in water management, forestry and heritage. The heritage chapter provides for First Nation ownership of the Indian heritage resources directly related to the culture and history of the First Nation in question, and provides for management of the First Nation's own heritage resources.

The umbrella final agreement also provides for the establishment of a training trust, and a committee has been established to identify training needs for First Nations to enable Yukon Indian people to meet the requirements of the claim.

Each First Nation final agreement sets out what are called specific provisions for each First Nation that have been negotiated in that particular final agreement. These may include specific access provisions and details of any special management area that may have been included. The land chapter sets out the amount of land for that First Nation. The description of the parcels identifies any existing third-party rights and outlines any existing use of the land, such as leases and easements and other special provisions associated with the land parcels.

The fish and wildlife chapter sets out the harvest allocation provisions of each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes.

Both the Yukon First Nations and government recognize the importance of fish and wildlife to all Yukoners and the agreements provide for the sharing of resources and resource harvesting opportunities.

Until a total allowable harvest needs to be established, each First Nation will continue to harvest all species within their traditional territory to meet their subsistence needs.

The UFA commits governments to the negotiation of self-government arrangements with each First Nation. These agreements will not be constitutionally entrenched at this time. Both CYI and the Yukon government continue to lobby the federal government to change their policy. Self-government allows the people of a First Nation to have control over their land and communities and recognizes the authority of their government structures.

The model self-government agreement forms the basis for specific self-government agreements with each First Nation.

Self-government applies on settlement land and to beneficiaries or citizens of a First Nation.

The essential elements of the model agreement will be contained in all self-government agreements. These agreements will allow for the establishment of First Nation governments and the

replacement of the band structures as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures in constitutions, providing the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Self-government agreements will define the jurisdictional authority or powers that are available to First Nations.

The structure, provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibilities under their areas of jurisdiction in a flexible manner and according to priorities set by that First Nation.

Self-government agreements will provide for financing and taxation arrangements. The money made available will come from a variety of sources, but the dollars made available from government will flow through the federal government through financial contribution agreements.

Generally, these agreements establish mechanisms for continuing relationships between First Nation governments at various levels of government from federal, territorial to municipal.

Federal laws are paramount over First Nation laws unless the parties agree otherwise.

Territorial and municipal laws stay in place until such time as a First Nation decides to enact a law.

There will be a public registry of First Nation laws. Each First Nation will set up a registry system as well as a central registry of laws formed by all First Nations.

With respect to aboriginal justice, First Nations will have authority over administration of justice on their settlement lands, but that powers has been delayed until 1999 or sooner, to allow the parties to negotiate what aboriginal justice would mean.

On community lands, each self-government agreement may differ slightly. For instance, the Vuntut Gwich'in has very little in this section of their agreement as their is no municipality or municipal interest.

In Mayo, Haines Junction and Teslin, there are provisions where there are limited self-government powers on small parcels of land within municipal boundaries. This has been the general rule in agreements.

There is no authority for zoning, administration of justice, control of construction or pollution. The powers that First Nations have agreed not to exercise are listed in an appendix of the First Nation self-government agreements.

Another provision that applies to community lands is compatible land use. We anticipate that most problems that could arise from disputes regarding self-government agreements, will likely focus on land use.

There are also provisions that encourage the parties to resolve the dispute through mediation, if they are unable to resolve the problems through consultation.

Municipalities can initiate this dispute resolution mechanism if they wish. There is also an option to go arbitration if all parties agree.

There are also provisions for local service agreements to be negotiated by the municipality and the First Nations. The local service agreements are to be based on the cost of services being similar to people in similar situations.

The details of all of these areas are contained in the self-government agreements that have been negotiated with each of the four First Nations to date.

These are the highlights only and not everything contained in the the UFA, First Nation final agreements and self-government agreements.

There are certainly a number of people here who know the

agreement better than I do, so if I have made a mistake I am sure I will be corrected. Thank you.

Chair: Thank you, Karyn. The floor is now open for comments and questions.

Chief Fairclough: Is that it for the presentation?

Chair: That was just a brief overview, Eric.

Chief Fairclough: It went by pretty fast.

Ms. Armour: That was the intent. I can start over again if you like.

Mayor McGinnis: We have a resolution.

Council met yesterday for a special meeting. We have a resolution that we are bringing to the meeting here. Albert has just gone out to the truck to get it, and we will take about it as soon as he brings it in.

Basically, we have observed the land claims process over a number of years and I think there is a consensus in the community that we are happy that the lands claims process has moved along, and we are certainly pleased that we have got these agreements in place to this point. We would hope that all levels can make their decision on accepting these agreements as soon as possible.

Of course we have the First Nations here, NND, which is looking at ratification in the fairly short-term future, and we would hope that the federal government and YTG would be able to ratify the agreement as soon as possible.

So here is our motion:

That the Village of Mayo Council is in complete support of the land claim and self-government agreements by Na-cho Ny'ak Dun

Be it resolved that the Government of Yukon enable all agreements ratified by the NND.

So we would urge you to take that into consideration when you make your decision.

Chair: I want to thank you, Mayor McGinnis. As you are aware, the bills have gone through first and second reading in the House already, and this committee's mandate is to report to the House within five days of the Legislature coming back in this spring. The bill will then go to third reading in the Legislature.

Mr. Cable: Could we have a copy of your motion?

Mr. Buyck: I understand the purpose of you going around the communities is to get the communities' input on how they feel about the land claims agreements.

What criteria will your government be using to make its decisions? The intent is to go out to the communities, get their input and then you go back to Whitehorse, after you have finished with all of the communities, and then you look at all the questions and gauge the level of support.

Is that all you are looking at? I understand right now you are negotiating the implementation and that there is not enough money in there for YTG.

I guess I am just wondering how is the government going to determine (*inaudible*)

Chair: I can answer that one in this respect. This is separate from what is going on at the negotiating table regarding the implementation funding.

This about accepting the umbrella final agreement and the self-government agreements.

The agreements have gone through second reading in the Legislature, and we are here, not as a committee of government, but as a committee of the Legislative Assembly. We are travelling to all of the communities, listening to what the people have to say, and then the committee will write its report at the end of the hearings and present that report to the Legislature, no later than the fifth day of the spring session of the Legislature.

This is totally separate from the implementation funding.

If there are no further questions at the moment, maybe we would like to break for a few minutes, take a look at the maps, mill

around and then we will reconvene and see if we have raised any more questions.

Break

Chair: The floor is open for questions and comments.

Ms. Armour: Not that we are looking for tough questions, but I have never seen you guys so quiet.

Chair: I will make a couple of comments here that really do not pertain to this committee. I just talked with Chief Fairclough and there seem to be some questions regarding the implementation funding.

The reason that this meeting is not the proper format to address the implementation is that this is a committee of the Legislature that was struck to deal with the land claims legislation and the self-government legislation.

The implementation funding is a problem for the Yukon territorial government. We are not a committee of the government; we are a committee of the Yukon Legislative Assembly.

To give you some comfort on the funding: we are concerned about the amount of money being offered to the territorial government for the implementation funding. We do not feel we can do an adequate job of implementing with the amount of money that has been offered so far.

We are going to continue to watch the progress of the negotiations; we are going to continue to work with the First Nations people to cost out the implementation so that we can have a better idea of what the actual costs are going to be, which will give us a stronger case to present to the federal government.

I know that the federal government has said that there is only so much money; take it or leave it. I think that is the wrong approach for the federal government to be using and we are going to continue to fight, as long as possible, for as much implementation money that we feel is required.

If we are to accept what is offered to us now, we are doing a disservice to the First Nations peoples, because there will not be enough money available for us to do an adequate job of implementing the agreements. This will cause hold-ups as there will be no other source of funding for that implementation.

As the First Nations get closer to presenting their package to the federal government, we will have to make some hard decisions. It is not our intention to hold up the land claims process.

Chief Hager: I have quite a bit of concern.

Let me give you a little history of Na-cho Ny'ak Dun.

I have been the Chief for 18 years, and I am still here today as First Nation government.

I went through a lot of your government; I must have went through five or six different governments since I have been the chief. There were NDP, Liberal, PCs and now the Yukon Party.

The whole trouble with the government having trouble among themselves, everybody wants to fight each other, everybody wants to be in power. Yet, we First Nations people are still together trying to negotiate a claim. It does not matter that we have different languages and all that stuff, we are still working as Indians. "Indian" is our name; that is who we are; that is what we represent, and we really govern ourselves. It had been there for years. It was never negotiated away, whatsoever.

We believe in taking things back that belong to us. Just get it back in place. That is what we are fighting for.

Through the years the government has destroyed our people and our land. Yet, we sat back and watched it because we thought the government was our God. That is what some people think today. Whatever the government says, the people jump on it. That is way we native people were. Until we started learning about the politics of the whole thing, we learned it was a big mistake to us.

We have listened; we have been humble; we have shared many things and we have traded many things with the government, and all this time they were taking things from us and we thought we were being nice. At least that is what our elders have been telling me. On this basis we have been negotiating.

At one time I was a real radical person and I could hammer many things on the table, but my elders told me that that is not the way to go and that I should start working with the town people here. They wanted me to work closely with them.

I can understand what they are talking about today and, through all the agreements, you can see how many non-natives are going to be benefiting from this land claim. This is what we believed in. We are tired of the government. We are tired of the government running everything for us — at the Ottawa level, at the Whitehorse level; we want to govern ourselves as a community people here.

You do not know what a mess we live in. Look at the Keno Hill, what they have done to this area. Now you tell me how much money does Keno Hill leave for the people here? How much money did they take out this community? Who benefitted from the mine up there? It is not the territorial government; it is not the native people here; it is not the town people here. The money is in Europe or the United States. That is where the money went. They did not leave anything behind here. They just left a big mess and a lot of pollution. Now, we have to live with that. I guess when we talk about environment, those are the kinds of things that we are talking about here. We are going to live here for the rest of our lives. Decisions are being made for us and we are sick and tired of that. We want to govern things so people can work together. That is the way we have been negotiating land claims.

I really have concern with your government — a really, really major concern. You never give us the right answer about what your government is going to do. Since your party took over, we have been asking lots of questions and we have been knocking on your door. You do not want meet up with us, your schedule changes and we are concerned. We are concerned about those things. This is the hour, the time. We need to sit down with your government as Council for Yukon Indians.

You know all the chiefs across the Yukon is Council for Yukon Indians. We need to sit down and start hammering.

Okay, you talk about ratification dollars; we need to really get the true answer from you. You are saying that there is not enough for your government. We are saying that we are also not getting enough to keep the whole process of land claims going. We accepted something that we know will we are not going to live with, but we figure that there are better things to come yet.

We believe an election is going to take place. We will keep the process going until the next party gets in and things might be better.

If we say no to the offer the whole thing is going to be shut down. As the chiefs representing the native people, we really believe that.

No matter what you negotiated, you want more than 1.5, but you are not looking at the \$450 million you are getting.

Now we asked them for some devolution. It is your government that is going to deal with us on that matter. Is your government going to devolve some of the programs to the First Nations? That has not been answered yet.

So, I have quite a bit of concern that we need to put you up in the front and start questioning you on many things as a government.

That is a concern that I really have.

Now on that 1.5, if you negotiated more, you would be taking more from the central pot of native funding. So our pot is going be emptied and you are going to fill your pot. That is what I believe from looking at the negotiations with the federal government. I

am scared of what you are asking for.

If there is any way you can get new dollars, be my guest; it is supported all the way, but if you are going to empty our pot, it scares me quite a bit.

As it is, we native people have been having a tough time. We not going to make self-government work on this 1.6 as it is, but we are hoping for better things.

Now we have to get that 1.5 you are talking about clarified.

Chair: Well, we do not want to get into that discussion here, but I will tell you this: we are not looking for your share of the money. It is up to the federal government to provide the implementation funding for land claims, not the territorial government. We are trying to get them to live up to their obligation.

If we accept the offer as it is now and we run out of money, it is the First Nations that are going to suffer and we should not be expected to take those monies out of the formula financing that provides for the services in the whole territory.

The federal government is obliged to provide the money for the land claims and the implementation of the land claims.

We are going to continue to fight for those new dollars, Robert; we are not looking to take the dollars out of your share of the money.

At the same time we are watching to see how your people are progressing with your ratification, how close you are to taking it to the federal government. When it gets down to that, we will have to make the hard decisions. In the meantime, we are going to continue to lobby the federal government for more money so that we can do a decent job in implementing these agreements to the First Nations people.

We can have meetings on this other than in this forum, because this forum is of Legislative Assembly.

Chief Hager: What really scares me, John, is that, in your press release, you rejected that 1.5.

Chair: Excuse me.

I just want to say that that is a wrong statement. We did not reject it. We said that it was not enough money, but we did not down and outright reject it.

Chief Hager: All right, you might have said that, but what really scares me is that if you are not taking that 1.5, we need to know if you are going to be sitting at the table or not. We do not want you to drop the bombshell in the last minute, saying that you are not taking the offer and leave us hanging there, which is okay, too, but, I think the federal government would say that they could continue negotiations with the native people, but they would want to know about the non-native people in the community.

Chair: I do not think that I have said that; neither has my negotiator said that we are going to walk away from it, but we are going to continue to fight for more money as long as we possibly can.

It is only in the best interests of the First Nations people that we do so.

Chief Hager: Could get from Kenny Kane what was said at the Burwash meeting?

I do not know; I could be mishearing things. I could have misheard you on that.

Chair: We can continue that at another discussion, Robert, but this is open for questions on the umbrella final agreement and self-government agreement. We covered enough on implementation tonight. If you want to talk after the meeting, I will be happy to talk with you.

Chief Hager: You know, John, when you say that, you scare me that the whole thing relies on each other...

Chair: It does, but this is not a committee of the government; this is a committee of the Legislative Assembly and the committee does not have any authority in that area.

I am here as the chair of the legislative committee and I will talk to you privately about it if you like.

Chief Hager: What is going to make self-government finally work? Can you tell me that?

Chair: What is going to make it work?

Chief Hager: Yes.

Chair: We have to work together to make it work.

Chief Hager: Yeah, but where are we going to work together to make that happen?

Chair: Well, first of all, if we do not have the money, it is not going to work, Robert.

Chief Hager: Where would the money come from then?

Chair: It has to come from the federal government.

Chief Hager: Yes, but would that come through the ratification, implementation and training package?

Chair: Some of it will, but we need...

Chief Hager: I believe that is what would make it all operate.

Chair: Well, we will talk about that in another format.

Chief Hager: Well, the people here need to hear this. I am scared John.

Chair: Well, I do not what you are scared of. You people are not ready to go to the federal government yet. You are a long way from going to the federal government yet. Why should we grab what is given to us now?

When you are ready to go, we will make the tough decision.

Chief Hager: Yes, I know you will. That is what is scares me, when you make that tough decision because that is ours.

Ms. Armour: Chief Hager, the Yukon negotiators are working very hard with your negotiators and with the negotiators from the other First Nations to try to identify the costs and whether or not it is enough money.

The government has not rejected the total dollars. We are working very hard to see if we can implement the claim with what has been allocated, but we are also continuing, at the same time, to talk to the federal government to see if there is more new money.

Mr. Cove: Originally, when the implementation funding working group was doing its work, one of the primary objectives was to come up with some actual costs and determine some specifics for all the parties' costs.

When the federal government tabled, essentially, a take-it-or-leave-it offer to both the Yukon government and First Nations and CYI for the UFA, it made that exercise somewhat redundant.

At this point, other than work that may be going on internally within each of the parties, there is no work going on collectively to establish costs.

As of yesterday's information, unless this information has changed since, there will be nothing attached to the implementation plans that breaks out what the money is to be used for. All monies are, in effect, unconditional and quite inadequate. I would agree with Mr. Ostashek that, for all parties, the funding is inadequate.

The only way in which anybody, with a straight face, can look at entering into a land claims agreement and a self-government agreement with funds that are, in effect, inadequate on the surface — whether or not cost calculations have been done — is on the basis of the kind of cooperation that the Government Leader has been talking about quite a bit about tonight and the chief has talked about in terms of his instructions from his elders. Also, based on the fact that the way this agreement is structured, the way the implementation plans work and the way the financial offer works, the game is not over.

There is a review that is to address inadequacy in five years through subsequent negotiations. There are ongoing negotiations in any number of different areas, whether it has to do with taxation provisions, justice provisions, other financial matters that will go

on, frankly, for years and years and years.

So financial negotiations really had only hit one plateau. The amount of money that is on the table right now is probably going to wind up, looking back 10 or 15 years, being some of the most insignificant money that is at play — certainly for First Nations.

So, I do not think that anybody should be kidding themselves that the implementation plan is going to come up with any particular kind of budget, in effect, for implementing a land claim or a self-government agreement. It is not.

I think the other thing, in terms of timing, is that the agreements provide for one First Nation, once it has ratified its agreements to go to the federal Cabinet.

If the parties chose, they could go to the federal Cabinet tomorrow on the basis of the money that is currently on the table and on the basis of the ratification that has already occurred with the Champagne/Aishihik First Nations.

So the questions that are coming up now about implementation really are very timely. I can understand why the Government Leader is uncomfortable; these things are still under negotiation. His government is in a heck of a position. They are the meat in the sandwich, for Heaven's sakes.

First Nations do not want to get squeezed out, because they are feeling nervous about what they have and the feds are playing hardball. The Government of Yukon is the meat in the sandwich.

I can appreciate his anxiety. The pressure valve for that, frankly, is that there is a bottom line.

The bottom line is that at some point — and some would say that we have reached that point now where one First Nation has already ratified — are the parties prepared to step forward?

If First Nations agree that, like it or not, they are going to accept the agreements, accept the money unconditionally and with opportunities to get more in the future, then go ahead. Is Canada going to ratify? Is the Government of Yukon going to ratify? I think that is the pressure valve. If that is released, and people do not feel like that is going to be used against them, then the support of the Government of Yukon needs to get more today, and subsequently in these other processes, will be coming from First Nations.

If it is not clear whether it is in confidence here, or in private, at the political level, — and the Chief has said that he has not had an opportunity to speak to Mr. Ostashek; they have both been busy lately. It would have been timely if they would have had that opportunity, but it was not there. That will release a lot of the pressure and I think you will find more of an — if I can it — all-Yukon strategy. Once this deal is done, the feds are history, it is Yukon people. Indian and non-Indian people are going to be left here to put this thing together and make it work, not the feds.

Ms. Armour: And we recognize that Tom. I want to clarify what I said earlier that we are working on the cost. All parties are working on the cost. That work is going on internally, and I would assume that it is going on internally with the other parties.

As part of identifying the activities or the obligations for each of the parties, part of the work that the Yukon Government is doing is also attaching a cost to ensure that what has been identified is adequate, and, if not, then we know what kind of figure we need to go back to the federal government with.

To repeat what Mr. Ostashek said earlier, the final decisions have not been made, and I know that the negotiators on the government side are working very hard at trying to meet the deadlines that the federal government has given us to see if there is flexibility in the future. We have not got that as a firm commitment from the federal government, but those are the kinds of things that are on their minds in these negotiations.

Mr. Buyck: When is that time line?

Ms. Armour: I do not know. My understanding is that they

are now looking at mid-February, but I do know if the federal government has given a firm date yet.

Mr. Cove: I do; it is mid-March. The timing mechanism is federal ratification. So when does Cabinet sit? Work will not be done until the next sitting, which is in less than two weeks, mid-March?

Ms. Armour: Has that been officially conveyed or is that best guesstimate?

Mr. Cove: Of course not. Anyway, I would just urge the Government Leader and the chiefs to get together and release that pressure valve, politically, however you do it, and I think you are going to feel an awful lot more free to answer questions about the chapters that in are in the agreements on implementation, as you go to other communities.

Chair: Okay, are the chiefs going to give me the commitment that they are not going to be asking me to take it out of my general budget if there is not enough money there for implementation?

Mr. Cove: I cannot imagine...

Chair: Well, that is our problem.

Mr. Cove: Yes. I cannot imagine that you would not be forced, one way or another, frankly, Mr. Ostashek, to have to, in many ways, re-profile the hundreds of millions dollars that you already receive.

Chair: Those monies are already committed.

Mr. Cove: Well, they are committed in one way; that is why I call it re-profiling and no government has faced that.

Chair: Again, I tell you that the implementation costs of the land claims and the self-government agreements are a federal responsibility. We are going to hold them to get as much as we possibly can out of them.

Ms. Armour: We have those commitments from Ministers over the last few years, in writing, that the cost that has been identified by the Yukon government will be the only cost that the Yukon government would have to contribute.

Mr. Cove: I am aware of that Karyn. I will answer Mr. Ostashek's question in another way.

If you got every nickel and dime that you wanted, you would be asked to re-profile your \$450 million. You are asked to do that every year anyway.

Chair: I would like to know where that \$450 million is. Take a hundred million off of that and you will be a lot closer.

Mr. Cove: Your main estimates...

Chair: You would be a lot closer if you took a hundred million off that.

Mr. Cove: Total revenues.

Chair: Yeah, about \$360 million is what you are talking about.

Anyway, we are going to work very hard at it, Robert. We are not here to hold up land claims; we want to see it go ahead.

Ms. Armour: So are there any more easy questions we can answer?

Chair: Well, if there are no further questions, we can break, mill around and talk to people.

Thank you for coming out.

Committee adjourned at 8:45 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 9

Official Transcript

Wednesday, February 3, 1993
2:45 p.m. to 4:00 p.m.

Band Office
Pelly Crossing, Yukon



PRINTED ON RECYCLED PAPER

SPECIAL COMMITTEE ON LAND CLAIMS AND SELF-GOVERNMENT

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly;

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Pelly Crossing, Yukon
Wednesday, February 3, 1993 — 2:45 p.m.

Mr. Danny Joe: Ladies and gentlemen, I would like to welcome you to the meeting this afternoon of our land claims committee. We would like to hear your concerns, so that you will be satisfied with your land claim and to ensure that you agree with our report. If you disagree with the report, ask a question. This is why we are here.

I will not say too much at this point, and will hand over to Mr. Ostashek, the chair of the committee.

Chair: Thank you, Mr. Joe. Good afternoon, ladies and gentlemen. Thank you for coming out this afternoon to appear before this special committee. For the record, I would just like to introduce ourselves. I am John Ostashek and I am the chair of the committee. On my right is your MLA, Dan Joe; on my left is Jack Cable, MLA for Riverside. We have with us, from the Land Claims Secretariat, Karyn Armour, who will answer your questions. Sitting on the far side of the hall is Ken Kane, who is representing the Council for Yukon Indians.

Jerry Alfred will introduce the other people in the hall.

Mr. Alfred: My name is Jerry Alfred and I represent the band council of the Selkirk First Nation. This is my sister Emma; she represents the land claim training and forest management program; Darin Issac, band councillor for the Selkirk First Nation and *inaudible*

To the far left is Alex Morrison, capital(?) housing; Frank Turner (*inaudible*) and Wayne Curry, band counsellor.

Chair: Thank you. This committee was appointed by the Yukon Legislature last December. The bill approving the Yukon land claim final agreement and the First Nation self-government bill were referred to this committee, as were the agreements that are attached to them. The committee's main task is to seek the views of Yukoners on this legislation and these agreements, and to report its findings to the Assembly this spring, along with its recommendations as to whether the agreements should be accepted or rejected.

The Yukon Legislature has given its approval in principle to the legislation and has clearly expressed its commitment to the settlement of land claims and the self-government agreements during the debate on the bills.

We are here to listen to your comments on the land claim and self-government agreements and, with the assistance of Karyn Armour of the Land Claims Secretariat, we will try to answer any questions you may have.

The settlement legislation is very important to every Yukoner. It is imperative that we all have a thorough understanding of what it is all about so that we can all work together over the coming years to ensure that Yukon is strong and vibrant.

I cannot suggest for a moment that understanding them is a simple task. I am sure that even those who have been working at the negotiating table for months, or even years, could not say that they are fully knowledgeable of each and every clause within these agreements.

A lot of hard work still has to be done to put into practice what the negotiators have worked so hard and so long to put on paper and what the individual First Nations have said is important to them.

The signing of these agreements and the settlement legislation is not the conclusion of land claims. Rather, it is a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change overnight, and it will not always be easy; but with care and dedication, we can be certain that all Yukoners will

benefit from the Yukon land claims.

I hope this afternoon that we can have a very open and frank discussion. We plan to be very informal but, as we are taping these meetings, I would ask you to identify yourselves before you speak so that when the transcripts are made it can be recorded.

As I said at the beginning, we are here to listen to your comments and to answer your questions as best we can. If, as we go along, anything is said that you want more detail about, feel free to jump in and ask the questions.

If it is agreeable with you at this point, I will just ask Karyn to give you a brief overview of the umbrella final agreements and the self-government agreements.

Ms. Armour: Thank you, Mr. Ostashek.

The land claims process began in 1973 with the presentation to the federal government in Ottawa of the claim *Together Today for our Children Tomorrow*. The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement by the federal government that outstanding claims issues remain to be resolved.

Negotiations continued during the 1970s as the federal government re-examined the claims policy. The early negotiations were bilateral between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations. In 1978, the Yukon became a party to the negotiations and now participates as a distinct and separate party.

Between 1980 and 1984, much work was done by the negotiators on an agreement in principle, but the completed document was rejected by the leadership of CYI in 1984. In 1985, the process began again and in 1987, the federal government produced a new comprehensive claims policy that enabled the negotiators to craft a master framework agreement for the Yukon, which would be sensitive to the needs of different First Nation communities.

The first step of the process would establish the territory-wide structures and the second step would focus on the specific rights and commitments of each First Nation.

During the early stages of the renewed negotiations, there was an attempt to conduct the two steps in parallel and gradually community negotiations were set aside and the focus was on completing the territory-wide agreement in principle. This agreement, or AIP, was reached in November of 1988 and, between 1989 and 1990, the three parties used this AIP as the basis for negotiating the umbrella final agreement, which was completed in March of 1990. The UFA sets out the general provisions for the comprehensive claim in the Yukon.

After the UFA was completed, the community negotiations resumed and, between 1991 and 1992, the first four of the 14 First Nation final agreements were concluded with the First Nation of Na-Cho Ny'ak Dun, the Vuntut Gwich'in, the Champagne/Aishihik First Nations and the Teslin Tlingit Council. In parallel with the completion of the first four, the model self-government agreement was negotiated by the three parties and agreement was reached in November 1991. This model serves as the framework for the finalization of First Nation self-government agreements. The four First Nations who have completed final agreements have also concluded their self-government agreements.

Legislation was originally introduced in the Yukon Legislature in June of 1992 with the Vuntut Gwich'in final agreement; it was reintroduced in December 1992 with the Champagne/Aishihik final agreements. We hope the legislation will be introduced in federal Parliament before early summer.

The outstanding issue is the completion of the implementation plans; these are presently being negotiated by the implementation planning working group, which is made up of representatives from

the first four First Nations, CYI and the two governments. The working group essentially takes the finalized agreements and translates them into operational plans to give effect to the agreements. The implementation plan also sets out the amount of dollars that will be paid by the federal government to First Nations and the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution. Land claim agreements will essentially be treated as treaties, with constitutional protection. Some of the key elements in the agreement are that final agreements set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. The agreement also provides for an exchange of rights between governments and First Nations that will compensate the First Nations for relinquishing their outstanding claim to title on all the lands in the territory and will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The umbrella final agreement provides for monetary compensation for what is being given up. The financial compensation is \$242.6 million, in 1990 dollars. The money will be divided among the 14 First Nations and will be paid out over 15 years. The compensation package also provides for a \$25 million buy-out of the tax-exempt status of Yukon Indian people.

The agreement sets out the amount of land to be retained for First Nations. There is a total of 16,000 square miles in settlement land. This is divided into 10,000 square miles of category A lands, which have title to the surface and subsurface, and 6,000 square miles of category B lands, which is surface title only. There is a small amount of fee simple land, primarily small parcels within municipal boundaries. There is an additional 60 square miles of land available for selection in lieu of existing reserves and land set aside. Aboriginal title will be retained on both category A and category B settlement lands. I believe this is the only claim in Canada that permits aboriginal title to be retained on settlement lands.

The agreement makes provision for continued access to settlement lands and sets out a process to resolve any access related disputes. Any conflicts that arise between the use of the surface and the subsurface rights on category B will be referred to a surface rights board, which is created through the claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nation representation in management decisions and will provide advice to both the minister responsible and the First Nation. Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide and a regional level; there will also be boards to deal with water management, heritage and land use planning. A development assessment process will be established to evaluate the economic and environmental impacts of any major development proposals. The role and involvement of the First Nations on development assessment panels will depend on whether the impacts of the projects will be on or off settlement land.

In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council that will provide advice to the ministers, First Nations and to the territory-wide fish and wildlife management board on issues ranging from fish and wildlife management within that traditional territory, to forest management and the establishment and management of what are called special management areas. These special management areas are negotiated in each First Nation final agreement and will allow for the protection and management of critical areas that are important to both governments and First Nations because of their special or distinctive wildlife, heritage or natural resource values.

There is also a provision that special management areas can be negotiated at some point in the future after a final agreement is complete.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. Details of any specific economic measures that are negotiated will be found in each First Nation final agreement. There is also a provision for First Nations to access royalties from any oil and gas resources developed in the Yukon — 50 percent of the first \$2 million worth of resource royalties and 10 percent of any royalties above the \$2 million. The agreements also provide details regarding taxation provisions on settlement lands. For example, there will be no taxes for unimproved, rural settlement lands. In addition, there are chapters on water management, forestry and heritage. The heritage chapter provides for First Nation ownership of the Indian heritage resources directly related to the culture and history of the First Nation in question, and provides for management of its own heritage resources.

The umbrella final agreement also provides for the establishment of a training trust, and a committee has been established to identify training needs for First Nations to enable Yukon Indian people to meet the requirements of the claim.

Each First Nation final agreement takes the umbrella final agreement into account — everything in the umbrella final agreement is incorporated into the First Nation final agreement; there are "boxes" set out in each agreement and within those boxes will be the specific provisions for that First Nation final agreement. These specific provisions would set out details of any special management area that may have been included; they would also set out the land chapter — the amount of land allocated to that First Nation, a description of the land parcel, and it would identify any existing third-party uses of the land, such as leases or easements, and any other special provisions associated with the land parcels.

The fish and wildlife chapter sets out the harvest allocation provisions for each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes. Both the Yukon First Nations and government recognize the importance of fish and wildlife to all Yukoners and the agreements provide for the sharing of resources and resource harvesting opportunities. Until a total allowable harvest needs to be established, each First Nation will continue to harvest within their traditional territory all species to meet their subsistence needs.

The UFA also commits governments to the negotiation of self-government arrangements. These agreements will not be constitutionally entrenched at this time, but both the CYI and the Yukon government are continuing to lobby the federal government to change its policy.

Self-government allows the people of a First Nation to have control over their land and communities and recognizes the authority of their own government structures. The model self-government agreement forms the basis for specific self-government agreements with each First Nation. Self-government will apply on settlement lands and to the beneficiaries or citizens of a First Nation. These agreements will allow for the establishment of First Nation governments and the replacement of the band structures as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures and constitutions providing the ability to make their own bylaws and manage their own programs without the prior approval of the Department of Indian Affairs. Self-government agreements will define the jurisdictional authority or powers that are available to

First Nations.

The structure, provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibilities under their areas of jurisdiction in a flexible manner and according to priorities set by that First Nation. Self-government agreements also provide for financing and taxation arrangements.

The money made available will come from a variety of sources, but the dollars made available from government will flow from the federal government through financial contribution agreements. Generally, these agreements establish mechanisms for continuing relationships between First Nation governments and various levels of governments from federal/territorial to municipal. Federal laws are paramount over First Nation laws unless the parties agree otherwise. Territorial and municipal laws stay in place until such time as the First Nation decides to enact their own law. There will be a public registry of First Nation laws. Each First Nation will set up a registry system of their own. As well, there will be a central registry so that people can see what laws there are throughout the Yukon.

With respect to aboriginal justice, First Nations will have authority over administration of justice on their settlement lands but that power has been delayed until approximately 1999 to allow the parties to negotiate. It just was not possible to include that in the negotiations of the overall self-government agreement.

Provisions are set out in the agreement for municipal lands, but this is not an issue here in Pelly Crossing. There are provisions that allow for what is called compatible land use — if there are conflicts, either on or off settlement land, there is a process where government and the First Nation can get together and consult each other on the project; if that does not work, there is a process that allows either party to go to mediation and try to resolve it. If that does not work, and if both parties agree, then the issue can be sent to arbitration.

There are also provisions for local service agreements, which again is not really an issue here in Pelly.

These are just some of the highlights of things contained in the UFA, the First Nation final agreements and self-government agreements. In this length of time it is just not possible to go through everything, but I will try to answer what questions you may have. We brought a map of one of the final agreements, which is the Na-Cho Ny'ak Dun First Nation's final agreement of its rural settlement land, not its community. When we take a break, you may like to look at it and then I can answer any questions you might have about the land selections.

Chair: Thank you, Karyn.

I understand there is coffee back there in the kitchen — please help yourselves — and there are some cookies in here.

At this time, we are open to hear your views or questions. Again, I would ask you to please identify yourselves for the record before stating your opinion or asking a question.

Mr. Jonathan: Perhaps we could have a workshop for a couple of minutes, and then come back?

Chair: Sure. We can break for a few minutes — we will take a 10 minute break and then come back.

Break

Chair: I will call the meeting back to order and see if we have raised any questions out there. I think the microphone will work from there, but could you please identify yourself, sir?

Mr. Isaac: My name is Darin Isaac. My first question is: how many communities have you visited so far and what were their views regarding the land claims?

Chair: We started in Beaver Creek last week. We did Beaver Creek, Burwash Landing, Destruction Bay, Haines Junction, Dawson City and Mayo; we are here now and will be in Carmacks tonight.

There has been very little reaction — very few comments at most places. Beaver Creek was probably the community where we had the most questions and I think a lot of the concerns there were because the First Nations have not yet selected any of their lands. Other than that, there have been very, very few questions.

Mr. Isaac: Have you done Whitehorse yet?

Chair: We are doing Whitehorse on Thursday night.

Mr. Isaac: I am wondering what the public's view is with regard to the land claims. I know, in the last few years there were a few leaks of the UFA to the newspapers, and we were not too happy with some of the things that were going on. I am wondering if any of those concerns came up at these meetings.

Chair: Nothing of consequence has come out so far. There have been some questions — people want to have a better understanding of things — taxation questions have come up, but there has been really nothing to cause any alarm or concern.

Ms. Armour: In fact, last night in Mayo, and the night before in Dawson, representatives from the municipal councils stated how much in support they were of the agreements and of getting on with land claims and finalizing it. There were very supportive messages from both those communities.

Chair: There were about thirty people at the Haines Junction meeting — they have ratified their agreements — but very, very few questions arose.

Mr. Isaac: Dealing with taxation, a few years ago the federal government — and I am not sure whether YTG were involved; I guess it was not really acceptable to them — they made a few amendments to that chapter. They must have gone through it or something, because I know the fish and wildlife ...

Ms. Armour: I am sorry, Darin, but what do you mean by taxation?

Mr. Isaac: Certain clauses in the UFA deal with taxation.

Ms. Armour: The provisions. There is a Section 87 buy-out, which is in the UFA. I believe there is a moratorium on it for three years while the federal government reviews its policy. Initially, First Nations people would have had to start paying taxes after their agreements were in place, but now there is an additional three years before that provision kicks in, while the federal government and First Nations review the tax policy. The argument the First Nations made was that it would not be fair if they had to pay taxes but were not allowed to collect taxes on their settlement lands for three years. So, while the federal government was reviewing the policy, the First Nations presented the case that they should not be having to pay taxes while not being able to collect. At the end of the three years, the provisions kick in.

Mr. Isaac: You have another four or five communities to visit — maybe you should ask them to make a decision on this?

Chair: After we visit all the communities, the committee will draft its report based on what it has heard in the communities, and it will present the report to the Yukon Legislative Assembly.

Mr. Isaac: If it is not accepted, do we all go back to the table again?

Chair: I do not think that will happen. From what we have heard so far, and I can tell you as I said in my opening remarks, when the debate was on in the Legislative Assembly all Members of the Assembly agreed in principle to the self-government and UFA agreements. I do not see any major roadblocks — from our side, anyway.

Mr. Isaac: I just have one more question, dealing with the renewable resource council. The way I see it in the UFA, there is supposed to be one for each First Nation.

Ms. Armour: Yes. There are also provisions for First Nations to have a joint council. For instance, in the Whitehorse area, it may make more sense to have one council rather than two. But there is the ability for each First Nation to have a renewable resource council.

Mr. Isaac: Dealing with training, I guess we do probably need people to make this thing work. Has the training begun yet?

Ms. Armour: Yes. The training committee has been established. I do not know who the CYI representative on it is, I am sorry.

Chair: Maybe Ken knows.

Ms. Armour: Ken, do you know who the CYI representative is on the training committee?

Mr. Kane: I think it is headed up by Albert James, but I do not know who he has on the committee. Perhaps Gordon Reid.

Ms. Armour: Yes, you are right; I think Gordon Reid is the new representative for CYI. My understanding is that they have started identifying what they feel the needs will be and they have been working with Yukon College to try to establish courses or training.

Mr. Isaac: The money is there?

Ms. Armour: The Yukon government has put in its \$1 million up front. It was agreed, I believe, that the Yukon government would put in a million; someone is putting in \$6 million — the federal government, I think; we are putting in \$1 million and CYI, I believe, is putting in \$1 million. So that the committee could get under way and begin its work, the Yukon government has put its \$1 million forward.

Mr. Isaac: Is this committee already established and will it be going around to each community to find out what the needs are?

Ms. Armour: I do not know, but I can find that out for you, Darin, and let you know. I do not know how the committee has been working with the First Nations — whether through the leadership or whether it has been holding community sessions.

Mr. Isaac: In land claims right now, we are working on a community resource management project and we are training a total of five people. We are trying to identify the resources out there and put them on a list. If it goes hand in hand, maybe we will take some information and present it when we go to the table.

Mr. Cable: This gentleman here had an interesting question.

Mr. Alfred: My question was: in the agreement in principle you talked about 14 traditional territories. It seems to me that we are hearing how Carcross is splitting off and White River is splitting away; so there would be an increase in traditional territories and probably what would happen in the future, say five or 10 years from now, more Bands might split up and create more traditional territories. Is any of that covered?

Chair: I will let Karyn answer that as she has been dealing with it. The White River case has already been identified; it is one of the 14.

Ms. Armour: So is Ta'an Kwach'an. You are possibly also familiar with the Ross River First Nation situation, where the Pelly Banks Band was being identified as splitting away. Also the Carcross-Tagish Bands. The federal and territorial governments' view, and I believe CYI's view, has been that the 14 First Nations in the agreement are final and that if another First Nation is created, their land allocation and their traditional territory would have to come out of the area they are splitting with and there would have to be internal arrangements made. We would not reopen the agreement and add in a 15th or a 16th. They would have to have some sort of internal arrangement with the Ross River people to determine how they would split the traditional land. It is not the intention to open up the agreement again and create additional First Nations.

Mr. Alfred: In the event that two or three bands get together and want to share their traditional territory, is that possible?

Ms. Armour: Yes, it is possible, and I understand that is part of the sharing accord the leadership at CYI has been looking at — how to share some of the resources. They were dealing with a number of issues and I know the leadership has held a couple of meetings but I do not know where the sharing accord stands right now. There certainly are provisions for it and I know some First Nations have been looking at the possibility.

Mr. Isaac: You said the land claims agreements were being treated as treaties. Are they treaties or not?

Ms. Armour: It is treated as a treaty, only it is constitutionally entrenched.

Mr. Isaac: So it is a treaty?

Ms. Armour: It is a treaty that is entrenched in the Canadian Constitution; that gives it more force than some of the other treaties have had.

Mr. Isaac: I believe there will be a compensation committee, for mining and trapping. Is it established?

Ms. Armour: The only compensation policy that has been identified is for the outfitters who can identify provable losses because of the land selections. Through the land selection process, we consult with the outfitters in each traditional territory and try to determine what areas are key to them and where the impact may be with the land selections. We try to work that out through the land selections. We also encourage the outfitters and the First Nations to try to work together.

If someone is able to identify provable losses, there is a compensation policy whereby YTG has committed to pay \$1 million and the federal government pays the rest of the compensation. The policy is not finalized yet — the governments and the outfitters association are still working on it.

Mr. Isaac: What about the trappers? Bulldozers go on their lines and that ruins their livelihood also.

Ms. Armour: I do not believe the trappers compensation policy is in place. There is not a trappers compensation policy identified in the agreement. I believe the Department of Renewable Resources has been working on a policy that is separate from the agreement.

Mr. Alfred: That almost answers my question — if you have a piece of ground out there which was used for traditional fishing for a long time, probably a heritage area (*inaudible*) such as Dave Coleman who constructed a campsite on a heritage area. I am sure the band would still want to keep that land. Is that covered?

Chair: My understand is that third party interests are protected on leases, but that does not say that there could not be negotiations to arrange with him for an exchange of land.

Ms. Armour: There are some options we can look at in the negotiations. One option is that the First Nation — I do not know the details of this particular situation — here the First Nation selects the land but honours the lease until the outfitter no longer requires the area. Once the lease lapses, the First Nation takes over management of it. There is that arrangement, or there is the possibility of an exchange of land.

Chair: I was in a similar situation with the Kluane Tribal Council. I had a lease right in the middle of some of their traditional lands and we made an exchange for other land they were not interested in. So, there are options available.

Mr. Alfred: I understand that. Where there is a long history of generations in an area ...

Ms. Armour: What we are also trying to do in the agreement, Jerry, under the heritage chapter, is to identify some of those heritage areas. Whether the First Nation includes them as part of their settlement land or not, they will be identified on maps so that, in the future, people in the federal or territorial lands offices will

be aware of them. They will see the areas identified on maps and will know that they are burial sites or traditional sites of some sort and they will take that into consideration before they issue a lease, or whatever, on the site. Through the agreement, there is the ability to try and identify such sites so that they are known about ahead of time.

Mr. Alfred: Under the heritage section?

Ms. Armour: Under the heritage chapter, yes.

Mr. Danny Joe: I can add to the subject about Dave Coleman. Other hunting outfits and sheep consultants have consulted with our band before. We do not have a problem with them. But Dave Coleman hunts all the way up the river and on Moose Lake and rivers all over that area a long time ago. And we do not know anything about it. We have finally found out more about him.

Ms. Armour: There cannot be any additional outfitting concessions created until after the claim is completed. First Nations would then be consulted if any new areas were going to be created. In some of the other agreements, there have been provisions where First Nations have a right of first refusal but if a new outfitting concession is created the First Nation has the opportunity to take it first; if not, then it is offered elsewhere. But there cannot be any new areas created without consultation with the First Nations. There are no plans for the creation of any new ones now and there certainly would not be any until after the claim is completed in each traditional territory.

Mr. Alfred: I have a question about the McArthur Game Sanctuary. I am not sure how it became a sanctuary.

Chair: I am not, either.

Ms. Armour: To tell you the honest truth, I do not know when it was originally established. I believe it was in the 1950s or early 1960s and it was identified because of the Fannin sheep in the area. There is no ability for non-native people to do any commercial hunting in the sanctuary. Through the Na-Cho Ny'ak Dun agreement, there had been discussions about creating a special management area for McArthur and they were to work with the Selkirk First Nation to create that. What we have done is to take it out of the Na-Cho Ny'ak Dun agreement and wait for the Selkirk agreement to be negotiated; then we will work out whether we can reach agreement between the two First Nations on how it will be managed. It is completely cut in half by the overlap of your two traditional territories. You both have an interest in the area.

Mr. Alfred: Yes. When it became a sanctuary, they cleared everybody out of there — all the traplines and the people who used to trap in there.

Ms. Armour: I did not realize that trapping was no longer in there as well. I thought it was just the non-native and commercial hunting.

Those are the kinds of things that would be addressed in a management plan — as to whether or not the parties felt there should be trapping in the area or whether there would be areas that would be off-limits and some areas that would be included for trapping.

Mr. Alfred: People see it as a sanctuary, so people do not hunt in there — even native people, too. The poor kids go all the way down to the Kluane area. Nobody goes up there any more. Dan probably can tell you more about it; he used to spend a lot of time up there hunting and doing all the things we enjoy.

Ms. Armour: I have heard Dan speak of McArthur before.

Mr. Isaac: Do you have a strategy plan concerning McArthur? We could put in on a management plan at some time after it is presented to the federal government and YTG. We have a conservation agreement from renewable resources. I sent a letter through the RCMP but he has not responded yet.

Ms. Armour: I do not know what that issue is about so I am

afraid I cannot respond to it. Again, I can get back to you on that, Darin.

I know you were doing work with Brian but I do not know what has happened with that project.

Chair: Do we have any other questions relating to land claims at this time?

Mr. Kane: Karyn, do you know if, in our agreement, Champagne/Aishihik, Kluane Park, Dalton Post and Six Mile Lake is designated as a special management area?

Ms. Armour: Yes.

Mr. Kane: It is co-managed by us and the territorial government.

Ms. Armour: Right.

Mr. Kane: There is something to be worked out here, too.

Ms. Armour: That is what we have been looking at but, because it is within the overlap with Na-Cho Ny'ak and Selkirk, we have set it aside until we are negotiating with the Selkirk First Nation so that we can include everyone in those discussions. We are hoping that we can begin negotiations with Selkirk in March — I believe that is the date we have identified.

Chair: If there are no other questions, I would like to thank you for coming out this afternoon. I look forward to talking to you again some day.

Mr. Alfred: Earlier, you said your government is committed to the claim process.

Chair: Yes, we are; very committed. After 20 years, it is time it was resolved.

Mr. Alfred: Is it a priority?

Chair: It is. That is why we called the Legislature back in last December — to deal with the legislation. We promised that during the election campaign and we called the Legislature back in and went through first and second reading of the legislation; it will be going back to the House this spring for final reading.

Mr. Alfred: When is the overall completion date for the first four nations?

Chair: I will let Karyn answer that because she is at the negotiating table.

Ms. Armour: Champagne/Aishihik is the only First Nation of the four that has ratified its agreement to date. It delegated the responsibility of ratification of its implementation plan to the Chief in Council. The other First Nations have said that they want to wait until the implementation plans were complete; then they would have their people ratify the entire agreement. Those negotiations are going on right now, as you know, in Whitehorse — the negotiations on the implementation plan for the umbrella final agreement and the first four. We anticipate that it should be complete within the next few weeks and I believe Na-Cho Ny'ak and Vuntut Gwich'in have identified dates in March to ratify their agreement; Teslin has also identified March or early April, I think.

The federal government has said that it requires — as a policy, rather than a rule — a minimum of three to be ratified before taking them to the federal Parliament, so they would like to see two more ratifications.

Mr. Debastien: Where did the tax dollars go that the First Nations are going to be paying?

Ms. Armour: Right now, if I understand your question correctly, section 87 provides that there is no income tax for First Nations people who are working on reserves or First Nations land. Part of the agreement that was agreed by all the parties was that there would be a buy-out of that provision in the Yukon. So \$25 million will be paid to CYI and allocated among the First Nations when that provision has been bought out.

Mr. Debastien: So, the First Nation people will be paying taxes and it will just be the same as Canadian taxpayers.

Ms. Armour: Yes. There is also the provision — and Ken,

you may be more up to speed on this than I am — for First Nations to tax their people and use the money to run their programs and their government. These are the kinds of things that will have to be negotiated over the next three years.

Mr. Debastien: Will the people be taxed twice?

Ms. Armour: No, no, no. There would only be the one tax. It would not be us taxing and then First Nations taxing on top. We would move out of the tax field and the First Nation would move in. That will be negotiated between the two governments. A portion of the tax would then go back to government and a portion to the First Nation, but those are things to be negotiated in the future.

Mr. Debastien: Would the borders be taxed in the land claims? Right now, they say natives do not recognize borders. Is that something that would be closed off to the First Nation people?

Ms. Armour: The international borders? No.

Mr. Debastien: It would stay open?

Ms. Armour: Unless it was changed nationally or internationally. No, the claim does not address that. There is no change to it.

Mr. Van Bibber: Did you meet with Mayo?

Ms. Armour: Yes, we met last night with Mayo.

Mr. Van Bibber: What was their stand on the McArthur Game Sanctuary? Did you raise that issue at all last night?

Ms. Armour: No. Na-Cho Ny'ak has agreed, as part of its agreement, to take McArthur out of its agreement and wait until Selkirk has negotiated its agreement; then the parties will try and negotiate it together.

Mr. Van Bibber: That was the agreement they made at the last meeting we had. Before this, when Mayo was a Southern Tutchone, in Whitehorse (*inaudible*) they tried to say they had been in that area before us. As far as I can remember, they never did come across the mountains. We trapped up in there until Bostock turned it into a game reserve. They took our traplines away, and left cabins all through there. We just left everything there. We had the lower end, up to Woodburn Lake and to the hot springs; the traplines went up to the hot springs; then the Isaacs had the rest of it. They had the area up to Falcon's Lake, and then Joe's went from there up to Canoe. There was no overlap at all at that time or any problem with any of the bands mixing. We stayed on our side and they stayed on theirs, and we never even met.

Chair: When did they establish McArthur Sanctuary, Dan?

Mr. Van Bibber: Shortly after Bostock first came to the Yukon — in the early 1930s.

Ms. Armour: I thought it was later than that. I thought it was in the 1950s or early 1960s.

Mr. Van Bibber: He thought that was the only place where there were saddleback rams. They range all the way through the South Fork Mountains and the Anvil Mountains.

Chair: Right up to the Ogilvies?

Mr. Van Bibber: No. They do not go up to the Ogilvies at all. There are white sheep up there, from Ross and Mayo. They also range from there over into the White Mountains. You know how sheep are — they get high up on a mountain and look way off and see a range so in rutting season they move a lot.

One time, Wes Buyck, Fred Allan and Joseph Neganos were on a grader this side of Drury Creek; they were coming up the bottom 11 percent where they have put the new road in — the old one used to go over the top of the mountain. They were grading along, and there were five sheep beside the road, on a little rocky point.

They go from there over to the Willow Lakes. There they see the White Mountains and go over there. There are several over there now. From there they see the volcano mountain and head over there, to the mountain by Selkirk. So from there they start ranging along the river. They are like the goats by Jake's Corner.

It is not a goat mountain; the goats were planted there but will not stay. They need water and places to feed.

We are talking about getting that area back again for trapping — making it a special management area. If you have a game reserve there, the sheep get old and die and nobody gets anything out of it. If we had a special management area there, we could harvest them. Every so often you could perhaps sell lottery tickets on a hunt — take hunters in there and harvest the older rams, to help pay for managing the area.

Ms. Armour: Those are all the kinds of things we can look at, Dan, when we get to the Selkirk negotiations on that area.

Mr. Van Bibber: And then Little Sheep Mountain, on this end, is where they have their lambs. It is not a jagged mountain; there is no escape — it is just a round mountain. Bears come in there and kill off the lambs if they are not protected. During lambing season, you need someone in there to keep the wolves and bears away.

There is a strange mountain there — we call it Thunder Mountain. Even in the wintertime — you can ask the old Indians who have travelled through there — you hear booming, just like thunder. So we call it Thunder Mountain. It is a sort of tindery mountain. There could be gas escaping, but they never did find any. That is the only place I have ever heard that booming like thunder.

Chair: Okay. If there are no more questions, we will wrap up.

Mr. Danny Joe: I will speak a few words in my own language.

(Translation not available)

Mrs. Alfred: He said it has been a year now since they have been negotiating for this land and he asks why it is going on and on and on. Why can we not settle it now?

Ms. Armour: Thank you, Danny. That is what we are trying to do — settle it as quickly as possible. In the next month or so, we will begin negotiations again with the communities, and hope to conclude more agreements before the end of this year. We will be negotiating with five more First Nations and, after that, there will only be another five to complete. We hope, within the next two or three years, to have all of the land claim finished.

Mr. Danny Joe: *(Translation not available)*

Mrs. Alfred: He said, on the negotiation on the land, when is the government going to be sitting down with the Selkirk First Nation?

Ms. Armour: I spoke with Jim Harper last week and we had looked at scheduling negotiations with Selkirk and starting with the land negotiations. We looked at some time in the first two weeks of March to start this.

Chair: Okay, thank you very much for attending this meeting.

Committee adjourned at 4:00 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly;

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)

Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly

Missy Follwell, Deputy Clerk

Carmacks, Yukon
Wednesday, February 3, 1993 — 7:45 p.m.

Chair: Good evening, ladies and gentlemen. I would like to thank you all for coming out this evening.

I see that we have Chief Eric Fairclough with us. He was at the meeting last night; he must be following us up and down the highway.

First, I will introduce the committee to you. I am John Ostashek, Chair of the committee. On my right is your MLA, Danny Joe; on my left is the MLA for Riverside, Jack Cable. On my far right is Karyn Armour of the land claims secretariat.

In the audience is Ken Kane, representing the Council for Yukon Indians.

This committee was appointed last December by the Legislature. The bills to approve the Yukon land claims and the First Nations self-government agreements were referred to the committee, as were the agreements that were attached to them.

The committee's main task is to seek the views of Yukoners on this legislation and the agreements and to report its findings to the Assembly this spring, along with its recommendations as to whether the agreements should be accepted or rejected.

The Yukon Legislative Assembly has given agreement in principle to this legislation, and has very clearly expressed its commitment to the settlement of the Yukon native land claims and self-government agreements.

We are here this evening to listen to your comments and to try to answer your questions.

The settlement of the Yukon land claims is very important to each and every Yukoner. It is imperative that we all have a thorough understanding of what it is all about so that we can all work together in the years ahead and so that the Yukon can be sound and vibrant.

I do not suggest for a minute that understanding it all is a simple task. I am sure that even a lot of the people who have been involved in negotiations for many years still do not know the ramifications of each and every clause of these complicated and complex agreements. A lot of work is still to be done to put into practice what the negotiators have worked so long and hard to put on paper about what the individual First Nations said was important to them.

Signing this legislation is not the conclusion of land claims. In fact, it is a very positive beginning. All of us, both native and non-native will have to be patient as we travel down the long road of implementation. Things will not change over night and will not always be easy, but I believe that with care and dedication all Yukoners will benefit from the Yukon native land claims.

I hope that tonight we will be able to have an open and informative discussion; we plan to be very informal, but we are taping the meeting so that a transcript can be prepared to be attached to the committee's report. Therefore, I would ask that prior to asking a question or making a comment you identify yourself for the record.

Coffee is available; help yourself at any time.

As we go along, if there is anything you do not understand or you wish to ask a question, please feel free to jump into the conversation.

To open, I would like to ask Karyn Armour to give you a brief overview of the umbrella final agreement and the self-government agreements.

Ms. Armour: Thank you, Mr. Ostashek.

The land claims process began in 1973 with the presentation in Ottawa of the claim, *Together Today for our Children Tomorrow*, to the federal government. The Yukon comprehensive claim is one

of the first to be filed in Canada after the 1973 acknowledgement by the federal government that outstanding claims issues remained to be resolved.

Negotiations continued during the 1970s as the federal government re-examined its claims policy. The early negotiations were bilateral, between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations. In 1978, Yukon became a party to the negotiations and now participates as a distinct and separate party from the federal government.

Between 1980 and 1984, there was much work done by negotiators on an agreement in principle. The completed document was rejected by the leadership of CYI in 1984. In 1985 the process began again, and in 1987 the federal government produced a new comprehensive claims policy that enabled the negotiators to craft a master, or framework, agreement for the Yukon that would be sensitive to the needs of different First Nations communities.

The first step of this process would establish the territory-wide structure, and the second step would focus on the specific rights and commitment for each First Nation.

During the first stages of the renewed negotiations, there was an attempt to conduct the two steps in parallel, and gradually, community negotiations were set aside, and the focus was on completing a territory-wide agreement in principle. This agreement, or AIP, was reached in November, 1988.

Between 1989 and 1990, the three parties used the agreement in principle as the basis for negotiating what is called the umbrella final agreement, or UFA, which was completed March, 1990. The UFA sets out the general provisions for the comprehensive claim in the Yukon.

After the finalization of the UFA, the community negotiations resumed, and between 1991 and 1992, the first four of the 14 First Nation final agreements were concluded with the First Nations of Na-Cho Ny'ak Dun, the Vuntut Gwich'in, the Champagne/Aishihik, and the Teslin Tlingit Council.

In parallel with the completion of the first four, a model self-government agreement was negotiated by the three parties, and agreement was reached in November of 1991. This model agreement serves as a framework for the finalization of First Nations self-government agreements. All of the first four First Nations that have concluded the final agreements have also concluded their self-government agreements.

Legislation was originally introduced in the Yukon Legislature in June, 1992, with the Vuntut Gwich'in final agreements, and it was re-introduced in December, 1992, with the Champagne/Aishihik final agreements. We hope that the legislation will be introduced in the federal parliament before the early summer of 1993.

The outstanding issue is the completion of the implementation plans, which are presently being negotiated by the implementation planning working group, which is made up of representatives of CYI and the two governments, as well as the first four First Nations. Essentially, the working group takes the finalized agreements and translates them into operational plans that give effect to the agreements. The implementation plans also set out the money that will be paid by the federal government to First Nations and the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Canadian Constitution. Land claims will essentially be treated as treaties with constitutional protection.

Some of the key elements to the agreements are that final agreements set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. It also provides for an exchange of rights between governments and

First Nations that will compensate First Nations for relinquishing their outstanding claims to title of all the lands in the territory and will provide government with certainty over ownership and management of the lands that are being surrendered.

The umbrella final agreement provides for monetary compensation for what is being given up. The financial compensation is \$242.6 million, in 1990 dollars. The money will be divided among the 14 First Nations and will be paid out over 15 years. This compensation package also provides for a \$25 million buy-out for the section 87, or tax exempt, status of Yukon Indian people.

The agreement sets out the area of land to be retained by First Nations. There is a total of 16,000 square miles in settlement land, which is divided into 10,000 square miles of category A lands, which have title to the surface and the subsurface, and 6,000 square miles of category B lands, which is surface ownership. There is also an additional 60 square miles of land available for selection in lieu of the existing reserves and land set aside.

The aboriginal title is retained on both category A and category B lands. This is the only claim in Canada, to date, that permits aboriginal title to be retained on settlement lands.

The agreement also makes provisions for continued access to settlement lands and sets out a process to resolve any disputes that are access-related. Any conflicts between the use of the surface and the subsurface on category B lands will be referred to a surface rights board, which is also established through the land claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nations representation in management decisions and will provide advice to both the Minister responsible and the First Nation.

Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide and regional level. There will also be boards that deal with water management, heritage and land use planning. A development assessment process will be established that will evaluate the economic and environmental impacts of major environmental proposals.

The role and involvement of First Nations on development assessment panels will depend on whether the impact of the projects is primarily on settlement land or on non-settlement land.

In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and the territory-wide fish and wildlife management board on a range of issues that include fish and wildlife management within the traditional territory, forest management and the establishment and management of special management areas.

These special management areas are described in First Nation final agreements and will allow for the protection and management of critical areas that are important both to government and First Nations because of their special or distinctive wildlife, heritage or natural resource values.

In the first four agreements, some of the special management areas that were negotiated were the Dalton Post area, which is called Sha'washe; Lansing and Horseshoe Slough, which are included in the Na-Cho Ny'ak Dun; the Old Crow Flats.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. Details of any specific economic measures will be found within the First Nation final agreement.

The agreements also provide details regarding taxation provisions on settlement lands. For example, there will be no taxes for unimproved rural settlement lands, and fee simple lands are

subject to taxation in the same manner as other fee simple lands throughout the territory.

In addition, there are chapters on water management, forestry and heritage. The heritage chapter provides for First Nation ownership of the Indian heritage resources directly related to the culture and history of the First Nation in question and provides for management of its own heritage resources.

The umbrella final agreement also provides for the establishment of a training trust, and a committee has been established to identify training needs for the First Nations to enable Yukon Indian people to meet the requirements of the claim.

Each First Nation final agreement sets out what is called specific provisions that have been negotiated for that First Nation final agreement. These provisions may include specific access provisions — the details of any special management area that has been negotiated. It also includes the land chapter, which sets out the amount of land for that First Nation, the description of the parcels, identifying any existing third party rights and outlining existing uses of the land, such as easements, et cetera, and any other special provisions that may have been negotiated with the land parcels.

The fish and wildlife chapter sets out the harvest allocation provisions of each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes. Both the Yukon First Nations and government have recognized the importance of fish and wildlife to all Yukoners, and the agreements provide for the sharing of those resources and resource harvesting opportunities. Until a total allowable harvest needs to be established, each First Nation will continue to harvest within its traditional territory all species to meet subsistence needs.

The UFA also commits governments to the negotiation of self-government agreements. These agreements will not be constitutionally entrenched at this time. At the moment, both CYI and the Yukon government continue to lobby the federal government to change its policy.

Self-government allows the people of a First Nation to have control over its land and communities and recognizes the authority of its own government structures. The model self-government agreement forms the basis for specific self-government agreements with each First Nation. Self-government will apply on settlement land and to beneficiaries or citizens of a First Nation. These agreements will allow for the establishment of First Nation governments and the replacement of the band structure, as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures and constitutions, providing the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Self-government agreements will also define the powers that are available to First Nations. The structure, provisions and powers of First Nations self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations can take on responsibility under their areas of jurisdiction in a flexible manner and according to the priorities set by each First Nation.

Self-government agreements will provide for financing and taxation arrangements. The money made available will come from a variety of sources, but the dollars made available from government will flow from the federal government through financial contribution agreements. Generally, these agreements establish mechanisms for continuing relationships between First Nations governments and various levels of government — federal, territory and municipal.

Federal laws are paramount over First Nations laws, unless the parties agree otherwise. Territorial and municipal laws stay in

place until such time as a First Nation decides to enact a law. There will be a public registry of the First Nation laws, and each First Nation will set up a registry system. As well, there will be a central registry of laws that will show the laws that have been formed by all the First Nations.

With respect to aboriginal justice, First Nations will have authority over the administration of justice on their settlement lands, but that power has been delayed until approximately 1999 to allow the parties to negotiate what that will mean.

On community lands, each self-government agreement will differ slightly. In the Vuntut Gwich'in agreement, there has been very little under this section, as there is no municipality or municipal interests. In Mayo, Haines Junction and Teslin, there are provisions where there are limited self-government powers on small parcels of land within municipal boundaries. There is no authority for zoning, administration of justice, control of construction, pollution, et cetera.

The powers that First Nations have agreed not to exercise are listed at the back of each self-government agreement.

Another provision that applies to community lands is compatible land use. We expect that most problems that will arise from disputes regarding self-government will likely focus on land use issues. There are provisions that encourage the parties to resolve the dispute through mediation, if they are unable to resolve the problem through consultation first. Municipalities can initiate this dispute resolution mechanism, if they wish. There is also an option that any dispute can go to arbitration, if all parties agree.

There is also provision for local service agreements to be negotiated by the municipality and First Nation. The local service agreements are to be based on the cost of services being similar to people in similar situations. The details of each First Nations final agreement are set out in their final agreements, as are the specific provisions of the umbrella final agreement set out.

These are just some of the highlights of the umbrella final agreement, the First Nations final agreements and the self-government agreements. If you have any questions, we will try to entertain them.

Chair: That is a very brief overview. As I said earlier, they are very complex documents, but we are here to try to help you understand them. The floor is now open for comments or questions.

Mr. Howard Tracey: My question is with regard to Indian land in the municipalities. Will it be controlled by the zoning of the municipality, or will the native bands be able to control the zoning?

Ms. Armour: That is open to negotiation. In the first of the agreements, if it is small parcels of land — individual lots — the First Nation has agreed not to exercise land-related self-government powers. They will be governed by the municipality. However, those issues are negotiated. If it is larger parcels of land being considered, then the First Nation — again, going by the first three agreements — has its full self-government powers, but there is the provision for compatible land use, which sets up a process so that if there are any disputes the parties can get together and discuss them.

Mr. Tracey: What would you call a larger portion of land?

Ms. Armour: In the other communities, it has generally been 20 hectares or more. In Mayo, there were no parcels within the municipal boundaries that had full self-government powers applying to them, as they are all small, individual parcels. The boundaries are very small around the community whereas, in Haines Junction, there is a mix. There are some that are subject to full self-government powers and there are others where the zoning and bylaws of the Village of Haines Junction will apply.

Mr. Tracey: So, we end up with a patchwork quilt within

municipal boundaries.

Ms. Armour: It is a possibility, but it is all negotiated in consultation with the municipal government.

Mr. Tracey: Whose laws are paramount within municipal boundaries?

Ms. Armour: The municipality's and the Yukon government's, until the First Nation establishes, or enacts, its own laws.

Mr. Tracey: In that respect, are you talking about criminal law, or just civil law, or more like bylaws for their land?

Ms. Armour: It would be a range of all three. I must admit that self-government is not my area of expertise in the agreement, so I will try to answer these questions and, possibly, Chief Fairclough may know the answers to these, or Mr. Kane may also be able to help.

With respect to some of the bylaw-making powers, the First Nation has the ability to make bylaws similar to the municipality. Again, for any of the powers or laws that a First Nation decides to take, there is a process of negotiation between the municipality or the government — whichever government's laws they are displacing. It would probably take a year to take over the powers. They would notify government of their desire to take on a particular power, and it may take approximately a year to negotiate the details and any financial arrangements. Then, they would identify a date when their law would take over. It is not something that would be done without the input of government.

Mr. Tracey: If they enacted these laws, it would only be on their own land. It would not affect municipal or criminal laws, would it?

Ms. Armour: No, it should not.

There are laws that are citizen-based that track the citizens on or off settlement lands, there are laws that are strictly land related, and laws that relate to management of the land.

Mr. Tracey: What I am trying to ask is, if there was a criminal offence, or an offence committed on other than band land, whose laws would they be subject to?

Ms. Armour: If the First Nation had taken the authority for that particular area of the law, if you are on First Nation land, you would be subject to its laws.

Mr. Tracey: Right, but if you were on municipal land, or other land, whose laws would you be subject to?

Ms. Armour: If you were a First Nations person?

Mr. Tracey: Yes.

Ms. Armour: If it is a citizen-based law — for instance, if they determined a prohibition of alcohol that applied to all their citizens, and not just necessarily on their lands — I suppose that law could track to the citizen, no matter where they were, either on or off settlement land.

Mr. Tracey: Something like that would be a nightmare.

Ms. Armour: However, it would be up to the First Nations to determine which laws are a priority for them to take over first. There may be areas of our laws that are more than satisfactory and they have no interest in taking over.

Mr. Tracey: It is not that. I can understand band laws having an effect on band lands, but when it comes to the rest of the land, the reason for the Indian land claim is to settle this thing, and if we are going to have two different sets of laws that are in effect on the rest of the land, then we are looking for a lot of trouble in the future.

Ms. Armour: It is not that there would be laws that would be on the land. There are laws that would track the beneficiaries, or the citizens, of that First Nation.

Mr. Tracey: They may be on the other land. If an offence was committed on what you may want to call white land, other than land claims land, then we are looking at two sets of laws: one

for the whites and one for the Indians.

Ms. Armour: One of the arguments that First Nations put forward is that they wanted the ability to provide services for their people. For instance, if they had some particular benefit for a health care provision they wanted to provide to their citizens, but there were some who lived in Whitehorse, they wanted to be able to ensure that those people who were living outside the community could take advantage of the benefits, wherever they were.

Mr. Tracey: I can understand benefits along that line. I am more concerned about breaches of the law, where we have, on the same piece of land, or in the same business, or whatever, two different laws.

Ms. Armour: Applying to the people?

Mr. Tracey: That is right, racially-based laws. We are against apartheid in Africa, and now we are talking about having it in Canada, right here in the Yukon.

Ms. Armour: I do not share your view.

Mr. Danny Joe: I will try to answer that. Whether it is municipality land or First Nation land, sometime in the future, the First Nation and (inaudible) cost-shares. Those kinds of things have yet to be negotiated. Before it starts getting confusing, I think the chief could better answer that. In Mayo, they did not have much problem with it.

Chief Fairclough: My understanding is that when it comes to heavy criminal law, it is across the board. There is no scapegoat land that native or non-native people can use. Settlement land is not a place where a non-native can go to get away from federal law.

Ms. Armour: You are right. I should have clarified that.

Chief Fairclough: One thing you have to remember is that the Yukon First Nations will have powers equal to the territorial government. It does not mean that we cannot make laws over and above YTG laws. I will give you an example: gun laws. When there is a gun law put in place by YTG — and I am talking about ones that affect our people, for example, carrying a rifle in a vehicle — you have that law on First Nation land but, all of a sudden, it is in your vehicle and you are driving home, that kind of thing, and you get busted for it being in your vehicle, those are the laws that a First Nation can change.

I do not think that we are thinking anything along the lines of having it so different that it would be a place where Indian people can run away to, or that they can commit a crime and then run onto their own land. That is far from what we are trying to accomplish.

Mr. Tracey: Although I disagree with the concept of having equal to provincial or territorial law, I still have a problem with the fact that, under the land claim there can be separate laws for separate people — that we can have two sets of laws that are in effect at the same time on the same piece of property.

Mr. Kane: There are two sets of laws right now. One is called the *Indian Act* and the other is the general laws of application. Under the *Indian Act*, people can (inaudible) law was there and made me go to the mission school when I was six years to eight years old.

We understand the confusion that can be caused by having two laws but, in a municipality or in a place where we share things, like Haines Junction, I am sure that we, as a First Nation, will adopt the general laws of application within the Village of Haines Junction but, outside on our own land, where we have total jurisdiction, that is where our laws will apply. In Haines Junction, for municipal and bylaw violations, and things like that, we will probably use the territorial court.

Mr. Tracey: I hope so.

Ms. Armour: For Yukon citizens, there are benefits that we take to British Columbia for a length of time. We are still under the Yukon provisions, as far as services. The benefits track us. It

would be the same with the First Nations people.

Mr. Clyde Blackjack: There are lots of different communities throughout the Yukon, and they all have different sets of laws. In Carmacks, we have 50 percent white people. It is a different law game. If they make one law for everybody, like what Victor Mitander is doing up there, I cannot vote yes on it, because I would like to negotiate that at the community, where everybody would be participating to make sure that everybody is agreed to it, so we would have negotiation going for local government, so everybody would be satisfied. I do not like that law coming from Whitehorse. I would like it to be negotiated here at the table in Carmacks, so everybody can be satisfied with it, because we are the ones who are going to live with this law. That is why that is what I want to see.

I brought that up a long time ago, that Indian self-government and municipal government are negotiated. I just want to make sure that everybody agrees with the laws so there is no fighting going on for the next 100 years. Everybody has to live together and share together and not fight. I would like to see that happen for the future of my kids, and make sure that some of my people are sitting on the education board for my kids, and make sure everybody is together. We do not want to have one school on this side of the river and another school on the other side. I would like to see something for everybody. That is all I have to say.

Mr. Joseph O'Brien: That has to be clarified. If you go across the border to Alberta or B.C., they all have different laws. The umbrella final agreement will give us some. People are always saying to take care of your own. It is going to give us a chance to take care of our own. We have a long way to go. The only thing I have learned is that the government is always going to change. If they sign their name on the dotted line, they have to live up to their commitment. Eric is right when he says it is going to give us a lot of powers.

Ms. Armour: The agreements are constitutionally entrenched. They are legally binding agreements and, if governments do not honour the commitments in the agreements, there is the option to go to court. They are legally binding treaties.

Mr. O'Brien: On some of the things the NDP signed, I wonder whether the Yukon Party will honour those commitments.

Chair: We have to honour those commitments. They are signed agreements, and we have passed legislation in the House saying that we agree with them.

Ms. Armour: To get back to what Mr. Blackjack said earlier, these agreements are framework agreements — the final agreement and the self-government agreement — and there are a lot of things that still need to be negotiated with the First Nation in the community. Those negotiations will take place in the community, and people will have an opportunity to have input into those agreements. We will also be working with the municipal councils in the communities. We hope the First Nation and the municipality will work together to make agreements that everyone here can live with, so that there are not things like separate services on each side of the river, and so the First Nation and the community will work together.

Mr. Blackjack: I do not agree with what has happened up there. Someone has put an agreement together in Whitehorse, brought it down here and said okey, you guys vote on it. Nobody came here to ask people what kind of an agreement we want. Nobody knows where the money is going to go, or about the taxation. After everyone begins to pay taxes we better be sure that everybody is satisfied with the agreement. It has to be negotiated.

Mr. Randy Taylor: What role does the RCMP play in the various laws affecting parcels of land? I can see gray areas developing.

Ms. Armour: The criminal law still applies, so the RCMP is

still the enforcer for those laws. As for bylaws that First Nations may make, it is still under negotiation as to whether or not it would be the Yukon government that would be enforcing some of the laws on First Nations land. It is more likely, and I believe the way the First Nations and Yukon government would prefer it, that the First Nations enforce their own bylaws and their own management laws on their lands. As for the criminal code, it still applies, and it is still the RCMP that enforces it.

Mr. Taylor: What made me think of it was, for example, (*inaudible*) over one parcel of land from another, I can see grey areas arising as to exactly what we should do.

Ms. Armour: It will be known what laws apply with each First Nation, which is what the central registry of law is for. It is not that you enter onto the land and, suddenly, there are new laws that have sprung up overnight or anything.

Mr. Taylor: I realize that, but I can just see, if I can use the expression, grey areas in enforcing the whole thing — and confusion.

Ms. Armour: I think it will be clear which laws the RCMP and YTG would still enforce and which laws the First Nation will enforce on their lands. As First Nations take on powers, the issues of enforcement will be clear.

Chief Fairclough: I would like to make a comment on that. Like many other First Nations, we are trying to work with the municipality on things like the renewable resource council. Those are where a lot of the laws can be shared between non-native and native.

Chair: The other thing to add to that, as Karyn said earlier, until such time as the First Nation decides to take responsibility for something, the general laws of application apply. When they decide to take over, there will be about a one year transition period, during which time everything will be laid out as to who is responsible for what and what applies where. As was said earlier, this is only the beginning of the negotiations, it is not the end of them, and there are going to be a lot of complex negotiations as First Nations decide to take over some of the things they are entitled to take over under the self-government agreements. They may not choose to take them over. Until the time they do, the general laws of application apply.

Mr. Tracey: This gun law that Eric raised is a good example of where we could have two different laws for two different people on the same piece of land.

Chair: Gun laws are under the criminal code.

Ms. Armour: Yes, they are.

Chair: If the gun laws are under the Criminal Code, they will apply equally on First Nations and territorial lands.

Ms. Armour: That may not have been the best example.

Mr. Taylor: I have commented on being on the municipal council and look forward to working with First Nations, and have worked hard toward that. How is that going to affect when claims are settled? I know we said that when we work with the First Nations two (*inaudible*) are better than one, and we can work together, but how is that going to affect the total municipal block funding?

I heard through the grapevine that this new formula was worked on for the comprehensive block funding, and this new formula that is being worked on has anything to do with land claims.

Chair: Under those areas, on the municipality side, if the First Nation decides to take on the responsibility for the delivery of a service, during the negotiations it will be identified if there are any net savings to the territorial government. If there are none, then there will be no changes to the amount of money that will be given to the municipality. If there is a net savings for the municipality because the First Nation is now providing the service, that saving will be passed on to the First Nation. Again, that is a

place where there will be a lot of negotiation.

Suppose the First Nation took over the garbage pick-up service, and they were going to do it for the entire municipality, not just on their land, that would go into negotiations. It is better to have one party responsible instead of trying to do it side-by-side. Like Mr. Blackjack said, he does not want to see two schools, one on one side of the river and the other on the other side of the river. If, in the end result, there was a net saving to the territorial government because the First Nation was now providing that service, that net saving would be identified and passed on to the First Nation. If there were no net savings, then the funding would remain the same to the municipality.

Mr. Taylor: Would that net savings come out of the municipal block funding?

Chair: If there was a net savings to the municipality, I imagine it would.

Mr. Taylor: Is that not a formula to take away the incentive to work together to save money?

Chair: It may also be the other way around, where the municipality is delivering a service to the First Nation and would get extra money for it.

Mr. Taylor: I am not choosing sides, one way or the other.

Chair: I am just saying that is part of the negotiations, and that is the way it is laid out in the self-government agreements: if there are any net saving to the territorial government ...

Mr. Taylor: So, if we work together to save money on services, we cannot take the money we save and put it into something else?

Chair: I am not saying that. I am saying that is subject to negotiations. However, the self-government agreement says that if there is any net savings to the territorial government, it will be passed on to the First Nation.

Mr. Taylor: Can you define savings to the territorial government? Is that savings to the municipality? Is that classified as a savings to the territorial government?

Chair: That would be part of the negotiation.

Mr. Taylor: So, we look at a deal where we can save money together, then somebody loses out?

Chair: The territorial government will be losing out, because it is money they will not receive from Ottawa, as well.

Mr. Tracey: Conversely, will money come out of the Indian claim and go over to the municipality?

Chair: If the service is reversed, yes.

Mr. Tracey: So, there is really no net saving at all. You cannot save anything. All you are doing is cutting your grant.

Ms. Armour: However, you are not having the cost of two parties delivering the same service.

Chair: That is what the negotiating process is set up for — so there would not be a duplication of service and a doubling of cost to the taxpayers.

Mr. John Allen: It is more of a concern that, in the white society, we have become an individual society. Personally, I think that is bad. The family is going, too quick. In the First Nation society, the family is very important. Recently, there were two cases of sexual abuse in the Yukon. One occurred in Teslin and was handled in one particular fashion, and another occurred in Whitehorse, and it was handled in another particular fashion. One group had the ability to cater to the offender, and the other group does not. In some respects, it is a member of the white society in the Yukon who is the loser, because we do not have this caring philosophy. If we have two cultures with two different sets of laws, could that not be very constructive for all of us?

Chair: The laws of general application in the white community will be the same as they are now. The laws on First Nations lands will be what the First Nations want them to be.

Mr. Allen: You cannot sort them out.

Chair: We still have that now in a lot of areas because of the *Indian Act*. Ken is saying that nothing has changed. They are going to take responsibility for what DIAND is doing for them now in a lot of areas. If they decide to, be it in welfare, child adoption or whatever, they are going to have the ability to do those things and make those decisions themselves.

Mr. Allen: However, that decision may be applied to a group of people who cannot cope with it. If, for example, somebody is slapped on the wrist for sexual abuse in one society, that may be unacceptable to the other society.

Ms. Armour: I am not sure what you are getting at.

Mr. Allen: There has to be a balance. If I am carrying my rifle, and it is loaded, on land up here, I will get into trouble with *(inaudible)* If I carry the same rifle downtown, I will get into trouble in the same way with these folks.

Ms. Armour: In that particular example, you will on settlement lands, as well.

Mr. Allen: Right. However, in Teslin, for example, just recently someone was convicted of sexual abuse. That community gathered around that individual and he was given a very light sentence. Everybody helped. I think that reflects more the caring aspects that the Indian community has. Where, if the self-same thing was applied in the white community in Whitehorse just recently, and *(inaudible)* same caring attitude *(inaudible)*

Chair: Justice has yet to be negotiated. It will be negotiated before 1999.

Ms. Armour: I am not sure if you are applying it to that particular crime, or you are saying that it could be unfair that there will be... I guess I am not sure what you are saying.

Mr. Allen: One law for one group of people they cater to *(inaudible)* going to be *(inaudible)* from that group of people *(inaudible)*

Mr. O'Brien: Every community *(inaudible)* In Teslin there is a tribal justice system *(inaudible)* They are looking at a healing system with everyone involved. There are some crimes that cannot be overlooked, and as Eric mentioned, *(inaudible)*

Ms. Armour: That is true. The tribal justice area of the agreement is still under negotiation. In Teslin, there is a trial project that has been set up among the federal government, the territorial government and the First Nation. However, all those provisions have yet to be negotiated in the agreement.

I gather they will use the Teslin experience in negotiating what happens in the tribal justice area of the agreements, but it is really a trial project.

Mr. Allen: Essentially, what I am trying to say is you can stand on this piece of land, commit a crime, and get a totally different sentence to what you would get if you were standing on that piece of land over there.

Chair: Not if it is a crime that comes under the Criminal Code of Canada.

Ms. Armour: However, you are right on bylaws.

Chair: On bylaws, you can.

Ms. Armour: That happens now. You are going to be sentenced very differently in Burnaby than you would be in Vancouver on some issues. What would happen in Whitehorse and in Faro, under the municipal bylaws, may be a different sentence.

Mr. Allen: Unless I am completely mistaken, you are actually talking a totally different justice system.

Chair: As Karyn just said, that is not negotiated yet and will not be negotiated before 1999.

Ms. Armour: They are using the Teslin project as a trial project. All the parties will sit down and negotiate how justice will be done.

Mr. O'Brien: *(inaudible)* on the other side of the river. Even

in Carmacks, we have circle sentencing. It started out as tribal justice and now, it is *(inaudible)* Everybody is treated equal. There is nobody special. We look to it more like healing. What good would it do to sentence an individual to the Whitehorse Corrections Centre, and spend thousands of dollars of the taxpayers' money and just bring out the bitterness in him. *(inaudible)* where the society and people who enforce the law and the justice system, when you can go to work healing this person, so they will not do it again. Every community, at its own pace, is expecting *(inaudible)* have to be worked out.

There are four First Nations that are *(inaudible)* Old Crow, the Champagne/Aishihik. Every community is at their own pace. If something happens in Carmacks, it affects the whole community. We all know each other. We have to live here. If somebody's house burns down, we all go over there to help. That is what separates us people from down-south communities. If you are going to be beat up in an alley, or something, and people walk by, and that is normal *(inaudible)* We just will not tolerate that here in Carmacks.

Mr. Tracey: Is there any commitment on behalf of the federal government to turn the rest of the land and resources over to the territorial government once land claims is settled?

Ms. Armour: That is something that is not happening at the moment, as I understand it. After the claim has been completed, I am sure the territorial government and the federal government, in consultation with First Nations, will enter into those negotiations, as they will with the devolution of a number of other areas of federal jurisdiction.

Chief Fairclough: If these agreements — the UFA and the model self-government agreement — are signed off by the territorial government, and the federal government enters into any negotiations like that, is that a breach of the agreement?

Ms. Armour: Is it a breach of the agreement, once these are finalized?

Chief Fairclough: Yes, if they were to sign over large chunks of land to the territorial government.

Ms. Armour: No, there is nothing in this agreement that would breach.

Chief Fairclough: I would like to make a comment on John's introduction. First of all, I am not following you around, alright? I went to Mayo, and you followed me there. I am here today, and you followed me here. I was wondering why, and I think I know why. I think you want to talk to me in detail about implementation.

Chair: I would love to.

Chief Fairclough: I want to make a general comment about the whole UFA and the model self-government agreement.

We have been negotiating land claims now for almost 20 years. It is costing us a lot of money, and we are going to have to pay those dollars back. As of December, 1991, all the First Nations have agreed to the UFA and the model self-government agreement, even though there were some issues in there that were unsettled. We have gone two years now.

Last year, there were seven more First Nations at the table, and we were one of them. We have put together a schedule, and we handed it to you and, soon, we are going to go to our first round of talks with you. Due to circumstances, that schedule was broken. We did it again, and more things came up. We have another schedule here.

We have been at land claims for 20 years. We have looked at everything in the umbrella final agreement and self-government agreement. Even though not every First Nation agreed to everything that is in the UFA and the model self-government agreement, we said we can handle it and live with it. We like it, we want to get on with our lives. We do not want to be controlled by our great white father, Tom Siddon, who has set up Indian Affairs to look

after our affairs. We want to do it ourselves, and we want a government.

I want to give you this message. It is the same as what Robert said last night. We need to get on with it. We need these agreements put in place. We do not need to wait another five, six or seven years before we finalize them.

Chair: Thank you. I also do not want to wait another five or seven years. I want to wait another two years. As we said last night, we are working diligently to try to meet your time table. We are continuing with the costing of the implementation; we are watching your deadline, and we are prepared to work within that time frame.

Again, as you are fully aware, for the responsibilities that the territorial government is going to have to take on under the implementation, we have to have the funding to do it. That is a great concern of ours, just as it is of the CYI. If we do not have the money, where is it going to come from for the implementation of those agreements.

Chief Fairclough: It is pretty hard to come up with a dollar value.

Chair: I know it is.

Chief Fairclough: Both of us know that we wanted more than what we got. It is less than half of what we wanted.

Chair: I guess what I am asking you is, if we accept that money, and it is not enough, what happens then?

Chief Fairclough: We do not know that it is not enough.

Chair: We do not, but we are pretty sure.

Chief Fairclough: I will tell you what happens then. If that money is not enough, there is an obligation the federal government has to fulfill and implement those agreements, right?

At that time, you can go back to the federal government and say it is not working with these dollars. We want to get the show on the road, and that is the process that should happen.

Chair: Is there anything to add to that?

Ms. Armour: No. I have heard it before.

Chair: We all feel the same.

Ms. Armour: We share the same view. I know that YTG is being perceived as being obstructionist right now, but it is because we care very much about making sure that the agreements are implemented in the spirit in which they are negotiated. That is the exercise we are going through, to see if it is enough money and, if not, whether we feel we can live with what is being allocated to us and whether or not we can live with hoping that the federal government will come up with more money in the future. That is a decision that, as negotiators, we have not yet made, and that the government has not made.

Chief Fairclough: That is under negotiation, but it ties right in. What I do not want to see is reopening the UFA.

Chair: I do not think anybody has any intention to reopen the UFA; none whatsoever. We have passed through first and second reading in the House. Almost every Member in the House spoke to it, and nobody suggested for one minute that it should be reopened. We do not have the ability to do it. It takes three parties to agree to do that.

Chief Fairclough: What happens if you disagree?

Chair: It is not our intention to disagree. I have said time and time again that we have not refused the money that was offered. We just have not accepted it at this point, and we are trying to get more.

Ms. Armour: Are you talking about other provisions of the UFA?

Chief Fairclough: No: in general.

Ms. Armour: Is there an area that is raised through the select committee?

Chief Fairclough: Right.

Mr. O'Brien: What is the government's position on the UFA?

Chair: If there were stalling tactics, I do not think the government would have come forward with the legislation in December. We have gone through first and second reading of the legislation. The bill will be coming back into the House for third reading in the spring session.

Mr. O'Brien: As far as I am concerned, land claims has been going on for too long. I do not understand why we have not signed a land claims deal of any kind here in the Yukon. I do not understand why we have to get the government to negotiate our land.

Ms. Armour: Those are the provisions that have been agreed to by the leadership of the two governments. The parties agreed to negotiate. What you are asking is two separate questions. There is the ongoing process, which this committee is part of, to legislate the umbrella final agreement, the self-government agreement and the Champagne/Aishihik First Nation agreement, to begin with. The other three of the four that have finished their agreements and are in the process of being ratified. Those agreements will be attached to the legislation, once they are ratified. Starting in March, we continue on with the negotiations of the next First Nation final agreements. The schedule is set up where the next First Nations are the Carmacks/Little Salmon First Nation, the Selkirk First Nation, the two Whitehorse First Nations and the Dawson First Nation.

Mr. O'Brien: Whatn was the first one?

Ms. Armour: I am trying to remember how to pronounce the name. Tsau Injik Dun. Is that close?

Mr. Blackjack: There is another thing I disagree with. (*inaudible*) the NDP (*inaudible*) agreement with the Champagne/Aishihik and these other guys (*inaudible*) they come right over on top of our traditional land, but they never consulted with the Carmacks and Little Salmon people. They signed it fast before we agreed with whatever was our traditional land and how far our traditional land (*inaudible*) signed it (*inaudible*) let us know what happened. That is part of what I do not agree with.

Then, the Whitehorse Indian Band (*inaudible*) the north side of the lake (*inaudible*) the land around it and (*inaudible*) my cabin has been there for many years (*inaudible*) in Whitehorse (*inaudible*) land right over on top of my cabin (*inaudible*) YTG land claims office, and I pointed out to them where my cabin was, and I did not want them to give it away to the Whitehorse Indian Band, because if they give it to the Whitehorse Indian Band, I am going to be paying rent on my own land.

I do not know what kind of land claims I am going to have. I wanted them to know not to sign my land away without some consultation with me.

Ms. Armour: It was me to whom you spoke. We have marked on the map where your land is. I know where it is.

Mr. Kane: There are a number of overlaps that have not been decided. After we have settled the agreements we can negotiate among the First Nations. It has not been settled yet.

Ms. Armour: No, it has not. Ta'an cannot take that portion of the traditional territory until they negotiate with the First Nation here. All that has to be done yet. The boundaries where the traditional territories overlap has to be resolved.

Mr. Tracey: I have a question with regard to land use planning. Will land use planning be done jointly on both lands, or will land use planning be done jointly only on the rest of the territory?

Ms. Armour: It can be done on both. There is provision for joint planning. If the parties choose not to, the government can continue to plan for the non-settlement lands and First Nations can plan for their own lands. However, there is a process in the agreement that sets it up so the parties can get together.

Mr. Tracey: If they agree, they can jointly plan but, if they disagree, they can go their separate ways.

Ms. Armour: Yes.

Mr. Allen: You are talking about land A, B and something else. Could you explain what that means?

Ms. Armour: There are A lands, B lands and fee simple lands. The category A lands include surface and subsurface ownership and also aboriginal title. Category B lands include surface ownership only, along with aboriginal title. There are small parcels that will be fee simple lands, probably within municipal boundaries. The lands are broken up into what is called rural blocks, community lands and site specific parcels, which are generally fishing sites, trapline cabins, gravesites, spots of significance to First Nations that were not able to be captured in some of the larger blocks.

Mr. Allen: For example, you say some are fee simple, which means they can be sold, right?

Ms. Armour: No, not necessarily. It will be stated within each First Nation constitution as to whether or not they can dispose of the lands, and that will be up to each First Nation. The agreement permits First Nations to sell their land, but it is up to the individual First Nation, in their own constitution, to determine if they want to sell the lands and what process it would have to go through. One of the First Nations suggested that it would go through three general assemblies, so there is no possibility of it being a quick decision. That will solely be within the constitution.

Mr. Tracey: I have another question with regard to aboriginal title. What does it really mean on this fee simple land?

Ms. Armour: There is no aboriginal title on fee simple lands; only on category A and B lands. Aboriginal title has not been defined, as yet.

Mr. Tracey: If they own the land, I do not understand what aboriginal title means.

Ms. Armour: There are all kinds of people who have tried to define it. I am afraid I am not one of them.

Chair: This committee is in charge of making a recommendation of either accepting or rejecting the land claim agreements. If we open it up to cure all the warts, we might be sitting here for the next 10 years. I think it is probably admitted by everybody that there may be some problems, but we are not charged with suggesting a lot of amendments to the bills.

Ms. Armour: I also think there are enough processes in place to permit the parties to negotiate how the different arrangements can work.

Chair: I think everybody is in agreement that we should get on with it, get the show on the road, get these bills signed up and get the legislation passed. I think that is where practically all the Members of the Assembly are coming from, if not all of them.

Mr. Allen: That is why I expressed a concern; not raised an issue.

Chair: For example, the Province of Alberta has different laws than the Province of B.C., and a different way of handling things. It is not unusual to have jurisdictions that are exercising provincial powers with different approaches.

Mr. Kane: I would like to comment on self-government. We are not talking about setting up 14 sovereign states. We are talking about jurisdiction and control over the things that affect us in our lives on the land. Right now, the *Indian Act* does that. Talking about criminal laws and general application, I am sure that even Indian people cannot come up with any more creative laws than what exist now, like dog catching, and so on. We are going to adopt the ones that already exist. What self-government really means is that we gain control over it so we can have some say.

We can make decisions that concern us every day and be responsible for ourselves. There might be a misconception when

we talk about self-government. The reason why (*inaudible*) self-government is that, in order to gain anything, you always have to start at the highest position. If we wanted to be a municipality, we do not get very much. That is just a tactic of negotiation to gain control over our own lives.

Do not think that, all of a sudden, day one after self-government, there will be different laws, different stop signs in Southern Tutchone and Northern Tutchone and Tlingit. There are so many ways of being creative and creating laws, so we will probably adopt a lot of them.

What we are really talking about here is jurisdiction and controlling things that affect us. That is basically what we are talking about. As for what they are doing in Pelly with two different laws, I think the reason Teslin got started up was because the white system was foreign to the Indian person within that system. What they are saying that, in order to make it humanizing, and in order to help that person to heal, is to use a different approach on the sentencing. It probably was not harsh enough, or anything, but Indian people try to look at the whole. We look at things in the round, in the circle, instead of an individual. That is where that idea came from.

In the white system, it is adversarial: the judge and you. In the community of Teslin, it is more of what can I do to help this person. That is the difference.

Mr. Allen: One side is looking at crime and punishment — that is the white side — and the other side is looking at crime and treatment — that is the Indian side.

Mr. Danny Joe: I would like to add more to what Ken said about self-government. To me, self-government means that people start working together. It is very important to recognize that Carmacks is a Yukon community. In this great Yukon of ours, when are we going to put our heads together to start to do things together? That is important.

We talk about law. Self-government does not mean you are going to form another body of big government. We can have self-government by working together, sitting on boards and different things, changing the law that were set out by our government, and do lots of things. That is what self-government is to me.

(*inaudible*) for too long. They will get into a dog fight, they do not understand each other. We are going to start working together (*inaudible*)

Chair: Are there any other comments from the floor this evening?

Mr. Norman Sam: (*inaudible*) This is a community with two parties that can come together in agreement. If there is a problem where we cannot come to agreement, is there a third party that steps in?

Ms. Armour: Where there is a dispute?

Mr. Sam: Yes.

Ms. Armour: In the agreement, there is a dispute resolution process set up. There will be a panel of trained mediators that will have First Nation representation and government representation. Depending on the dispute, they will draw from that panel of people to hear the dispute. The municipality and the First Nation will first try to resolve the dispute themselves. If they determine they cannot, then they request that a mediator come in to help them resolve the dispute.

Mr. Sam: Does the panel come from the community?

Ms. Armour: I believe there is provision that there is representation from all of the communities, so it is not always someone coming in from outside. In some disputes, it may be easier to have someone come in from outside. It depends on the nature of the dispute.

That is part of the training that is being set up; there will be training of people to be mediators.

Chair: Are there any other comments?

Mr. Blackjack: What about foot care? Can seniors (*inaudible*)

Ms. Armour: We will let Mr. Cable answer that one.

Mr. Cable: It is maybe.

Chair: I would like to thank you folks for coming out this evening. Grab a cup of coffee and stay around to chat a little.

Committee adjourned at 9:00 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 11

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Hellaby Hall
Whitehorse, Yukon



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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly;

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Whitehorse, Yukon**Thursday, February 4, 1993 — 7:30 p.m.**

Chair: I welcome you all to this committee meeting in Whitehorse.

For the record, my name is John Ostashek. I represent the riding of Porter Creek North, and I am Chair of this special committee.

On my immediate left is Margaret Joe, MLA for Whitehorse Centre; on my far left is Mr. Jack Cable, MLA for Riverside. On my immediate right is Mickey Fisher, MLA for Lake Laberge; and beside him is Mr. John Devries, MLA for Watson Lake.

This committee was appointed by the Legislature last December. The bill approving the Yukon land claim final agreement and the First Nation self-government bill were referred to the committee, as were the agreements attached to them. The committee's main task is to seek the views of Yukoners on this legislation and the agreements, and to report its findings to the Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected. The Yukon Legislative Assembly has given its approval in principle to the legislation, very clearly expressing its commitment to the settlement of the Yukon land claim and self-government agreement during debate in the Legislature last winter.

We are here to listen to your comments on the land claims and self-government, and, with the assistance of the Yukon land claims officials who are with us this evening, to try to answer any of the questions you may have.

The settlement of the land claims is a very important issue to all Yukoners. It is imperative that we all have a thorough understanding of what it is all about, so that we can all work together over the coming years to ensure that the Yukon is strong and vibrant.

I cannot suggest for a moment that it is a simple task to understand these agreements. I am sure that even those who have been working on them at the negotiating table for many months, or even years, could not say that they are fully knowledgeable about all aspects of the claim and self-government agreements.

A lot of work will still have to be done to put into practice what the negotiators have worked long and hard to put on paper and what the individual First Nations have said is important to each of them in the specific agreements that have been signed to date.

The signing of the settlement legislation is not the conclusion of land claims. Rather, it is a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change in the Yukon over night, and it will not always be easy, but with care and dedication, I am certain that all Yukoners will benefit from the Yukon land claims.

I hope that tonight we will be able to have a very open and informative discussion. We plan to be very informal, but we are taping the meeting so that transcripts can be prepared and attached to the committee's report. For that reason, I would ask that before you speak, ask a question, or rise to make known your views, you identify yourself for the record.

Coffee is available. Help yourself at any time. If, during discussion, any questions come to mind, feel free to jump in; we will see if we can give you satisfactory answers.

We have with us tonight a number of people who have worked on the land claims. I would first like to introduce you to Ken Kane, in the audience, who represents the Council for Yukon Indians. Members of the Land Claims Secretariat are also present, headed by the chief negotiator, Tim McTiernan. Before he begins his presentation, I will ask him to introduce his staff.

Mr. McTiernan: Thank you, Mr. Chair.

On my left is Jan Langford, who works with the Land Claims

Secretariat on self-government issues, both self-government policy and implementation matters related to self-government. On my right is Karyn Armour, who is principal negotiator, and who has been involved in the negotiations of a number of the First Nation final agreements, particularly with respect to the land negotiations.

Also, sitting in the audience, are Don Sumanik, who is the lands negotiator, and Kathy Kosuta and Keith Brown, both of whom work as land negotiators with the Yukon government Land Claims Secretariat. Alan Koprowsky is also present; he works with Renewable Resources and supports the Land Claims Secretariat in its work. There may also be others who have come in a little later and whom I have missed.

Chair: Mr. McTiernan will present a brief overview of the land claims and self-government agreements.

Mr. McTiernan: As you have indicated, I have been asked to give a brief overview. Most of the committee members have also suggested that I do not know the meaning of the word "brief"; however, I will try to provide as broad a perspective on the land claims agreement as I can, in as short a period of time as I am capable of.

Mr. Ostashek made reference to the fact that we are in the last stages of the process to legislate the land claims and self-government agreements in the Yukon Legislature. Both the land claims and self-government legislation have been through first and second reading in the Legislature, have been approved in principle and referred to the special committee to conduct hearings to hear the views of Yukoners before the third and final reading of the legislation, and before the land claims and self-government legislation is finalized by the Yukon Legislature.

This will be one of three essential steps in completing land claims and self-government agreements in the Yukon. The other major steps will be the enactment of federal land claims and self-government legislation. The third major step will be the ratification by First Nations of their First Nation final agreements and self-government agreements, which follows the overall ratification by the Council for Yukon Indians of the umbrella final agreement and the general provisions of Yukon land claims and self-government agreements.

Together, these three intertwined decision steps follow a process that, in the current claims negotiations, started in 1989 with the completion of an agreement in principle that set out the general framework and the general scope for land claims and self-government legislation and land claims and self-government agreements in the Yukon.

The general terms of the agreement in principle reached in 1989 were given more detail and made more specific in the umbrella final agreement, which was negotiated and completed in 1990. The umbrella final agreement set out the general terms and general principles of all land claims agreements in the Yukon, set out the terms of the management structures that would be established on a territory-wide basis as a result of the land claim agreements in the Yukon, and provided for then negotiation of self-government agreements, in parallel with the negotiation of First Nation final agreements. The umbrella final agreement envisaged that there would be 14 First Nation final land claims agreements, one for each of the First Nations in the Yukon.

In 1991, the framework of a model self-government agreement was negotiated. It was completed in November 1991, some months after the first First Nation final land claims agreement had been negotiated with Na-Cho Ny'ak Dun earlier that summer. By the middle of 1992, we had completed a number of First Nation final agreements and self-government agreements, including the Vuntut Gwich'in agreement, the Champagne/Aishihik agreement and the Na-Cho Ny'ak Dun agreement, as well as introduced land

claims legislation into the Yukon Legislature.

Land claims legislation was introduced in the Yukon Legislature in June 1992; it went through first and second reading, and essentially died on the Order Paper, as an election intervened. The legislation was re-introduced in December 1992; it went through first and second reading, and we sit today participating in the work of the special committee that was established as a result of the legislative motion that accompanied the land claims legislation.

Currently, we have completed four First Nation final agreements and four self-government agreements in the Yukon, as well as having finalized the umbrella final agreement. We are in the process of negotiating implementation plans among Canada, the Yukon and the Council for Yukon Indians that will address the implementation requirements of the umbrella final agreement and the implementation requirements of each of the four First Nation final agreements and four self-government agreements that have been negotiated to this point.

We are commencing negotiations with a number of First Nations and are preparing to enter into what will be the second wave of negotiations with First Nations on their final agreements and self-government agreements, and we will be in a position to carry through with the second wave of negotiations as soon as the implementation plans have been completed for the final agreements and self-government agreements and umbrella final agreement.

The completion of implementation plans for the first set of agreements will allow for the Yukon land claim agreements to be considered by the federal Cabinet, and will allow for the introduction of federal legislation to give legal effect to the land claims agreements.

The intensive process that has led to today and to preparation to complete the next 10 — and the final 10 — First Nations final agreements and self-government agreements started in 1973, when the Council for Yukon Indians tabled its land claim, *Together Today for our Children Tomorrow*, one of the first comprehensive claims filed in Canada following the 1973 Supreme Court case that recognized that there were outstanding obligations on the part of the federal government to complete land claims agreements with First Nations in areas of the country that are not covered by treaty.

The negotiations that started in 1973 continued in the 1970s between the Council for Yukon Indians and the federal government. By the 1980s, with the emergence of responsible government and Cabinet government in the Yukon, the Yukon government had achieved separate status at the land claims table and was then the third party to land claims negotiations. This was a first in northern claims and it recognized the significance of land claims for the territory as a whole and the general objective that the settlement of land claims was part of the development of the territory, and provided an opportunity for First Nation people and First Nations to work together with non-aboriginal people toward forms of government that would work for social community and economic development in the territory.

The negotiations that started in 1973 and carried on throughout the 1980s culminated in an agreement in principle in 1984, which, while not accepted by the First Nations at that time, laid the foundation for, and set out, the issues that were addressed successfully in the negotiations leading to the present umbrella final agreement and First Nations final agreements.

The land claims agreements meet an outstanding, legal constitutional obligation to treaty with First Nations that do not yet have treaties in Canada. The land claims agreements in the Yukon essentially finish a process that was started by Chief Jim Boss in the early 1900s, who petitioned the federal government for treaties, as the area was being occupied during the gold rush and

in the aftermath of the gold rush.

The land claims agreements, as modern-day treaties, will be protected under section 35 of the Constitution as treaties with Indian people.

Self-government agreements, negotiated at the same time as land claim agreements, and legislated through separate legislation, will redefine the relationship between Indian people and the federal government. They will remove Yukon Indian people from under the framework of the *Indian Act*, and will provide for the establishment of Indian governments, with their own decision-making processes and their own decision-making authorities that will replace the decision-making structures that are currently tied into the department of Indian Affairs and Northern Development.

The land claims agreements, as I suggested earlier, essentially capture two general elements. Each First Nation final agreement will include the general provisions of the umbrella final agreement that are common to all 14 land claims across the territory, and will also include specific provisions that are negotiated with each separate First nation.

The general provisions that are included in land claims agreements fall into a number of different categories. First and foremost, the land claims agreements will provide certainty, in that First Nations will surrender their outstanding claim to title of lands that are not retained by the First Nations in exchange for a package of benefits and rights that are included in the land claims agreements.

The land claims agreements will also set out who can be beneficiaries to the agreements and will set out criteria for beneficiary enrollment in the agreements.

Land claims agreements will set out the area of land to be retained by the First Nations in the territory. In all, there are 16,000 square miles of land that will be retained by Yukon First Nations as part of the land claims agreements, as well as 60 square miles in lieu of existing reserves, or reserves that may be discovered through title search or through the appropriate legal land search in the coming years.

The 16,000 square miles includes 10,000 square miles of land that is called category A land, which includes a package or rights that will include subsurface rights, surface rights, including fee simple-type rights, and aboriginal title; 6,000 square miles will include the same package of rights that category A lands have, but these category B lands will not have subsurface rights attached to them.

The land claims agreements will set out provisions for access to and across settlement lands, and will set out land management provisions that will permit First Nations to manage their lands and to cooperate in the land management regimes with public government through processes like the land use planning process and the development assessment process.

Land claims agreements can also provide for special management areas, areas that have value to First Nations as well as a general value to the population at large in the territory. These special management areas can include parks or ecological reserves or heritage sites. If and when they are designated in final land claims agreements, management provisions are specified and allowed for through the terms of the land claim agreement.

As well as the land that will be retained by First Nations, land claims agreements will set out the aboriginal rights that will continue to be exercised by First nation people: rights to harvest wildlife, trapping rights, rights to use forest resources, rights to use water. The nature of these rights and the exercise of these rights is spelled out in the agreement.

As well as the retention of land, land claim agreements will set out financial compensation packages to First Nations in surrender of claim to land that will revert to Crown ownership.

Overall, the financial compensation package in the Yukon claim is \$242.6 million, in 1989 dollars. Also included in the financial components of the claim is a \$26 million buy-out in lieu of the section 87 taxation provisions under the *Indian Act* — the tax-exempt provisions in that act. The \$26 million provided for this buy-out will provide, three years after settlement legislation, for the removal of the section 87 provisions as they currently apply in the Yukon.

The final land claims agreements provide for economic opportunities for First Nation people and work on economic issues related to the development of economic activities in the First Nations' traditional territory. They provide for resource royalty sharing between government and First Nations and they provide for training.

The First Nation final agreements also provide for implementation plans to be provided, and I spoke about these a few moments ago.

Self-government agreements, first and foremost, provide for the establishment of Yukon First Nation governments. They provide for Yukon First Nation constitutions that will set out the processes and procedures that Yukon First Nation governments will follow. Each First Nation will develop its own constitution and reference its constitution in self-government agreements.

Self-government agreements also provide for exclusive jurisdiction of First Nations over the management and administration of their own affairs, and they set out jurisdictions that First Nations will have over activities on their settlement lands and for the management of their settlement lands.

Self-government agreements will also set out the jurisdiction that First Nations will have for the provision of services and programs to their citizens, whether their citizens live on settlement land or off settlement land.

Self-government agreements will also make practical arrangements for the application of self-government powers within community boundaries, to ensure that First Nations, as they manage their own affairs, can work compatibly and effectively with municipalities, as municipalities manage their own affairs within municipal boundaries. Self-government agreements build in measures, such as provisions for service agreements for compatible land use management processes to be established that will allow for municipalities and First Nations to work together.

Self-government agreements will also provide for funding arrangements to be negotiated to fund First Nations as they exercise their jurisdictions in a range of areas. These funding arrangements also cover the provision for taxation agreements to be negotiated with First Nations, so that, after a three-year period, First Nations may begin to exercise taxation powers, pursuant to agreements that will be negotiated with government.

There will be differences among self-government agreements and First Nation final agreements that are negotiated with each of the First Nations in the Yukon, but those differences will be overshadowed by common elements and common provisions that will allow for government, as it is elected and represented in the Yukon Legislature, and as municipal governments are elected in municipalities, to work effectively with First Nations on a range of issues, from wildlife management through heritage management, through the delivery of services in communities, through the delivery of social programs to citizens, wherever they live in the territory, and through working on economic opportunities to the mutual advantage of First Nations and non-aboriginal citizens of the territory.

With that, I should probably stop.

Chair: I will say that is a brief overview of a very complex document. The document contains many clauses. As I said earlier, I do not believe that the negotiators even understand each and

every one of the clauses. There are areas still to be negotiated.

You have been provided with a brief overview, so we will now open the floor for questions and comments.

Again, please identify yourself prior to speaking.

Mr. Webber: I have a presentation that I would like to make. I am the acting chief of Kwanlin Dun First Nation.

Mr. Chairman, members of the committee, respected elders, ladies and gentlemen:

I would like to take this opportunity to thank the Special Committee on Land Claims for making this time available to the people of Kwanlin Dun First Nation so that we may express some of our concerns and for giving yourselves the opportunity to listen to us.

The people of Kwanlin Dun offer our prayers and our congratulations to the people who participated in the Yukon Native Brotherhood of the past, to the Council for Yukon Indians, to the four First Nations who have completed their agreements, and to the bands that have ratified their agreements.

The words of our elders and the work done by the people in these organizations, both past and present, are still the guiding light for the Yukon's first people.

It must be said that the reason why these claims are being addressed is because we have an inherent right to our land, to our ways, to our traditions, our language, our education and to our religious ways.

We have a right to prepare a healthy world for our children. This is not a right granted to us by any other government; it is a right given to us by our ancestors and the great spirits which rule this land.

We are the Yukon's First People, but this position has never been recognized by the non-aboriginal governments, either officially or unofficially.

We have invited the governments to our table so that we may discuss these outstanding issues in good faith and come to a consensus agreement about how to address our concerns.

This must be made clear -- you are here to listen to us today because the Yukon's first people have invited you.

Having said this, I would like to talk specifically about the Kwanlin Dun First Nation. We have played a significant and dominant role in welcoming the non-aboriginal people who are visiting this land.

We were the first people in this area, which has now become the capital city. The newcomers depended on us and we welcomed them.

When they arrived on foot we showed them the best way to travel, where to hunt and trap, where to fish, and how to survive in this land of ours.

When they arrived in their boats and tried to negotiate the rapids, it was our people who pulled them from the waters when they overturned.

We are the people who helped set up the first camps for the travelers down here on the river flats. We taught them how to set tents and how to find enough to eat.

We helped them survive the long winters and hot summers. This is not just a simple history lesson -- this is vital to understanding our special relationship with our non-aboriginal friends.

They came onto this, our land, and made a city out of it. They put up tall buildings which blocked out the sun; they moved our homes; they disrupted our fishing areas; they transgressed our sacred sites, all in the name of growth and development, commerce and trade.

The people of the Kwanlin Dun accepted this, trusting that one day, we would be compensated and have our rights recognized.

Mr. Chairman, I am pleased to say that this day has finally arrived.

We have continued to live with non-aboriginal people. We have developed both personal and business relationships with these people.

But not all has been as positive as it might have been. A great part of this experience has been painful for our people.

It would be irresponsible of me not to mention the pain that faces our people. Alcohol, lack of housing, disrespect, and other social problems hurt our people and hinder our growth as a nation.

It goes without saying that, in part, this can be attributed to the lack of a land base.

Land to the Vuntut Gwich'in means the same thing to Kwanlin Dun. Possession of the land in the north ensures their survival.

Their right to survival by these means is not disputed.

In the Whitehorse area, it is the same for the Kwanlin Dun. We are not saying that Kwanlin Dun needs the same amount of land quantum as the Vuntut Gwich'in.

Land for us is not just for our meat and fish, nor just for our spirits to live on, and not just a place for our elders to walk in peace. It is a basic requirement for our economic survival; therefore we are affirming our right to a land base upon which we can build an economic infrastructure.

We need this land to support our people. It must provide a footing for an economic base upon which our people can create a self-sufficient economy.

We need this, not just for ourselves, but for our future generations.

We cannot return to the south, to Holland, or anywhere else like non-aboriginal people can, because the Yukon is our home.

We cannot make millions of dollars off the land here, and then retire the way some of you have. What would we retire from? What would we do?

Surviving on this land and taking care of the animals and the people on it are all we know.

Because our people live and work in such close proximity to non-aboriginal people, we have had to learn a different method of survival from some of the other First Nations.

In this respect, our right is very simple -- we need land in order to root our economy. Clearer than any other First Nation, our survival is dependent upon an entrenched economic base within the city area.

We must have the mechanism to encourage our children to pursue traditional ways within the context of our new urban reality. Settlement of our land claim and self-government will allow this opportunity.

Our people have housing needs that need to be addressed. We require a strong foundation from which our economy can grow. This will provide long-term solutions to some of our problems.

Our people have social problems which, only by taking direct control of them, will we be able to start to heal them in a way that is meaningful to our people.

These problems are with us now and we have the right to provide our own solutions, both for the long term and in the short term.

We have an inherent right to self-government, which more and more, needs to be clearly defined if we are to continue to develop a positive relationship with other governments.

Mr. Chairman, there is a real problem facing us. There are many people, both private and public, who are aiming to grab up land before we have an opportunity to complete our selections.

I would like to request, as stated in a letter to the Minister of Community and Transportation Services on January 22, 1993, that a moratorium be placed on the processing of all land applications within our traditional territory.

Our limited resources do not allow us to take part in government processes at this time outside of the land claims table.

We did not agree to participate, nor do we support, any local or regional planning exercises until our selection of lands are negotiated and protected.

We have indicated to the federal minister that it is our desire to conclude these negotiations within a four-month time period. Certainly, this short moratorium on processing land applications will not create an insurmountable obstacle to the successful conclusion of our negotiating process.

We trust that not only will this facilitate a fast-track process, but it will allow it to get underway without any unnecessary delay.

It would seem to us that it is your responsibility to recommend, through this committee, that it is prudent to speed up these negotiations, not obstruct them.

We and the federal officials have always operated on the principle that all unalienated Commissioner lands are open for selection and negotiations in good faith. This process has been followed with other First Nations who have concluded their agreements. We trust that YTG will follow the same approach with us on our lands selection.

Some elected people in Whitehorse appear to be undermining our interests. There are those who have previously balked at our land selections appear intent on annexing land that currently lies outside of the municipal boundaries.

We urge this committee to recommend an immediate halt to any new land alienations. This would represent an act of good faith on behalf of the government and demonstrate a willingness to join us at the negotiating table.

As time slips by, the City of Whitehorse is entrenching itself deeper and deeper on issues regarding land use planning, subdivisions, and water usage without the benefit or even the courtesy of discussions with Kwanlin Dun.

We are also deeply concerned that the possibility of further block land transfers within our traditional territories are being discussed. Let it be clear: we are adamantly opposed to any further land transfers to the Commissioner before the conclusion of our final agreements.

Mr. Chairman, the Government of Yukon has an obligation to respect these requests and proceed to act accordingly.

In this regard, time is essential. We can no longer waste precious moments while others sit and haggle and deal over our land.

Therefore, at this time, I would like to encourage the Government of Yukon to come to the negotiating table, sit down with us and talk to our people about our overdue land claims settlement.

We have established a four-month timetable for negotiation. We would invite you to fulfill your legal and moral obligation at this time.

Mr. Chairman, the time for preparation is now over. Our chief and council would be happy to meet with your negotiators at the earliest possible time.

I would like to thank the committee for this opportunity to speak on behalf of the Kwanlin Dun people.

Mahsi Cho.

Chair: Thank you, Mr. Webber.

Mr. McTiernan: Could I have the pleasure of the chair to respond to some of acting Chief Webber's comments?

I would like to thank him very much for his remarks and the positive tone of those remarks. We, as negotiators, will be happy to come to the table and commence negotiations with Kwanlin Dun toward an early completion of the First Nations final agreement and self-government agreements.

My understanding is that we have a negotiating meeting already scheduled for February 11, and we look forward to being there.

We also are encouraged by the First Nation's indication that it

is prepared to complete land negotiations and final agreement negotiations within a relatively short period of time.

We will work as hard as we can to meet the negotiation schedule and to match the schedule that Kwanlin Dun outlines. In doing so, we will be following the land selection process and procedures that we have used in other agreements, with claims that we have already completed.

Our first priority will be to deal with land selection issues. Other land activities that are conducted by government during that period of time will be done in recognition of the land claims schedule and the urgent priority to complete land claims.

We understand the Kwanlin Dun's comments about the need for land selections to ensure an economic base. We recognize those comments and we will address those comments in our land negotiations.

We also understand, and in fact have looked at, the legal aspects around land selections on unalienated Commissioner's lands. On the basis of the legal views that we currently have, we will be assuming that land selections are available on unalienated Commissioner's lands.

We will be negotiating with Kwanlin Dun in the interest of completing the land claims agreement and in recognition that all of us at the negotiating table, collectively, will have an interest in addressing the interests and perspectives of those third parties that will not be party to the negotiations.

It is my understanding that my predecessor in the Land Claims Secretariat completed a memorandum of understanding with the city that allowed for the exchange of information with the city and that Kwanlin Dun had, in discussions with my predecessor, provided for an observer status at the negotiating table.

In that context, we look forward to negotiations, and we look forward to a constructive working relationship and a quick conclusion to the agreement.

Chief Webber: With the Chair's permission I would like to introduce a Kwanlin Dun Elder, Johnnie Smith.

Chair: Go ahead sir.

Mr. Smith: Well, I have been retired as Chief of the Kwanlin Dun Band, but I am here talking again and I am glad to see all you people here. I hope that we can have some good negotiations and that we can all be satisfied.

I think that we should all work together for our children and grandchildren and negotiate the claim.

This claim has been going on for a long time. I am 70 years old and I will be just about finished pretty soon. I have to think about my grandchildren and I have to think about all my people.

There should be something negotiated and we should work together so that no one feels sorry when the negotiations are complete.

Chair: Thank you Mr. Smith.

There is coffee available that you can help yourselves to at any time, ladies and gentlemen. The floor is open for questions and comments.

Ms. Kathy Watson: Good evening, Mr. Chairman, and other guests. I am the President of the Association of Yukon Communities and although I wear many hats, that is the hat that I am wearing tonight in speaking to you.

There are a number of concerns that are shared by, not only the municipal governments of the Yukon that I represent, but also by municipal governments across the country. As the subject relates, in particular, to the issue of self-government, it leaves the government representatives of the municipal people very confused and concerned on many issues.

Some of the agreements that have been referred to as finished and settled in the Yukon include clauses that would oblige the municipalities to provide services, under service agreements, to

the bands that have settled within their municipal boundaries.

These services are referred to as an obligation by the municipalities to provide these services and yet there is no indication as to how these services will be paid for.

As you are all aware, in our municipality, taxes are paid to provide services to the municipality. This includes services such as water, garbage, sewer, transportation, road maintenance and other services.

As municipal governments, we feel that it is vital that we are part of that negotiating process. It is left in our realms of responsibility without promise for payment, and we understand that payment is not necessarily a guaranteed factor in the settlements, at this stage.

Previously, we had been promised that the costs for implementing service agreements would be covered by a senior level of government. We have yet to receive confirmation of that and we have been seeking confirmation from both senior levels of government.

The service agreements also have an option in the self-government agreement to negotiate difficulties that may occur when we cannot agree on how things will be dealt with. There is a process for negotiation that is addressed in the self-government agreement.

However, this negotiating process does not include a time frame. My fear, and the fear of my colleagues, is that this may be an indication that when a conclusion cannot be reached by negotiation, the natural process would take you into court. This process can be very, very time consuming and horribly expensive.

I would like to see some response to that.

I have further questions, but I would like to hear your response before I proceed.

Chair: Mr. McTiernan.

Mr. McTiernan: Thank you Mr. Chairman.

Perhaps I could start; as soon as I put my foot in it, I would like some help from Ms. Armour and my colleagues who are here.

I understand what you say about the self-government agreements and the fact that in many ways they set the framework for further work, particularly, in terms of relationships between First Nations and municipal governments, in some areas.

I think, and I might be wrong on this, that with respect to services and service agreements and the types of municipal services that are provided to First Nation lands within communities, it is probably worthwhile to distinguish between those First Nation lands within communities that are fee simple lands — that are essentially residential or industrial lots or small clusters of lots in subdivisions that have already been developed.

Obviously, those lots will be serviced by water and sewer mains and utilities in the same way that other lots within the subdivision are serviced.

Those lots will also be subject to the same sorts of taxes and taxation regime that is imposed upon the other lots in the area, so the cost of those services will be borne by the general taxation regime. This will be provided for, and it acknowledged, in the land negotiation packages that specify those lots.

There is a possibility in agreements that a parcel of category B lands could be selected within municipal boundaries, particularly when there are large municipal boundaries. That land would generally be undeveloped land without any improvements, dwellings or businesses on the land.

Under those circumstances, if the First Nation chose to develop those parcels of land or to improve those lands and wished to have municipal services to be provided to those lands, it would negotiate a service agreement with the community. In a sense, the municipality would be extending its services under the terms of a service agreement that was negotiated with the First Nation.

If the First Nation chose to have their own set of services, the

compatible land use provisions in the self-government agreement would apply, so that the good-neighbourly rules that are built into the agreement would fall into place.

This brings us to your issue of negotiations in areas of dispute or misunderstanding. There is a formal process, as you have indicated, set out in the self-government agreements that can involve mediation, if initial discussions break down before one ends up in court.

My guess, and it is an optimistic guess, but it is a guess based on the way some of these issues are worked out in practice after agreements are settled, as opposed to the types of concerns that are expressed before we have agreements finalized, is that municipal governments will sit down to regular, informal meetings with First Nation governments. If problems and issues arise, they will probably be hashed out and thrashed out before we get into any formal dispute-resolution mechanism, as it is laid in the agreement.

I would hope that on a day-to-day basis that good sense will prevail. If, in some instances, disputes do become problematic, they can go to mediation or arbitration...

Ms. Armour: If both parties agree...

Mr. McTiernan: ...if both parties agree before getting into court. There are ways built into the agreements to avoid going to court.

Going back to your last point about the cost of implementing service agreements and the coverage of that cost by senior governments, we understand AYC's general concerns and municipal concerns about that and there is a general principle in the agreements that municipalities are not to incur additional costs as a result of self-government agreements being put into effect in municipal boundaries.

As to the terms of municipal involvement in service agreements and the specific arrangements about that, though, I do not think that we have come to the point where we have addressed those specifics. We have provided for them, but we have not gotten down to the details, yet — quite frankly, because we have been mired in the process of completing the first four agreements and getting the implementation plans done. We have not been able to stick our heads up and look around to plan for the next step, yet.

Ms. Watson: My concern is that while you are busy dealing with these things there are many other issues that are not being addressed. That is not unique to the Yukon situation. It is certainly a common, shared concern of municipalities across Canada. I attended a meeting this month referring directly to this very concern. I met with representatives from across Canada and we all shared the same concerns. A very large concern was: who pays for this in the end?

Let me reiterate to you a situation that we, in the City of Whitehorse, and my colleagues in the City of Dawson are facing, as we speak. Up until now, before the implementation of self-government and land claims settlement — and all the issues that we are dealing with tonight became front and centre — the federal government was obliged to pay for services within the municipal boundaries that were provided by the municipality to bands. Specifically, for the McIntyre community here, the federal government pays an amount equal to the taxes on those properties to the municipality for servicing those properties in that community.

With the implementation of self-government and the land claims settlement — and this is service land that we are talking about — we will assume that the land will then become the property of the First Nation that has laid claim to that area. Who will be bound to pay for the services on that land?

Mr. McTiernan: My understanding is that the federal government will support First Nations over a 10-year period in the

payment of that. There is a provision in the final agreements, which Karyn is looking for right now, that speaks to that question.

Ms. Armour: I cannot find it at the moment. My understanding is that they pay 100 percent the first year and 90 percent the second year, and the First Nations would make up the difference until, at the end of 10 years, the First Nations would then be taking over those payments.

Mrs. Watson: Would it come to the municipality as taxes? Will they be billed, as I am billed, for instance, for my taxes?

Ms. Armour: Yes, that is my understanding.

Mrs. Watson: If it is a commercial property, where would the responsibilities lie, for paying those taxes — at the present time, for instance?

Ms. Armour: Are you asking about the property tax?

Mrs. Watson: Yes — a commercial property tax on a viable commercial business that is owned by a native band.

Ms. Armour: If the business is on fee simple lands, the laws of general application apply. Most of the parcels within the business area are fee simple lands. There is a provision in the agreement — and someone correct me if I am wrong — that the laws of general application apply unless otherwise negotiated at the time of the final agreement. So, if there is no development on the lands at the time the First Nation takes over the lands, there may be some provisions of taxes being phased in; First Nations could start paying taxes when there is a development — there are all kinds of options, but those are the kinds of things we consult with the city on at the time of negotiations.

Mrs. Watson: But we are not part of those negotiations. Although they are allowed observer status by individual agreement, municipalities are not allowed negotiating privileges during this process.

Ms. Armour: No, not at the table. Your input is through the negotiators, but we certainly consult with you. You are observers at the table. Also, there is certainly the ability to work with the First Nations through joint council meetings or whatever, to try and resolve some of these issues.

Mrs. Watson: Currently, in other parts of Canada, issues and challenges are popping up with respect to the self-government idea. In particular, one that has received a lot of press is the implementation or the desire to build casinos on band property when that clearly does not cooperate with previously established provincial and federal laws. Are we in the same position here under the self-government agreement in the Yukon? Are we going to be subject to the same type of challenges here?

Mr. McTiernan: Some of the issues in other parts of the country relate to the operation of casinos on reserves, which are governed under the provisions of the *Indian Act*, and there are difficulties with respect to that piece of federal legislation as well as with laws of general application in the jurisdiction in question.

Under the self-government agreements here, First Nations will have their own jurisdiction and their own law-making powers in a variety of areas. These will include laws over issues such as the control or prohibition of public games, sports, races, athletic contests and other amusements. That would provide for general public games and amusement activities that could be generally defined in the gambling/casino type category, depending on a strict interpretation of those provisions.

Oh, you are saying not gambling? Okay, the federal legal opinion is that it would not cover gambling or lotteries. But remember, the exercise of jurisdiction that First Nations have is done in a context of their own law-making powers in conjunction with the laws of general application. If there are federal statutes in particular that conflict or that provide limitations on the types of activities that occur on and off settlement lands, one would have to look at the relationship between First Nation jurisdiction and

other sets of laws that apply to people in general, wherever they took place.

I realize I am not answering your question very well. The short answer in the strict legal interpretation that the federal government has on this provision is "no". The more general answer is that the First Nations do have general jurisdiction over recreational activities on their lands, and they can develop recreational facilities that do not conflict with provisions of the *Criminal Code* or similar federal legislation.

Mrs. Watson: Okay, thank you.

Mr. Cable: Mr. McTiernan, the local service agreement section in the Champagne/Aishihik agreement seems to give the parties a discretionary power to enter into a contract. Am I reading that right?

Mr. McTiernan: Yes, you are reading it correctly.

Mr. Cable: So there is no mandatory rule that the municipality has to provide the service if they do not reach an acceptable agreement?

Mr. McTiernan: No. The intent is for the First Nation and the municipality to reach a common agreement upon the nature of services provided and the costs provided, if they both agree that they will buy services from the municipality. I would assume the same would take effect in any municipality covered under the terms of a self-government agreement. It is not in the Yukon government's interests or First Nation governments' interests to arm-twist a municipality into a relationship it may not be comfortable with.

Mr. Cable: I think one of the things Mrs. Watson was intimating was that possibly the agreement had to be entered into and that there would be a long wrangle over the cost of service, but I do not read the agreement that way.

Mayor Weigand: Mr. Chairman, panel, ladies and gentlemen — Bill Weigand, Mayor of the City of Whitehorse. I would just like to say that I listened with great respect to Acting Chief Albert Webber and his concerns about the City of Whitehorse. Some of those remarks saddened me somewhat, because I hope it will not be the case where this city has any objections to the land claims. I believe this city is as dedicated as anybody to a just and right settlement. However, I feel that, as the mayor of the city and the elected head of the council, I must bring forward some of the concerns of this council regarding the land selections within the City of Whitehorse. I think you have said, sir, and indicated for the people that we have signed a memorandum of understanding with the Ta'an Gwich'in and I understand we will have that same privilege with the Kwanlin Dun.

Having said that, we still have some concerns — these are also concerns of municipalities across Canada, but I would like to speak about Whitehorse, the capital city. I really believe there is a problem and I think I have addressed this to you in letter form and also through Mr. Siddon, and I and my council share this correspondence with both First Nations in Whitehorse so that they are aware of the concerns we have with regard to third-party interests. This is one concern, and I think the people of Whitehorse are looking for a clear statement from the governments that there are or are not any third-party interests created by the orders-in-council 1971 and earlier. We would hope that you and the panel can give us a clear indication that there are not any third-party interests and that we can then proceed with an openness and a negotiating spirit to resolve any differences there might be.

The other concern I have — and I spoke to Mr. Penikett previously, when he was head of government — is for the people of Whitehorse, like any municipality, that there be no surprises at the end. At what time are we going to know when we can release the land selection data to the citizens of Whitehorse? I understand you cannot negotiate with 22,000 people — Ms. Adamson made

that clear at one of our meetings — however, I believe there should be some time line before a final settlement is made so the people of Whitehorse can understand and know exactly the magnitude and nature of these land selections within the municipality. I believe something is missing in the fact that the city — the mayor and the council — are only admitted to the table in an observer status. I have some problems that we will wind up in trouble further on if we do not have a seat at the table. We should be part of that negotiating process. I believe the citizens of Whitehorse elected this council and we have accepted a responsibility to those citizens to report to them what is happening in the city. The federal government has a responsibility to the First Nations; our territorial government has a responsibility to First Nations; and the chiefs and elders have a responsibility to the people. Well, the City of Whitehorse has a responsibility to the citizens, and I respectfully ask whether you can tell me, so that I can make a public statement, when we will be able to come forward with information.

Can I leave that with you to answer, sir?

Mr. McTiernan: Some of the details I have; if I could provide them, Mr. Mayor, I would appreciate it. The information we have currently, based on our legal reading of the OIC 1971, is that there is not a third-party interest established over unalienated Commissioner's lands within the city boundaries. The wording of the OIC is such because it pre-dates the current comprehensive claims process, which started in 1973; the difference between the wording of the OIC and later wording is because it was done earlier than the current comprehensive claims process.

That being said, we understand the interests of the city in land claims negotiations in and around the city and in land selections in the city, and we have made provision with the parties for the city to have observer status at the table as you acknowledge. We have also, through our MOU, provided an opportunity for us to work with the city and to understand and work through the city's interests so that we can reflect them effectively at the land claims table.

The land claims negotiation process, in strict legal terms and in principle, is between First Nations and the federal government. As I indicated earlier, we were not a party as a government to the land claims negotiation process for most of the first part of the process — throughout the 1970s. We, as a government, argued strongly and argued hard to be a separate party at the table. The federal government recognized us as a separate party at the table and First Nations accepted us as a separate party at the table because the Yukon government was seen to represent the interests of Yukon citizens at large — the interests of the collective populations of aboriginal and non-aboriginal people — and also representing collective interests in the Yukon such as municipal interests. We have an obligation to work with you and to ensure that your concerns are addressed and responded to in the land claims process; and we will commit and recommit to working with you effectively so that your interests are represented at the table.

That, unfortunately, because of the nature of the process, cannot translate into a seat at the table, but with observer status and with the caucus work that we do behind the scenes, hopefully we can have an effective working relationship that will fully take account of the interests and concerns of the City of Whitehorse.

As to the other point — when will people know about land selections — the process has been that when the lands are interim protected, when the initial selection process has been completed and the lands are interim protected through order-in-council withdrawal by federal Cabinet, the land maps are made available and tabled for public review.

Mayor Weigand: Thank you.

Chair: Are there any further questions or comment?

Mr. Asp: My name is Don Asp and I work for Kwanlin Dun

First Nation land claims department. My question is to Mr. Ostashek. All First Nations are aware of the hurt and damage your government did to the Champagne/Aishihik First Nation in breaking a contract signed with the Yukon government in good faith by the First Nation and Inuvialuits. Why should First Nations believe in your signature to implement the land claims and self-government agreements. Will you find some grey areas in the agreements or the implementation plans to weasel out of your obligations?

Chair: First of all, sir, this is not the forum for that question. This is to deal with the legislation that is before the House now. But I will tell you that our government is dedicated to the settlement of land claims in the Yukon.

Are there any further questions or comments, or would you like to take a five or 10-minute coffee break and see if that raises any more questions? Go ahead, sir.

Mr. Reed: Good evening. My name is Gordon Reed. I would like to pose a question — I am not sure who can answer it — with regard to page 20 of the information pamphlet made available to the guests this evening.

The first point there is that the public will be able to use 100 feet wide waterfront right-of-way on navigable waters for emergency and recreational purposes. I will give you an example: if I live on Teslin Lake and I have a piece of property that is waterfront property and, say, it is a proposed site for hydroelectric development and the water rises five feet — maybe it comes 40 feet up on the shore and I have 60 feet of property left — what does that mean in terms of waterfront access for the public?

Ms. Armour: My understanding is that if you had a site on Teslin Lake and it had been one of the identified hydro sites, your property would be subject to the flooding easement. So, if you were to lose part of it, then the waterfront right-of-way would be the 40 feet rather than the 100 feet. That would be set out in the agreement — that that piece of property would be subject to that flooding easement.

Does that answer your question?

Mr. Reed: Yes, it does.

My next question is in terms of the following page, expropriation, where it says, "Government may identify up to 10 sites for future hydroelectric projects. And if flooding of those sites affects settlement lands, government will pay compensation." I am wondering if that relates to the previous point I made when it talks about allowing 100 feet of access for sport fishing and hunting of migratory birds. Is there compensation to those people who cannot use that site any more, or is it to the First Nation? Where does the compensation come in?

Mr. McTiernan: Not to the public users. It would be compensation to the First Nation, whose lands were affected.

Mr. Reed: It is not clear to me by this, and that is why I am asking the question.

Mr. McTiernan: Yes, some of this is written quite generally.

Ms. Armour: This is chapter seven in the umbrella final agreement, and it quite clearly states the compensation policies in the final agreement. We can get you a copy of that.

Mr. Reed: I already have one, thank you.

Mr. McTiernan: We can get you another copy, then.

Chair: If you would like to just take a short break — get a cup of coffee and mill around — then we will reconvene and see if there are any more questions that need to be addressed this evening.

Break

Chair: I will call the meeting back to order. We have lost some of the audience, but if there are more questions, we can deal with them now.

Mr. Don Asp: Kwanlin Dun has asked for a moratorium on any further land alienations in its traditional territory for money. Will you honour this request?

Mr. McTiernan: In the negotiation perspective, we were planning to use the same land selection negotiation process that we have used with all other First Nation final agreements. There would not be an outright land alienation moratorium, but obviously any land use activities or land related activities in the Whitehorse area would need to be treated very carefully, in the light of negotiations. Our primary objective in the four-month period is to complete fair and open negotiations with Kwanlin Dun to reach a fair land package. Obviously, we would not, as a government, want to compromise that negotiation process in that time frame.

Mr. Don Asp: I have a comment for the mayor. He was saying that he has a responsibility to the citizens. We also have a responsibility, to the Kwanlin Dun First Nation.

Mr. Albert Webber: First Nations are opposed to any more block land transfers until settlement is reached with the affected First Nations. Are you carrying on any discussions with the federal government on any more block land transfers, in spite of the First Nations' opposition?

Chair: It is my understanding that no talks are going on right now for block land transfers.

If there are no further questions, I would like to thank you all for turning out tonight, and I hope that this forum has answered some of the questions and concerns you have. It seems that whenever we step into the unknown, there are a lot of fears and misunderstandings generated. I invite each of you who may have a question to feel free to contact the Land Claims Secretariat or any of us elected officials. Once the agreement is understood, I think there will be no fears or concerns over it.

I believe the First Nation people want the ability to govern themselves and to live in harmony with us, as they have in the past. I am looking forward to the settlement of land claims and watching Yukon prosper.

Thank you.

Committee adjourned at 9:05 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 12

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Community Hall
Carcross, Yukon



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly;

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Folwell, Deputy Clerk

Carcross, Yukon
Thursday, February 11, 1993 — 7:45 p.m.

Hon. Mr. Fisher: First of all, I would like to thank all of you for coming out tonight. My name is Mickey Fisher, and I represent the riding of Lake Laberge. Tonight, I will be chairing this meeting of the special committee. The other Members with me are, on my right, Margaret Joe, MLA for Whitehorse Centre; to my immediate left, Jack Cable, MLA for Riverside; and David Millar, MLA for Klondike.

This committee was appointed by the Legislature of the Yukon Territory last December. The bill approving Yukon land claim final agreements and the *First Nations (Yukon) Self-Government Act* were referred to this committee, as were the agreements attached to them. The committee's main task is to seek the views of Yukoners on this legislation and these agreements and to report its findings to the Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected. The Yukon Legislative Assembly has given its approval, in principle, to the legislation, very clearly expressing its commitment to the settlement of the Yukon Indian land claims and to self-government during debate in the Legislature last December.

We are here to listen to your comments on land claims and on self-government and, with the assistance of the Yukon government land claims officials who are with us, to try to answer any questions you may have. Those officials are Karyn Armour, on the far right, and Tim McTiernan, sitting with her.

The settlement of land claims is a very important issue to all Yukoners. It is imperative that we have a thorough understanding of what it is all about so that we can all work together over the coming years to ensure that the Yukon is strong and vibrant. I cannot suggest for a moment that it is a simple task to understand these agreements. I am sure that even those of you who have been working at the negotiating table for many months or even years could not say that you are fully knowledgeable about all aspects of the claim or the self-government agreement. A lot of work will still have to be done to put into practice what the negotiators have worked long and hard to put on paper and what individual First Nations have said is important to each of them in the specific agreements that have been signed to date.

The signing of settlement legislation is not the conclusion of land claims; rather, it is a very positive first beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change in the Yukon overnight, and it will not always be easy but, with care and dedication, I am certain that all Yukoners will benefit greatly from the Yukon land claim. I hope that tonight we will be able to have a very open and informative discussion. We plan to be very informal, but we are taping the meeting so that transcripts can be prepared and attached to the committee's report. For that reason, I would ask that, before you speak, ask a question, or rise to make known your views, you identify yourself for the record. Coffee is available; help yourself at any time. If, during discussion, any questions come to mind, please feel free to jump in. We will see if we can give you satisfactory answers.

Ken Kane, who represents the Council for Yukon Indians, is here tonight, standing at the back there. We also have with us Tim McTiernan, who will give you a brief overview of the land claims and self-government agreements. After his overview, the meeting will then be open for open discussions and questions.

Mr. McTiernan: Thank you, Mr. Chair. As Mr. Fisher indicated, land claims and self-government legislation has been introduced into the Yukon Legislature, and these hearings are the last step before the land claims and self-government agreements are

finally legislated and put into effect in Yukon law. That is one of three steps needed to approve land claims and self-government agreements. The second step involves ratification by the First Nations and by the Council for Yukon Indians of the umbrella final agreement, a process that has already been started, with the First Nations and with CYI, with the agreements that have been reached so far. The third step involves the introduction of federal land claims and self-government legislation for the Yukon agreements. It is hoped that we will be able to see federal legislation introduced this spring so that the land claims agreements that have been reached so far are given full effect in law, and we can begin the implementation process.

As you all know, there are now four completed First Nations land claims and self-government agreements. Those four agreements have been completed after almost 20 years of negotiations, a negotiation process that falls roughly into three stages. We are beginning to negotiate agreements with the next group of First Nations, with negotiations commencing with Ta'an Kwach'an, Kwanlin Dun and Dawson, among other First Nations. We are in a phase where we are moving from finishing the details of the first four First Nations final agreements and self-government agreements to addressing the outstanding negotiation requirements with the other 10 First Nations.

I spoke about a 20-year negotiation process that has essentially fallen into three stages. The first of those stages lasted throughout the 1970s, for the most part, when the Council for Yukon Indians, representing all aboriginal people in the territory, as you know, negotiated bilaterally with the federal government. It became clear during that negotiation process that the land claims agreement in the Yukon would not only affirm the rights of First Nations people and First Nations to a range of traditional activities and deal with certainty over land title and land tenure, but it would also radically affect the way in which First Nations communities worked with the non-aboriginal communities in the Yukon and, through bodies like the Heritage Management Board, Fish and Wildlife Management Board and other structures set up in the land claims agreement, there were opportunities for the communities to come together and work on common interests in a way that had not been defined as such before the land claims agreements. Because of that perception, the Yukon government argued for and got its place as a separate party at the negotiation table and, from the early 1980s, it has been at the negotiating table as a separate party — the first time in northern claims that a government other than the federal government has been dealt with as a full party to the negotiations at the table.

The negotiations through the 1970s and the early 1980s resulted in an agreement in principle in 1984 which, while it was not accepted, set the stage for the negotiations that have resulted in the final agreements that we have reached to date. In 1984, issues like self-government were addressed by First Nations as being important issues as components of land claims and, with the change in federal policy in the late 1980s, it became possible to deal with self-government issues and to negotiate self-government agreements at the same time that we negotiated comprehensive land claims agreements.

The discussions and deliberations among First Nations in 1984 also focussed attention on the importance of having separate final agreements for each of the First Nations that recognized the distinct interests and the distinct circumstances of each of the First Nations. As a result, a negotiation process was designed, flowing out of the 1984 deliberations on the agreement in principle that had been reached at that time, that allowed for a two-step process in completing comprehensive land claims agreements. The first of those two steps involved defining common elements and common principles that would be included in each and every final land

claim agreement in the territory. The second step involved negotiating the details of final agreements with each of the 14 First Nations. The details of those final agreements included land allocation packages for the First Nations and the final compensation package for First Nations as part of the package of rights and benefits exchanged by First Nations for a certainty over land that was not held and retained by First Nations.

Final land claims agreements also dealt with specific rights of First Nations and First Nations people to harvest wildlife, to trap, to harvest forest resources, to use water resources, to own and manage their own heritage resources. Final land claims agreements deal with economic issues and economic opportunities that are available to First Nations; for instance, economic opportunities that may result from the establishment and management of special management areas like Kluane National Park. They provided for a share in resource royalties available to First Nations, and provided for the negotiation, in parallel, of self-government agreements. They provided for the establishment of structures that would help and facilitate the implementation of land claims. Two of those structures include a training trust of \$6.5 million that will be used to train First Nation people to take full opportunities arising out of land claims, and the establishment of a wildlife enhancement trust that will be managed by the Fish and Wildlife Management Board and used to do special wildlife studies and special wildlife enhancement projects that will benefit all Yukoners.

Final land claims agreements, then, set out the rights and benefits that are provided to First Nations as the federal government, and the Yukon government, as a partner, concludes its legal and constitutional obligations to enter into treaties with First Nations across the country. Components of the land claims agreements include the establishment of boards and committees, such as the Renewable Resource Council in each traditional territory, the territory-wide Fish and Wildlife Management Board and Heritage Board, which I have already mentioned, and other boards, like the Surface Rights Board, which will deal with disputes between holders of subsurface rights and surface title rights. The land claims agreements will provide for First Nations involvement in the assessment of development projects, for First Nations involvement in land use planning, and for First Nations involvement in matters placed before the Water Board, with respect to water licensing and the use of water.

While comprehensive land claims agreements meet the constitutional obligation of Canada to treaty with First Nations peoples, the self-government agreements provide for the establishment of First Nations governments and will remove First Nations from under the framework of the *Indian Act* and allow First Nations to set up their own government structures, with their own procedures and processes, reflected in the constitutions that First Nations will develop for themselves. First Nations, through self-government agreements, will be able to manage their rights and benefits, under land claims agreements, as a government rather than as a corporation, and they will be able to exercise a range of powers and a range of jurisdiction, which include management rights and management jurisdiction for activities on First Nations settlement lands, as well as the provision of services and programs to their citizens, whether their citizens live on or off settlement lands.

Self-government agreements provide for Indian government, define the range of jurisdictions that will be available to First Nations government but also, and quite importantly, self-government agreements provide for transitional measures and transitional mechanisms to ensure that there is an orderly transfer between the government delivery of programs and services and the government exercise of jurisdiction, and First Nations delivery of

programs and services and First Nations exercise of jurisdiction, where First Nations choose, themselves, to deliver programs and services and choose, themselves, to exercise their jurisdiction.

Self-government agreements provide for the later negotiation of taxation provisions so that First Nations can exercise taxation powers on their lands and provide for the later negotiation of aboriginal justice provisions so that issues, for instance, like tribal justice, which is being explored on a pilot basis with the Teslin Tlingit Council right now, can be addressed by all the First Nations in the Yukon who choose to address such issues.

The negotiation of agreements, as Mr. Fisher indicated, is the first step in the long process of implementing those agreements. Currently, with the four completed land claims and self-government agreements, and with the umbrella final agreement that was negotiated before the First Nations final agreements, we are in the process of developing, among the three parties, implementation plans that will set out the activities, set out the responsibilities and set out the time lines needed to undertake all of the activities and all of the programs needed to ensure that the claim is adequately and effectively implemented.

While we finish the implementation plans for the first four First Nations final agreements, we will be paying attention to the way in which we can effectively streamline the negotiation process and, to the extent possible, fast track the negotiation process so that we can complete negotiations on the outstanding 10 First Nations final agreements and self-government agreements as quickly as possible. As I indicated earlier, we are already engaging in discussions with some First Nations in the next wave of final agreement and self-government negotiations.

Perhaps I should stop at that and deal with questions.

Hon. Mr. Fisher: Thanks, Tim. Again, I remind you that, if you have questions, please identify yourself, just for the record.

Mr. Howard Carvill: We would like to know who is running the meeting.

Hon. Mr. Fisher: I am chairing it, and your questions will probably be referred to Tim and Karyn.

Mr. Howard Carvill: Where is your fearless leader, Johnny O.?

Hon. Mr. Fisher: John could not be here tonight. He has actually chaired most of the meetings. I think that he is not going to be able to chair this one, or the ones in Faro and Ross River, but he has chaired most of them.

If you like, we could just break for a few minutes and have a coffee and look at some of the material we have, and then we can reconvene and see if there are any questions.

Mr. Stanley James: The Yukon government has elections, and you people get elected to represent the territory. What kind of powers do you have?

Hon. Mr. Fisher: Do you mean legislative-making powers?

Mr. Stanley James: Well, if you are an elected representative of the people, what kind of powers do you have?

Hon. Mr. Fisher: The Legislature has law-making abilities.

Mr. Stanley James: So we also have elections, down here at the community level. We have aboriginal people's elections. What kind of powers do they have?

Hon. Mr. Fisher: I think, under the self-government agreements, maybe Tim could speak to that.

Mr. Stanley James: I am not talking about the self-government agreement. I am talking about what is here now.

Hon. Mr. Fisher: Basically, the Yukon Legislature derives its authority and its ability to legislate from the *Yukon Act*. Right now, the aboriginal people are under the *Indian Act* but, under self-government, that will change.

Mr. Stanley James: I asked you what kind of powers these elected representatives of the aboriginal people have now.

Hon. Mr. Fisher: Well, the ordinary people have the same powers as anyone else.

Mr. Stanley James: You are an ordinary person, so how can you have more powers than the chief and council? You do not explain. You just told me that you have legislative, law-making powers, as a government. What I am asking you is, what kind of powers do the elected representatives of our people have? Do they have legislative, law-making powers, as well?

Hon. Mr. Fisher: On the completion of the land claims and the self-government agreement, yes, you will.

Mr. Stanley James: Right now, I mean.

Hon. Mr. Fisher: Right now? Well, I am not sure of exactly what powers you do have. You have the ability to make bylaws, through band council resolutions, and so on. I am not exactly sure of the powers that the Indian bands have in all areas. There are some distinct powers that Indian bands do have.

Mr. Stanley James: You see, that is the problem that we have: You come here and you say you have the legislative authority to go around to the communities to find out if our people agree to land claims, or if people in the communities agree to land claims and self-government, but do you, as a government — elected representatives of the people of the Yukon — agree with the land claims process and the self-government agreement process?

It seems like, when you come up with a problem, you create a committee to go around to find out what the views of the people are, and that is where I see that we are going to have a problem, because you are using us against ourselves in the land claims process. If we say that we disagree with what you are proposing, then you are going to use that when you go to make your final vote on whether the land claims self-government agreement goes ahead, or the land claims agreement goes ahead, according to the papers you handed out here, your terms of reference for that very thing.

Hon. Mr. Fisher: To answer your first question, Stanley, yes, we do believe in a land claim final agreement, and we believe in the self-government agreement. It was introduced in the Legislature and received agreement in principle in December of last year. What the Legislature mandated us to do was to go around the territory and just listen to people, to all people — Indian, non-Indian, anyone who cares to voice their concerns, or complain, or whatever — about the land claim and self-government agreements. I believe that is what we are doing. The committee, as you can see, is non-partisan and is made up of all the parties. I am not sure that your statement is totally fair, but we are out to listen to all people.

Mr. Stanley James: That is my problem. I cannot see why you have to come out with a committee when you could stand up and say we, as the government of the Yukon, disagree with land claims — period — instead of using this process to go around, and our people becoming involved in all the 14 different communities just to voice something. Then, you will bring up later on this spring that there are 10 out of the 14 communities that reject the land claims agreement and the self-government agreement.

Hon. Mr. Fisher: I cannot say that that would happen at all. You are second-guessing what people will be telling us and, in fact, they are not telling us that at all. People do believe in the land claims, as we do, as the Government of the Yukon — not just the government in power, but the Official Opposition and the Opposition Members.

Mr. Howard Carvill: Why are you negotiating a land claims agreement?

Hon. Mr. Fisher: Why are we negotiating a land claims agreement?

Mr. McTiernan: I can say that very easily.

Mr. Howard Carvill: I was asking this gentleman here.

Hon. Mr. Fisher: I would prefer, Howard, if ...

Mr. Howard Carvill: No, I would prefer your answering that question. You are the politician here. You are the present Yukon Party, right?

Hon. Mr. Fisher: That is correct.

Mr. Howard Carvill: So, why are you negotiating a land claims agreement?

Hon. Mr. Fisher: Because we believe that land claims need to be and should be settled. The Indian people started the land claims process many years ago, in 1971-72, and we believe in their cause and would like to see it finalized.

Mr. Howard Carvill: Do the rest of your colleagues in your party basically agree with the same philosophy, that the First Nations people have maybe been dealt a bad deal to date, and you feel that you need to negotiate and get things straightened out again?

Hon. Mr. Fisher: More or less, yes. The philosophy of my party is that yes, we shall do what we can to finalize a land claim settlement and a self-government agreement.

Mr. Howard Carvill: I find that quite interesting because, when you look at it, the Government of Canada — and I do not know how the Yukon government got involved — does have a legal obligation to negotiate a claim with the Yukon First Nations peoples, so it has nothing to do with whether someone has gotten a bad deal or not. The whole thing is a legal issue. When Stanley was talking about the kind of legislative powers that you have, basically this land has never been surrendered, or anything, so you do not really have any legal powers. Things have just happened the way they have. You said that your government supports the land claims process. Why have you not agreed to the land claims implementation funding which, if you do not agree with it, will hold the process up. We know that this legislation has to go before Cabinet in Ottawa sometime in March, and probably that is not going to happen. We know that there is going to be an election coming up soon, and what is going to happen is the whole process will be stalled for another two years. Your government still has not agreed to accept the offer made by the federal government on the implementation dollars. Why not?

Hon. Mr. Fisher: Tim?

Mr. Howard Carvill: I am asking you. I do not need this guy to answer it.

Mr. McTiernan: I am the one responsible for negotiating the implementation.

Mr. Howard Carvill: I am asking the politician.

Hon. Mr. Fisher: No, I would prefer if Tim answered that.

Mr. Howard Carvill: I am asking you, Mickey. We are here to talk to the politicians tonight.

Hon. Mr. Fisher: You and I are not going to negotiate land claims here. Tim has been at it many, many years. He knows far more about it than I do. Now, we do not disagree with the implementation costs. We know that there is going to be a cost. We disagree with the amount. The latest that I am aware of is, if that is what we have to accept, we will, but we know, as well as you know, that the costs are going to be more than the federal government has offered to this point.

I hope I have answered your question. I would like Tim to talk on this.

Mr. Howard Carvill: You are saying that now. You say that you do not disagree, but you do not agree, as well, because you have not accepted the figure yet. You have not said yes to the amount that has been offered. When you talk about a fair and a equitable deal, I really believe that your government is basically settling the land claims deal. I think the offer made to your government has been \$1.5 million. Do you know what the offer is

that has been made to CYI to implement the land claims agreement?

Hon. Mr. Fisher: No, I am not even sure what the number is.

Mr. Howard Carvill: It is \$150,000, so we call that fair and equitable?

Hon. Mr. Fisher: Tim, could you speak on that?

Mr. McTiernan: Yes, I could. I could go through the numbers that First Nations get.

Mr. Howard Carvill: I know them. I do not need to know them.

Mr. McTiernan: Well, the \$150,000 is a component of the money available to First Nations and CYI for their land claims and self-government agreements. There are three parties that are going to have to deliver on responsibilities in order to implement land claims and self-government agreements. The federal government has a set of responsibilities it has to deliver on to meet its obligations under the land claims. First Nations will be managing their own lands and their own affairs and exercising self-government, as a result of the agreements. The Yukon government has to deliver on responsibilities under the land claims in a number of areas, from land use planning through fish and wildlife management, through the management of parks and special management areas, through the management of heritage and heritage sites, and for a range of land-based activities that it will have to work on in coordination with First Nations and in cooperation with First Nations, both now and when more provincial-type powers are devolved to the Yukon government — such as forest management responsibility. All of the three parties need to be adequately resourced in order to meet the obligations under the claim.

We are dealing with implementation plans in a very difficult context, where the federal government, which is the government responsible for funding implementation, has essentially run out of money and is running up huge deficits. We are all trying to grapple with the problem of designing and developing implementation plans that will allow us to meet our full range of responsibilities under the claim — each of the three parties, with a very limited amount of money.

We have been offered an amount of money from the federal government that falls short of what our costing estimates are, falls short of what our expectations were, and falls short, quite frankly, of what the CYI and First Nations negotiators thought we would get to implement our share of the responsibilities under the claim. We have not rejected that funding offer. What we are doing is trying to see if we can make that work in the context of implementation plans.

Now, the argument has been offered that, if we do not get enough money from the federal government, perhaps we can top up, if you like, with our own funds and our own resources. The difficulty with that is that the Yukon government is in its own financial straits and does not have any surplus money at the moment to top up with. So, we have a difficult practical problem, and we are working with the three parties to solve that problem. We are working with the three parties, very conscious of the time lines needed to get land claims negotiations introduced to and through federal parliament. Mr. Ostashek, Mr. Fisher and other members of the committee have indicated, collectively, that the Yukon government will respond effectively in order to meet the time lines to get federal legislation in.

Mr. Howard Carvill: You said that you have been negotiating for X amount of years. The latest figures are around the \$70 million mark that has been spent to date in the last 20 years in trying to negotiate a land claims settlement, which they will have to pay back. Does the Yukon government have to pay back all the money that the federal government has given them to negotiate a

land claims deal?

Mr. McTiernan: The federal government has not given the Yukon government any specific amount of money to negotiate land claims. The Yukon government has had to take its land claims negotiation dollars out of general revenues so, essentially, it has made the choice to spend money on land claims rather than on other areas.

Mr. Howard Carvill: The land has been alienated in our traditional territories. It was on the news last week that this Watson Wheaton, or whatever, mining company is going back up there to do further investigation. How can you come into our community and talk to the Carcross/Tagish First Nation and expect to have some kind of a trust relationship, because you have to develop that relationship before you can sit down and do something for the future, when your government can just ahead and say, well, we are going to cancel the Taga Ku project. It is interesting that the president of your party has an interest in the other person who was all up in arms about it.

It does have a direct bearing on land claims, so do not tell me that it does not.

Hon. Mr. Fisher: Howard, first off, I would like to again reiterate that the current government did bring forward land claims agreements and self-government agreements to the Legislature in December, and they were agreed to by a majority of the Legislature. What I am trying to say is that we do support the Indian people and the land claim final agreements, but I am not going to sit here and try and argue with you, Howard. I think there may be some other people who have some questions and, if you wish to come into the office and sit down and talk to myself or John, certainly we would be willing to do that. I do not think that this is the forum to discuss what you believe we believe in.

Mr. Howard Carvill: Well, that is why I asked the question at the very beginning of who is running the meeting. You can just come into our community and basically take over. You know, it is typical. You guys are up at the front, and we are all sitting at the back here. We should have started out sitting around in a circle. Then, you tell me that you are sorry, but I cannot bring that up, because it has nothing to do with the meeting. It has a direct bearing on this trust relationship that you have to establish.

Hon. Mr. Fisher: Howard, we did not set up the hall. The hall was set up by the community. I am sorry if this is not the forum you would have liked to see it in, but this is the way it was set up when we came.

Are there any other questions?

Mr. Carvill: So how much does that cost?

Mr. Fisher: It is a substantial amount of money. I would not have an accurate figure over the last 10 years, but if you cost out both the direct cost of negotiations as well as the indirect input from various departments in any given year it would run into multiples of millions of dollars.

Ms. Atlin: I have a two-part question. I know, in the first part when you were speaking, Tim, you talked about the Yukon government becoming another party to the discussions and negotiations in the early 1980s. I am unclear why the First Nation, as a federal group of people, are dealing with the territorial government specifically on lands. I work in the land claims department myself and I am a member of the Carcross Band, but all I see is the alienation of, and YTG handing out, land that has not yet been decided on. There have been 8,669 hectares given out in agricultural leases in our traditional territory alone; but I do not see any agriculture on those spots — possibly one out of 10, if we are lucky. What I see is subdivisions being built, houses being built and lots being subdivided and sold to people.

We have had a lot of dealings with the Federal-Territorial Lands Advisory Committee in regard to these things but it does

not seem to make a difference. We oppose something — no one cares. We have a problem with nobody cleaning up after themselves. What has been done up at Mount Skukum to clean up after their mess? Yet already we are talking about future development around this area. This is a very strong area for development — the Southern Lakes region. We probably get many more, or as many, land use applications as the Kwanlin Dun Band, but our input seems to be ignored — specifically, since the federal lands branch, for some reason, is transferring over unsurrendered Indian title to the Yukon government, we seem to be having a great deal of difficulty.

I am really unclear as to where the authority comes from to transfer federal lands, unsurrendered Indian lands, over to the Yukon government for them to give out to whomever they see fit.

Mr. McTiernan: I will try to answer as well as I can but, if I miss anything on the specific land management issues, Karyn may be able to help me.

I was not involved in negotiations at the time but, looking at the history of why the territorial government became a separate party at the table, I believe one of the reasons was because of the responsibilities of the territorial government defined in the *Yukon Act*. Because of the types of programs and services delivered to all Yukoners by the Yukon government, it became very clear during negotiations — which began to incorporate a range of things beyond just land issues — land management questions, land use planning questions, heritage management questions — it became very clear, throughout the course of negotiations, that the Yukon government was going to be a critical delivery vehicle for a lot of government responsibilities under the claim. This is the only claim in Canada that covers all of the communities in a jurisdiction. It is one of the few claims in Canada where First Nation people live side by side with non-aboriginal people in communities and where the claim, in providing for land selections in community-based self-government powers, directly affects the way in which First Nation communities work with, and exercise their powers in conjunction with, non-aboriginal communities.

For all of those reasons, it became clear that it was in the interests of all parties that the Yukon government be active in the claims, be a separate party in the claims and be fully committed to implementing the claim.

In terms of the Yukon government's role in land, I think your finger on it when you said that both the Yukon government and the federal government have involvement in land management and in land activities in one way or another. There are spot lands that have been allocated and administered by the Yukon government, as well as lands that have been allocated and administered by the federal government, and it is very hard to tease out a federal responsibility from a Yukon responsibility, either in terms of geographic area or in terms of what is done separately and distinctly from the Yukon government, particularly in an area like here, Carcross. You are right; it has undergone tremendous growth pressure because of the population growth in the last little while.

It has become quite important in the land negotiation process that both governments have been involved in the land selections to reflect a range of interests, including a First Nations' interest in the land selection process.

I understand your arguments about consultation processes and some of the issues around consultation processes, and we have tried to allow for those in the claim. For instance, in the development assessment chapter, there are provisions for interim measures to be put into place before the environmental and social and economic impact assessment processes that are provided for in that chapter are fully developed and legislated.

We have done work with the CYI negotiators on those types of issues. Sometimes it has been slow and sometimes it has not been

put into effect very well, but there is a recognition that there is a need to deal with those sorts of issues in the interim until the final legislation is in place.

Not being involved directly in the land management and land allocation issues, I cannot speak to the specific concerns you raise but I understand your general concerns. We have heard them at the negotiating table and we have tried to take account of them, where possible, at the negotiation table.

Ms. Armour: I would like to add to that. One of the early provisions in the claim was that we interim-protect a certain amount of land — I think it works out to anywhere from half to three-quarters of the allocation CYI determined would be for each First Nation. Once those lands are protected by order-in-council, that will give each First Nation an envelope of protection so that there can be no surface or subsurface alienation of those lands while we are negotiating. I agree that there continues to be land alienations that are not part of the interim protection package but neither government has agreed to a complete land freeze through the claim. Instead, they have relied on the consultative processes that have been set up through FTLAC.

Ms. Atlin: That consultative process is not serving our interests. It may be serving someone's interest but it is definitely not serving ours.

What I brought up here is not really just a concern. I have been trying to find out for several months now, since the fall of last year, where the territorial government gets the authority to hand out federal lands that are unsurrendered aboriginal lands.

Ms. Armour: Some programs have been devolved — I do not know whether devolved is the correct word — to the Yukon government to manage: the agricultural program, the grazing program. Those programs have been given to YTG to manage.

Ms. Atlin: How did this happen?

Mr. McTiernan: I do not know all the legal technicalities, but federal legislation in the *Yukon Act* provides for the federal government to provide some lands to the Yukon government as Commissioner's lands, and that land is at the disposal of the Yukon government. The disposal process, as Karyn has indicated, does involve consultation with a range of parties and interests. The legal mechanism is there for the federal government to provide the Yukon government with Commissioner's land.

Ms. Atlin: That is what I have been trying to find out about. I would like to have a look at it. Who ultimately administers the *Yukon Act*?

Mr. McTiernan: The *Yukon Act* is essentially the constitution of the Yukon Territory.

Mr. James: Just a minute now. That is where you have a problem. You are interpreting the *Yukon Act* to mean that you have a constitution. I think the main concern we have, as aboriginal people, is that right now we are sitting on unsurrendered aboriginal-titled land. The Minister of Indian Affairs who went to parliament and got the *Yukon Act* adopted. The Minister of Indian Affairs administers the *Yukon Act* under the Northern Affairs program. The Minister has dual responsibilities; one is to protect the Indian interests under section 91.24 and the *Royal Proclamation* of 1763. He has that trust obligation. But because he has the *Yukon Act*, he administers that, as well. I think there is a legal conflict of interest on behalf of the Minister of Indian Affairs by doing that. Because what happens, like Karyn says, is that a spot of land is recognized by an individual; he goes to the government and says "I would like to get this piece of land for agricultural purposes". The federal government zaps the papers down to the Yukon government, saying "You have control of agricultural activities; you make an application to have a spot land transfer over to the Yukon government"; so the Yukon government makes the request. Our unsurrendered Indian title has gone from the

federal government to the Yukon government and from there the title is given to the person who applied for that piece of land.

That is the question Karyn is asking — how is that legal when we are talking about unsurrendered Indian land and when we are talking about the Minister of Indian Affairs, who administers, on behalf of the Indian people, under 1763 and section 91.24, and also administers the *Yukon Act*. As a people, that is why I asked Mickey what kind of powers he has when he becomes an elected representative of the Yukon; he says he has law-making powers. But when we go to section 91.24, our powers supersede the *Yukon Act*, so how can you have more powers than the elected representatives of our people — on our own land that has never been surrendered?

Those are the kinds of things we have to straighten out. Although you say that order-in-council protection is there, I do not see it. I see the Yukon government ploughing up our land over here, which is under order-in-council protection. They are asking for more pits to be drilled on those lands so that they can select gravel pits. That is against the law, yet they are doing it. We bring it up but we do not have anything to back us — forget about it; we keep on accepting all these other applications and when you bring it back to us we will say we will deal with it then.

Those are the concerns we have. Legally, I would like to get a legal opinion of the duties and responsibilities of the Minister of Indian Affairs as it relates to 1763 and as it relates to section 91.24. If we are going to be doing anything in the land claims agreement, if you say it is a modern-day treaty, then somebody in the United Nations should be interpreting this agreement under United Nations law, because this is nation to nation negotiation.

Hon. Mr. Fisher: Thanks, Stanley. Do you want to try to respond to that, Tim?

Mr. McTiernan: Not being a lawyer, I cannot speak in legal terms to the relationship between two pieces of federal legislation, the *Indian Act* and the *Yukon Act*. What I can say is essentially a version of what Mr. James has said, in that there is an outstanding obligation on the part of the federal government to complete land claims with First Nations that do not have treaties. That part of the process is what we are entered into now and the land claim agreements will be constitutionally protected, as you have already indicated, and will provide the type of legal certainty that currently is not there because of the various responsibilities of the federal government, including its responsibilities to Indian people.

Mr. James: But that is the other thing — we do not have three parties. We have ourselves, as aboriginal people, and we have the Crown in England, who we are supposed to sit down and negotiate with. How these third parties and third party interests came into it makes no difference to us. We cannot protect those third party interests. That is what I am saying. We should not be put to blame for the mismanagement of the Minister of Indian Affairs or his regional directors who deal with lands. They should be accountable to our people to say how they did it — what legislative body, what legal instruments they used in transferring unsurrendered Indian lands. That is the question that has to be answered by some legal people. We certainly have a problem if we are going to be sitting at the table for five more years; when the time comes to say how much land we have, we may not have anything left. Where does that leave us?

Mr. McTiernan: Thank you, Stanley. Other people have questions.

Ms. Jan Breaugh: I am sorry, I was not here at your introduction but I think that was a very good question. Is there no one here to answer questions on the federal issues? We are talking about three parties — but do we have someone to answer these federal questions? I am sure you did introductions, but please indulge me. You are with the territorial land claims, right Karyn

and Tim? May I ask who this lady is?

Ms. Joe: I am Margaret Joe, representing the legislative body for the NDP. I represent Whitehorse Centre.

Hon. Mr. Fisher: I represent the Yukon Party on the select committee.

Mr. Cable: I am Jack Cable; I am the Liberal representative for Riverside.

Mr. Millar: I am David Millar, the MLA for the Yukon Party for Klondike.

Ms. Armour: It is a Yukon government special committee. There are no federal representatives on the committee.

Ms. Breaugh: This is something you are going to run into. People are asking some very good questions that we all wonder about. Because there are three parties negotiating we are all going to want to hear some answers to those questions, but I guess you can only speak to what you know. Is that it?

Mr. McTiernan: We cannot speak for the federal government but we can speak to our understanding of the agreement involving those responsibilities that the federal government has. Try us.

Ms. Breaugh: Can I just ask a general question? I am not very well informed on the process and what is going on but I understand part of self-government would enter into the areas of community health care and community education. Are those in the umbrella agreement for all areas of the Yukon? My understanding is that each area negotiates for the things they want. Is that the way it works — specifically, if people wanted a school or something like that?

The land claims process has been going on a long time and every once in a while we hear whispers of things. Those are the two areas of concern for me: community health and education, things we are federally funded for now — we have a federal nursing station and when we ask about a program or something coming in the nurses say things will change under land claims. What type of restrictions will there be to me, as a community member, in the areas of health and education if I am not a band member and they have negotiated those to be in their power.

Hon. Mr. Fisher: Perhaps Tim can respond with specifics, but there are some things that the First Nations can draw down and look after themselves. Could you respond in more detail, Tim?

Mr. McTiernan: There will be a general set of powers in each First Nation self-government agreement. There will be powers for management of affairs on First Nation lands and there will be powers for the delivery of programs and services to First Nation citizens. You are right: one of the powers is for the provision of health care and services to First Nation citizens, except licensing and regulation of facility based services off settlement land. And there is the provision of educational programs and services for citizens choosing to participate, except licensing and regulation of facility based services off settlement land.

A First Nation may choose to exercise those powers or may choose not to exercise those powers. If a First Nation chooses to exercise those powers, they will enter into negotiations with government about the orderly transfer of programs to First Nations, about funding arrangements and about arrangements for the delivery of services and programs at a level basically equal to the level of services and programs that are being delivered currently. In the self-government agreement, there is a commitment on the part of government not to reduce the levels of services and programs to the public at large as a result of the transfer of certain program responsibilities to First Nations.

Some of the big issues we will have to deal with are transitional arrangements and funding arrangements, but the expectation and the principle are that the exercise of self-government powers by

First Nations applying to their citizens or applying to activities on their lands will not diminish from the delivery of programs by government at large.

Ms. Breagh: Could I just ask a further question to clarify that? If our local band wanted a similar medical program to that of the Health Centre services and wanted it as part of their land claims and wanted it delivered, and you are saying it is not to diminish the ones at large, would you then have two centres? The same with education — would there be two schools? What was previously a federal responsibility but the band wants it under self-government control, would there be more than one facility?

Mr. Carvill: Technically, yes, there could be. The big issue will be money.

Ms. Breagh: But they would not be just one and the other one lost? This is something that has come up both in education and health over the years; very often I am told that it depends on land claims and I keep wondering what is going to happen to my health programs in school. All I have heard is, it just depends.

Hon. Mr. Fisher: Technically, as Howard says, there could be two separate sets of facilities. Practically, in many instances, there may not be because of money questions and the practical questions of delivering services. What will probably happen in most instances is that First Nations and people in the community will reach some sort of arrangement for shared facilities or common program delivery that represents First Nation people's interests as well as non-First Nation people's interests. It will depend very much on the community and the issue at hand.

Ms. Breagh: And YTG want to go into that as well? Our health centre is federal; our ambulance service is territorial.

Mr. McTiernan: We have responsibilities currently and we will continue to have to deliver programs to non-First Nations people at the level we are delivering them currently, or at the time self-government is exercised. The federal government will be in the same boat. In some instances, the federal government will, over the next few years, be transferring responsibilities to the territorial government; so we will inherit those program delivery responsibilities from the federal government. Community health care is a good example.

Ms. Breagh: Who is governing that? Who is governing the health care? If programs are transferred to local bands under self-government and you are saying that either territorial or federal still has a commitment to keep it up, do we just have more governments administering the programs? Scary, eh? I do not understand this, I am sorry. Can anybody answer this? Do you understand my question? Is it the kind of thing I am allowed to ask?

Mr. McTiernan: Yes, it is absolutely appropriate. First of all, First Nations will be concentrating on delivering services to their own citizens. Services are already being delivered to Indian people, so they will just be delivered by a different agency — a First Nation government agency. The equivalent services will be delivered to non-First Nation citizens or non-Indian people, unless there is an arrangement for some type of joint program that is agreeable to all parties. What we have done is to split the responsibility. The same services and programs will be delivered to the same people but, in the instance of First Nations, they will be responsible for delivering them to their own citizens and government will be responsible for delivering the services to the rest of the population.

In terms of more government, I do not think any of us, First Nations or government, are going to be able to afford to duplicate services in a huge cost-added-on sense. So what we will be trying to deal with is some sort of practical arrangement to meet community needs.

We will have the responsibility for delivering services to other

than First Nations people and First Nations will have the responsibility for delivering services to their citizens.

Mr. Carvill: Just to add to what Tim was saying, you have to remember, as I mentioned before, we are all in the same situation. The government has been offered \$1.5 million to implement the land claims agreement and, as we all know — well, I know Tim knows and other people know — that certainly is not enough money; CYI and the bands have been offered \$150,000, so they have been offered 10 percent of what the Yukon government has been offered. We are going to be running into the same situation as we are right now, in that the monies that are going to come to community First Nations to provide services to their own members will be limited. One of the problems with the self-government agreement is that it is just an agreement; it does not hold any legal weight insofar as it does not have any constitutional protection. We are under the same situation as any government. If the federal government decides to cut programs 50 percent across the board, then that is what is going to happen.

Ms. Breagh: This legal thing — is there not a whole legal document?

Hon. Mr. Fisher: Excuse me, would you address the chair, just for the record please?

Ms. Breagh: Just for the record, I want to see if I understood Howard correctly when he said it is not on a constitutional basis. What I understood about land claims and the aspects of self-government is that, yes, these were going to be ratified and they were constitutional-like powers given to the First Nations.

Mr. Carvill: The agreement is, but not the self-government agreement.

Ms. Breagh: That is not part of the umbrella agreement?

Mr. Carvill: Yes, it is, but it will not have the same protection under the *Constitution* as the individual First Nations' final agreements.

Ms. Armour: They are two separate agreements, Jan.

Ms. Breagh: Okay, thank you. I thought it was all part of this one big one, but it is two different ones.

Mr. Willie Martin: I have an important question. Is the Yukon government committed to self-government by the Indian people?

Mr. McTiernan: Yes.

Mr. Martin: For my other question, on page 23 of the summary, under the board and its powers, the second paragraph from the top, there are 10 members plus a chairperson?

Mr. McTiernan: Yes.

Mr. Martin: Out of these board members, you have three who overlook or hear evidence of disputes. It says "a panel hearing a dispute which involves settlement land will include a member nominated by CYI..." Why "a" member? That means one CYI and two government members.

Mr. McTiernan: Sir, if you could give me a moment — I am just going to look up the chapter in the agreement — chapter 8, I believe.

First of all, in terms of the board overall, half of the board nominees will be from the Council for Yukon Indians; so, five of the 10 people will be nominees of the Council for Yukon Indians.

Mr. Martin: That is not the question I was asking.

Mr. McTiernan: No, I know that is not the question. I am just going through this. I used to know this document better than I know it now.

Ms. Armour: I am not much help. It is not an agreement I have looked at for a while, either.

Mr. McTiernan: Can you give me a minute or two just to read through this? I will get back to you once I have a clearer understanding. Your argument is why is there only one and not two representatives, such as is provided for in other areas. I just

want to read the chapter.

Mr. Martin: There is one from each government and there is only one from CYI; why are there not two, to make it fair?

Mr. Carvill: Let us take a five or 10 minute break so that Tim can look up the answer.

Recess

Hon. Mr. Fisher: I will call the meeting back to order.

Mr. McTiernan: In reply to the question about one nominee of the Council for Yukon Indians to hear a dispute on settlement land, you need only have one board member to constitute a panel. Any dispute may be heard and decided by one member of the board, with the consent of the parties to the dispute. I do not have the people here with me who have the technical expertise; we have 12 people back in the office, one of whom would be able to answer this immediately. Unfortunately, I am a poor substitute for that person.

What this does is to guarantee that a nominee of a First Nation is involved in a panel hearing on settlement land, which was a requirement that First Nations had in the negotiation of this. Then there is a provision that all you need is one panel member to deal with a dispute.

Mr. Martin: It says that in there, but it does not say it in here.

Mr. McTiernan: No, but that is just a summary. The agreement is what will stand in law.

Ms. Armour: What might happen, Willie, is that now we have the question from you but we are not able to provide you with a complete answer, we will take your name and seek the information you require.

Mr. McTiernan: The other thing, as Mr. Cable rightly pointed out to me, is that there is nothing to suggest that it cannot include two or three First Nation members.

Ms. Armour: Yes, but it has to be a minimum of one. Of three, there has to be at least one, but it could be more.

Mr. Martin: It is not written that way.

Ms. Armour: I agree. It is not clear in the summary.

Mr. Martin: Another question I have is: why CYI? That organization could end and, if this is signed, it cannot be changed.

Mr. McTiernan: There is a definition, if I recall correctly: "The Council for Yukon Indians includes any successor to the Council for Yukon Indians and, in the absence of any successor, the Yukon First Nations." So, there is provision if CYI does disappear.

Hon. Mr. Fisher: Are there any more questions from the audience?

Ms. Bessie Jim: I was wondering about this self-government. Why should there be two governing bodies in a community? Why could they not have one band governing? I do not see any problem with giving it back to the people who are going to govern themselves.

Hon. Mr. Fisher: In some communities the band office may be the central government for the whole community.

Mr. Patrick James: One of the basic things that I really wanted to ask this committee that is representing government is: is the government really committed to a process of implementing the land claims settlement? Are they committed to settling land claims?

As you have heard around the table here tonight, this whole situation has been going on for 20 years. Although it is no fault of First Nations people, they have been trying very hard for 20 years and it is either one government or the other that has put the brakes on it.

This is costing money and we are paying through the nose. The longer it stalls, the more we have to pay. One time we thought it

would be about \$20 million; we are now looking at \$70 million and we are still looking at stalling tactics. One of the things, as you know, is the implementation; the government is saying that they are looking at the costs.

They must have a basic figure worked out as to how much it would cost to implement land claims. Do you have that? I know that this has been going on for about two months. Someone was saying that the government is having a difficult time trying to accept the cost. The government must have an overall cost of its own worked out.

Is the government really committed or is it a tactic to put the brakes on again, until such time, as Stanley mentioned, that we wind-up in the Legislature in the spring and we will not have anything yet.

Hon. Mr. Fisher: Thank you Pat. I will speak briefly to the commitment.

I think that all of us — not only government, but I believe nearly all people in the Yukon — are committed to finalizing the land claim agreements. I do know our government is committed to the finalization of the agreements as is the official opposition. The fact that the first legislation was introduced into the House and received agreement in principle shows that the commitment is there.

The implementation costs, again, are not really the mandate of this committee, but perhaps Tim McTiernan can explain that again.

Mr. McTiernan: To revisit some of the history of the implementation planning, as you know already all three parties were working over the summer and into the fall to complete implementation plans for the umbrella final agreement, Yukon First Nations Final Agreements and self-government agreements. The agreement was that we fill out activity sheets to identify each of the activities and each of the responsibilities that arose out of the agreements, and when we had that done we would cost them out to understand the overall costs for implementing the claim, and then negotiate those costs with the federal government.

In November, that process broke down. The Council for Yukon Indians and the Yukon Government agreed, together, to complete all the activity sheets and complete the costing exercise and to go forward to the federal government with a total cost picture.

The federal government, in December, in separate meetings with the Council for Yukon Indians and the Yukon Government said that we will never make it in time for federal legislation in the spring if we go through that process. What we are going to do is to put our money offer on the table and we will work within the money offer. That is the difficulty that both First Nations and the Yukon Government have had.

We have a general sense of what costs would allow us to more or less comfortably deliver on our claims and self-government responsibilities, but we never completed that costing exercise, nor did First Nations or the Council for Yukon Indians complete that costing exercise. What we were left with were the figures available from the federal government, and Howard had mentioned some of them.

We had been offered, as Howard indicated, a million and one-half dollars to fulfill our responsibilities to all 14 First Nations, as well as our general responsibilities arising out of the umbrella final agreement. That figure starts at \$1 million right now and escalates by increments of \$50,000 for each subsequent, completed final agreement.

In essence, we have been offered \$800,000 to meet our general, territory-wide responsibilities under the claim and \$50,000 per First Nation final agreement. What we are trying to do is to see how we can develop an implementation plan in the context of those costs, which is the same exercise that CYI and the First

Nations are doing and the same exercise that the federal government is doing.

Mr. Matthies: I want to ask a very basic question. Maybe I missed something in this process, but why was this round of meetings necessary? Were there not earlier public meetings held under the previous government?

Hon. Mr. Fisher: I know that Mr. Penikett did travel to some communities, but perhaps Karen can provide us with further detail.

Ms. Armour: After the self-government agreement had been finalized, Mr. Penikett — or Premier Penikett, at that time — toured the Yukon and most communities, not as many communities as this committee has visited, to explain the self-government agreement. There were also a number of public meetings held over the years in communities — possibly Tim or Mickey can elaborate. This committee was a commitment that was first established by the former government when the Vuntut Gwich'in legislation was introduced in June, and I believe that the present government was honoring the commitment that the committee would still go ahead.

Mr. McTiernan: Yes, it was part of the legislative package. The difference between this committee and the previous hearings that were held is that the previous hearings were under the sponsorship of the government of the day and this committee is under the sponsorship of the Legislature. As Mr. Fisher has said, this is a non-partisan committee involving representatives from all parties in the Legislature.

Hon. Mr. Fisher: Does that answer your question Ken?

Mr. Matthies: Yes, thank you very much.

Mr. Carvill: It might not be the best choice of words when you say "honoring a commitment".

Mr. Martin: I would like to go back to the surface rights board; it says on page 23 that the board can set compensation for damage caused by access. If the board settles it or sets compensation; say there are 10 on the board, what happens if there a five and five vote?

Mr. McTiernan: The Chair would cast the vote to break the tie, however, the panels will probably be set up in such a way as to avoid a tie vote. A panel of one is a good example, a panel of three or a panel of five. There are 10 members on the board, plus the Chair, so there is always the opportunity for a tie-breaker.

Hon. Mr. Fisher: Are there any further questions?

Mr. Carvill: How is your government going to begin trying to develop some type of a trust relationship with First Nations, specifically the Carcross-Tagish First Nation? The trust has already been broken and I am wondering if you are looking at any ways to try to deal with this issue.

Hon. Mr. Fisher: I think this committee is an indication of our support, and Taga Ku was a business situation. There are still many things happening with various bands across the territory. The bureaucracy is working with many of the bands and if it has come to the point where none of the bands trust us, as you are implying, I believe that it would take some time to show that we are sincere, but I would like to stay away from that issue, because as I said before this committee is non-partisan committee and we are trying not to get involved in any partisan debate.

Mr. Carvill: I guess we do not have much of an opportunity to ask questions like that. The relationship is not there so you have to ask the questions when you have the opportunity.

Hon. Mr. Fisher: Fair enough, Howard.

Mr. Carvill: It does concern us, because it is certainly public knowledge that one of the most powerful members of your present government is your former Government Leader, the former land claims negotiator for the territorial government and our MLA.

Publicly, in the past, he has been one of the key components as far as self-government is concerned. He does not support self-

government; he never has and he has stated this publicly. He had pamphlets prepared and sent out about it.

There are a number of factors, when you start looking at it — sure you can sit down and say yes, we are committed to the process because this is one example by setting up this committee, going out and talking to the public, but you recently stated that all you are doing is honoring a commitment that was made by the previous government to do this.

I think it puts a lot of doubt in people's minds about the actual commitment. This gives us an opportunity, in a public forum, to discuss these matters.

Hon. Mr. Fisher: Thank you, Howard. I can appreciate your concerns and maybe you are right to take whatever opportunity you have to express those concerns.

I cannot comment at all on your MLA's beliefs or former beliefs. I would like to sit down and talk to you in my office, or wherever, at any point in time, but I do not believe this is the forum to discuss that.

Mr. Carvill: I believe what needs to happen — it is like any kind of relationship, when there is a trust relationship that has been broken and you want to re-establish that relationship — is you need to set down some specific guidelines, verbalize those guidelines and say this is what we would like to do. Maybe we have screwed up, one party or the other, we admit that we have and we would like to straighten things out.

These are some of the things that we are willing to do in order to show our good faith and establish relationships with a group of people. In a lot of First Nations' hearts, they really believe that we have ownership of this land. We want to be able to continue to have that type of relationship.

As someone has stated before, we are in a unique situation here where we have to all live together and I do not want to see this getting into something where you are pitting one group against another or you are using one group against another.

I see that has happened already. Your Minister of Economic Development — to me, I do not know where these people get their brains from — publicly stated that the Liard First Nation does not support the Taga Ku. You could not say a worse thing. To me, the number one thing on my agenda, if that was me — let us say it was me and my wife, if our relationship was strained and I wanted to continue in that relationship I would try my best, that would be my number one priority to bring that relationship back together so that it works and becomes functional again; that trust is built up. I have not heard anything from your government about trying to re-establish that relationship.

Hon. Mr. Fisher: Again, thank you, Howard. Watch in future and I think that we will be able to prove that to you. Thank you for your comments.

Mr. James: I want to know who is responsible for the obligation, or whatever it is to inform "other people that they do not have title to these lands yet." Whose obligation is that? Is it the Yukon government's? Is it the federal government's?

We are still at the table negotiating and we have never surrendered anything. It is going to boil down to that. Howard keeps bringing things up and I can see it coming where the blame is going to be "you Indian people again".

We did not create that problem. We did not sell the land, we did not give title to the land to anybody yet, and yet it is has been done to us.

Whose obligation or responsibility is it to inform those people that they do not have title, that the title still remains with the First Nations until the land is surrendered? Whose responsibility is that?

Mr. McTiernan: It is ultimately a federal government responsibility to deal with the question of title over land. That responsibility is being reflected in the negotiations that deal with

the certainty over unsurrendered lands and it is reflected in the day-to-day operations of both governments with respect to land that has been alienated and used for private or general purposes, whether it be for municipal-type lands or fee simple lands.

Mr. S. James: When you ask the federal government for a spot land transfer, the Yukon Government asks the Government of Canada for a spot land transfer, the Government of Canada says yes, we will agree to give this spot land transfer. The Yukon Government then turns around and gives title to that land. Those are the questions that have to be answered at some point in time. I am not going to take the blame for the mismanagement of the federal government or the Yukon government when I talk to my people. This land is ours. That is what my people are telling me.

Somebody has to explain that. I think that it has to be the Yukon Government explaining to those people, because they are the ones that collect the taxes off our land. Then the federal government has to be reprimanded and have it spelled out precisely under a court order that they have not right to give land away because we are still negotiating at the table.

At some point in time, somebody has to explain to these other people who are living on our land that they do not own title to the land; we still have title. We are not going to be blamed for somebody who made mistakes in the federal departments and the Yukon departments. That is the kind of thing that I see happening.

Sure, it is well and good for the government to go around to the communities and have these meetings, but at least give us the answers that we need. You are going to be responsible for informing the federal government that they have an obligation to inform our people that they have no right to sell the land, they have no right to give the land away to another government who in turn created title for "other people" until the surrender of the land is made.

Mr. McTiernan: I do not think that the parties are going to be in the business of assigning blame for what happened in the past. Certainly, I do not think that either government has any desire to blame First Nations for any management issues or management activities that have occurred in the past.

I think what we are all interested in through the land claim negotiation process is resolving the issue of certainty over title in a way that recognizes and affirms First Nations' aboriginal rights and acknowledges the existing interests of third parties as they are currently represented in the territory.

Mr. S. James: That is what I mean, the government is saying that they have no obligation, but when we get down to the individual in the community, he is the one that elects the government and puts pressure on the government to make things go his way. Why is it not the government's responsibility to inform those individuals who have title to Indian lands now, who have received vast amounts of land, that they do not have title because there has been no surrender of the land yet?

That is what I mean, do not use that government excuse, because you have to explain to the people whom have elected you that someone has done something wrong. Admit it outright. Like Howard says, you have to be honest. Admit if you are wrong instead of trying to keep it down. I do not want to see a big war going on in our community because someone starts saying you are talking about my land over here, and it is not their land yet.

Hon. Mr. Fisher: Thank you for your point of view.

Ms. Wally: I was wondering how these meetings are going in other communities. You have, more or less, aboriginal bodies, and a lot of times here the white people are harping and complaining that they never know anything about the land claims. How are they are going to be informed? Are you going to come back and have a special meeting for them to discuss the same issues?

Hon. Mr. Fisher: No. I think this is the fifth meeting that I

have attended. I think the attendance at those meetings represented close to half and half of native and non-native population. I was in Beaver Creek, Destruction Bay, Burwash, Haines Junction and Whitehorse.

The meetings have been well-advertised and I do not believe we will be returning if some people did miss them.

Ms. Wally: That is what happens time and time again. You hold a land claims meeting and they do not show up. It is the back-door stuff that always comes up later.

Ms. Jim: I was wondering about all this alienation on our lands before the land claims is even settled. We are still at the negotiating table. The government is still putting subdivisions where they should not be, from here to Whitehorse. You fly over in a plane from here to Whitehorse and see how many houses there are — or from Robinson, where our land claims start from.

They have a little hamlet in Robinson. We did not know anything about it. The aboriginal people who live there do not know anything about how it came about.

What I would like to know is when is this alienation going to stop on our lands while we are still at the negotiating table? Or does it have to come down to serious matters where maybe the Skagway Road will be shut down until all this alienation and everything else that is going on ends.

I was born and raised here in Carcross. I lived down on the Tutshi River, 50 miles from Whitehorse, in a cabin with my aunties and my grandmother. As far as I am concerned, this is our land. Turn the tables around and we will tell you what to do on our land, not you telling us what we can do on our land.

What happened to all the tax money? What happened to all the money that they sold the land for? Give it back to us for our self-government. That is all that I have to say.

Hon. Mr. Fisher: Thank you.

Ms. Karyn Atlin: I feel like we are being forced into a corner. If we are a third government working for the First Nation, we have no resources; we do not have the resources to compare to any other government.

I am not really too sure about the federal government, but if you take a look at the territorial government, you have a department of renewable resources, land titles branch, land use branch, goat biologists, sheep biologists, moose biologists, you have the monies to fly over in planes to see things, you have the monies to go anywhere. We have a two-person land claims team. We function on \$100,000 per year to do all of those things. We do our own renewable resources, our own land use issues — everything.

To get back to the land applications, it seems to me that we have no recourse, no way to express our concerns or to say we do not want that on our land, no we do not want another YTG gravel pit, no, no, no, no. They say, well, that is nice; we will see you next year when the gravel pit is in.

What recourse are we left with? Are we left with closing the Skagway road to stop the alienation of the land, or getting a lawyer? What are we left with?

It comes back down to this trust relationship. Where is the possibility of developing the trust relationship if there is no give and take — it is just taking.

I really have a problem with that. You come in and people say why are they doing this on our land? We say we opposed it, we have put our two cents in. The lack of communication between the territorial government lands branch and the federal lands branch is phenomenal. We do not get informed unless we ask. We do not get anything. The only things we get is when it is too late; or, when it does not really concern us, maybe they will send us a little bit of information.

Yet, land use and forestry applications are ongoing — 8,000 hectares in agricultural applications. Our territory is only 186,000

square miles in the Yukon, our traditional land. Eighty-six square hundred hectares are already history, they are gone. That is agricultural grazing leases alone. That is not mining, not forestry, logging — nothing. What are we left with? The hilltops, the bottom of the river? I do not know. We have no input — well, we have input but nobody listens to us.

If we are trying to develop this trust relationship, we have to start right at the bottom. We should not be forced into a situation where we have the two recourses to go to. Why are we forced into a position where we have to hire a lawyer to get our views across? Or do we have to close the Skagway Road?

Why be forced into that position of defensiveness and no trust?

Hon. Mr. Fisher: Thank you, Karyn. I fully appreciate and understand your frustration.

Your comments will be recorded and will be going back to the Legislative Assembly of the Yukon Territory.

We here, at this point in time, cannot give you guarantees on the many issues that you have hit on, but we do hear you and the whole Legislature will be apprised of your concerns.

Mr. James: I guess what you are hearing here is when you speak of setting things straight for First Nations, we have heard that before many times. We even heard that from your leader several months ago — that he would work physically for the First Nations and then they turn around and say things like that. What you are hearing now is the bombardment that we are having in terms of land alienation. We do not have the resources.

If it is for not specific land titles, it is using other tactics that eventually eliminates our tenure on the land holdings in terms of land claims.

For instance, you have the Mount Lorne Hamlet status, and they have said that we want to set it right with you, we want your participation on this board to sit as an observer. This is not what we are asking for; we are asking for active participation.

We need financial backup to help us get involved. If we are talking about being fair and working together, that is what we have been requesting for quite some time.

If that does not happen, I do not see where it will be possible for the government to set things straight again with First Nations.

Those things are happening. Alienation is taking place. It is not only through land titles. There are other quarries and other different types of nodes — small little parcels that will eventually alienate the whole.

As Stanley stated, four to five years from now we will virtually have nothing to sit down and negotiate. That is what our concerns are. We have been fighting this for years. We have set things fairly well here. The community and First Nations have started working together, but it is not going to be for long if the government keeps doing this and starts separating the individual communities by alienating different types of land.

We are trying; it is not that we are not trying. We are trying to work with the people, and I think it is happening.

Hon. Mr. Fisher: I know of your committee, Patrick; in fact I was involved with it at the very start.

I do appreciate and understand your frustrations and I think it is going to take a lot of cooperation on both our parts to resolve it.

I do not know where you are at with your land claim agreements, but, again, there has to be an understanding on our part and your part; there has to be a cooperative approach to the whole question of alienation of lands. Howard, and then Stanley and then Willie.

Mr. Carvill: You talk about cooperative approach, I think you can begin, Mickey, instead of saying we are going to take this back to the legislative committee and discuss it, you have a responsibility as a Minister to look into these matters. That is what you should be doing. When someone is saying we have a concern,

you could say yes, I will take it back to the legislative committee, but I, as well, as a public servant and Minister responsible for specific areas, will take these specific concerns and look into them.

There were a number of specific concerns that were raised. Another one that Patrick talked about was in regard to the Mount Lorne situation, is the planning process that they are going through right now. The First Nation has said that they do not want to see anything happening there because they still have some sites that they are looking at choosing, possibly, if there are any negotiations taking place here. That should be taken back.

We talked about agricultural leases. Have you have checked the soil suitability for agriculture in this area? I think it is all class 5; you cannot grow anything here. Yet, there are agricultural leases being given out — to grow what?

Those are some concerns. When we talk about a trust relationship, I think there could be a joint challenge. Someone said that part of the negotiations will recognize and affirm First Nation aboriginal rights and title to the land, right? To how much land — eight percent of the Yukon? Is that fair and equitable?

We realize that there are people who have settled in the Yukon and there are things that have happened and we are not going to say we are going to boot everyone out or whatever, that is not the case at all. People learn how to live together and that will continue to happen.

I think there has to be more support. When we talk about a recognition, there should be a recognition of the overall territory.

Hon. Mr. Fisher: It is 9:45 p.m. I would like to end at 10:00 p.m.

Mr. James: I would like an opinion from the federal Department of Justice and the Yukon legal department. If one looks at section 91.24, it describes the *Yukon Act* and the territorial *Lands Act*; all of them seem to be superseding our title and rights. We are always told in reply to our arguments that under the territorial *Lands Act* they have the right to do this or that. We say that that supersedes the title and rights or aboriginal peoples. Would you provide us with legal opinions on that, because I hate to see those tactics being used against us?

Mr. McTiernan: We can deal with the legal context of land claims, as we have done already in a number of instances. In the land claims process, and particularly as we enter into negotiations with the Carcross First Nation for a final agreement and self-government agreement, I think we have explored some of those legal questions in the context of negotiating the umbrella final agreement. We would happily re-address those questions as we get into the negotiation process with Carcross.

Mr. James: That may be five years down the road; that is my concern. An act is being used to take away Indian lands. I do not want to wait until we get to the land claims table to argue those points; we want to argue them now. We want legal opinions so that when we talk to the federal-territorial lands advisory committee and others who deal with land issues, they cannot come back at us by saying that they get their powers from those acts. Our concern is that they will give our lands away. If we do not get some legal opinions we are going to be arguing all the time.

Mr. McTiernan: It was our understanding that Mr. Salter had just been appointed negotiator for Carcross, and that he has been party to legal discussions before. I expect that, when representing the Carcross First Nation he would be a tremendous source of legal information for you and can deal with our lawyers on those questions.

Unfortunately, I cannot answer your questions because I am not a lawyer.

Mr. James: I am not a lawyer either, but these acts are superseding our rights under section 91.24. We cannot leave that under the table all the time. We have to get some answers so that

the people in the lands department do not use that against us.

Will you make sure that you take these questions under advisement?

Hon. Mr. Fisher: The questions are being recorded and will be transcribed. Specific ones that relate to specific Ministers will be directed to that Minister to deal with.

Mr. Martin: The persons who planned these land claims could not have been very well organized. There are a lot of First Nation people who cannot read and a pamphlet like this is sent out to them. There are communications people and there should be money set aside to visit house to house. There are old people who cannot come to meetings like these who will know nothing about it. I suggest this.

Mr. McTiernan: That is a very good suggestion.

We have worked, in the past number of years, with CYI and with the federal government on a variety of communications issues. Ken may be able to speak to this better than I, but CYI has been involved in producing videos in conjunction with NEDAA and people like that, and we have produced an audio tape with some First Nation elders on it so that we would have different types of materials. There have been community visits, as well.

Mr. Martin: How many First Nations people have a TV to watch your or CYI's videos? It is just ridiculous.

Mr. McTiernan: That is a good point, but there have been community visits as well and there have been CYI people involved as well.

Mr. Martin: There have not been too many community visits. I have not had one person in my house.

Ms. Armour: When the First Nation final agreement is ratified, the First Nation gets money for a communication strategy. I think Ken was involved with Champagne/Aishihik, and they did do a number of home visits.

Mr. Martin: You are going to give them advice five minutes before they sign that piece of paper — is that it?

Ms. Atlin: Both as a member of the Carcross Tagish First Nations land claims team and as an elected member of, at the moment, the only political governing body we have in this community — the area planning committee — I am concerned. It was something I was going to bring up earlier: both the *Hansard* and the comments made in the Legislature could have been made available to us. I would have liked to have come a bit more prepared. You gave us a 50 page document and said that, by the way, we would be talking about it in 10 minutes.

Hon. Mr. Fisher: You wanted something prior to the meeting.

Ms. Atlin: Yes.

Hon. Mr. Fisher: Yes.

Ms. Atlin: We do have an elected group of people, of which I am a member. We have our secretary right here. To my knowledge, we have not received any communication in regard to this. Also, as the person who gets the land claims mail for the First Nations, I have not seen any of this.

Hon. Mr. Fisher: The small summary pamphlet was sent to all communities about three weeks ago.

Mr. Matthies: I found out about it three days ago. That is when I found the pamphlet. They may well have been here, but it was not general public knowledge.

Hon. Mr. Fisher: I will check into that, Ken. That is unfortunate. In communities that I have been to — I have not been to all of them — most people came with these things.

Mr. Matthies: There was also no communication, as Karyn said, with the planning committee. I received nothing on that matter.

Hon. Mr. Fisher: I apologize for that.

Ms. Atlin: I do not mean just a summary. I have had a glance

at the comments in *Hansard*, I guess it is. At one time we used to get that; we do not get it anymore.

That is a service we, as the land claims team, do provide to our people.

Hon. Mr. Fisher: Check with your MLA. He has the ability to have *Hansard* mailed to specific people.

I would like to entertain one more question and then we will adjourn. It is nearly 10 p.m.

Mr. Howard Carvill: I have an easy question. A number of years ago, there was a study done on the government's economic development agreements and the number of different projects they had going, with a breakdown of how much money goes into each section. For example, tourism got quite a bit of money and mining was either the highest or second highest; it went all the way down to the last item — I think economic planning got about \$600,000.

Basically, 70 percent of the money that was plugged into the program went for venture capital items — for starting up business or purchasing capital items; that type of thing. A very small percentage, probably about 0.2 percent of the budget went to begin building the capacity for community people to take on economic development projects, such as training people to manage economic development projects and help them gain some skills so that they can undertake specific activities.

I wonder what kind of support your government is looking at giving to First Nations as far as helping them to begin to start managing things. We are talking about an enormous undertaking. Actually, it already has been an enormous undertaking. I do not want to see people getting set up, as they have in the past. Indian Affairs started it all off by providing funds to individual First Nation to start taking more control of their lives, but forgot to provide any support systems so that people could learn how to manage those things. We are going to be running into a similar situation with land claims agreements and self-government agreements.

Our resources are taxed to the limit right now. We do not have the opportunity or the resources to begin to develop our people so that they can gain the skills necessary to implement the agreements.

Just recently, the Minister of Education stated that there will be no more money going to Yukon College. There are going to be cutbacks in the Education department. There is no money left in the Community Development Fund. There is no money left in a lot of the programs that could possibly begin to provide some of those support systems. Again, I see another way of setting a group of people.

I know that there is money set aside for implementation and training. Basically, however, no one has decided what that money will be used for. When you start looking at the kind of undertaking that we are about to proceed with — I think it is \$6.4 million, or something — it is certainly not enough money to even begin looking at the kind of skills that we need to be looking at providing for people.

Hon. Mr. Fisher: Tim, could you explain the training fund?

Mr. McTiernan: The land claims agreement provides, as you know, for the establishment of a training policy committee. The majority of the members of that committee are nominees of CYI. The training policy committee has been doing some work on a training plan. It will be responsible for administering, as you said, the \$6.5 million training trust that is established, with \$3.25 million from the Yukon government and \$3.25 million from the federal government.

That trust, to my understanding, is supposed to be used in conjunction with existing programs in both the federal and the territorial governments. It would not be the only amount of money available for training, but it would provide specialized training

that is not available through other programs.

I know there has been a lot of work in the last year on trying to get a training plan in place. I know there have been a couple of false starts in terms of getting the details worked out, but my understanding is that the training policy committee is doing its work actively.

Our lawyers were meeting in Ottawa last week, figuring out the details of the training trust. We have had a million dollars in an account for the last two years, waiting for the trust to be established, as our first payment into the trust. The lawyers were working out the details about how to set up the trust on how that money could flow into it and the additional payments could flow into it once the settlement legislation was through Ottawa early this spring.

I do not know the details of what is in the training fund, but I do know that a fair amount of work has been put into training at this point. Obviously, there needs to be more work done with each First Nation final agreement to identify specific training requirements for First Nations people to deal with each final agreement as it comes along.

Hon. Mr. Fisher: Thank you, Tim. I would like to thank you all for coming out. This is a very different meeting than the one I attended in Destruction Bay. I think there was a little more stimulating conversation. Your concerns are recorded. As I said before, they will go to the Legislative Assembly. There will be a report made to the Legislature with specific concerns and general concerns included. As you suggested, Howard, specific concerns that have to do with specific departments or branches of the government will go to the appropriate people.

Again, thank you. I hope that this was of some assistance to you. We are open to questions. Feel free to call or write to us or any of the members of the committee. We will try to answer you questions to the best of our ability.

Meeting adjourned at 10:05 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

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**Community Complex
Ross River, Yukon**



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**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)

Jack Cable (Riverside)

Hon. John Devries (Watson Lake)

Hon. Mickey Fisher (Lake Laberge)

Danny Joe (Mayo-Tatchun)

Margaret Joe (Whitehorse Centre)

David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly

Missy Folwell, Deputy Clerk

Ross River, Yukon
Monday, February 15, 1993 — 7:45 p.m.

Hon. Mr. Devries: It is good to see such a great turnout. First of all, I'd like to thank you for coming out to this meeting. My name is John Devries and I represent the riding of Watson Lake. Tonight I will be chairing this meeting of the Special Committee. The other members with me are: Danny Joe, MLA for Mayo-Tatchun, and Jack Cable, MLA for Riverside.

This committee was appointed by the Legislature last December and the bill approving the Yukon land claim final agreements and the First Nation self-government bill were referred to the committee, as were the agreements attached to them. The committee's main task is to seek the views of Yukoners on this legislation and these agreements and to report its findings to the Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected.

The Yukon Legislative Assembly has given its approval in principle to the legislation very clearly expressing its commitment to the settlement of the Yukon land claims and to the self-government during debate in the Legislature last December.

We are here to listen to your comments on land claims and on self-government, with the assistance of the Yukon government land claims official who is with us to try to answer any questions you might have.

Settlement of the Yukon land claims is a very important issue to all Yukoners. It is imperative that we have a thorough understanding of what it is all about so that we can all work together over the coming years to ensure that the Yukon is strong and vibrant. I cannot suggest for a moment that it is a simple task to understand these agreements. I am sure that even those people who have been working on them at the negotiating table for many months, or even years, could not say that they are fully knowledgeable about all the aspects of the claim and of the self-government agreements.

A lot of work will still have to be done to put into practice what the negotiators have worked long and hard to put on paper and what individual First Nations have said is important to each of them and the specific agreements that have been signed to date.

The signing of settlement legislation is not the conclusion of land claims; rather, it is a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change in the Yukon overnight and it will not always be easy, but with care and dedication I am certain that all Yukoners will benefit from the Yukon land claim.

I hope that tonight we will be able to have a very open and informative discussion. We plan to be very informal but we are taping the meeting so that transcripts can be prepared and attached to the committee's report. For that reason, I would ask that, before you speak or ask a question or rise to make known your views, please identify yourself for the record.

Coffee will be available, so help yourselves at any time — although I understand that it is not ready quite yet, so just sit tight.

If, during discussions, any questions come to mind, please feel free to jump in and we will see if we can give you satisfactory answers.

We also have with us tonight Ken Kane, who is representing the Council for Yukon Indians; we also have with us Karyn Armour from the Land Claims Secretariat. She will give a very brief overview of the land claims and self-government agreements. After she has spoken, I will turn the meeting over to discussion and questions from the floor.

Ms. Armour: As Mr. Devries indicated, we are in the last stages of the process to legislate final agreements. Legislation was

originally introduced in the Yukon Legislature in June 1992 with the Vuntut Gwich'in final agreements and was reintroduced in December of 1992 with the Champagne/Aishihik agreement. We are hopeful that the legislation will be introduced in federal parliament before early summer.

The land claims process began 20 years ago, yesterday, with the presentation in Ottawa of the claim "Together Today For Our Children Tomorrow" to the federal government. The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement by the federal government that outstanding claims issues remained to be resolved.

Negotiations continued during the 1970s as the federal government reexamined their claims policy. The early negotiations were bilateral between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations, and in 1978 the Yukon government became a party to the negotiations and now participates as a separate party from the federal government.

Between 1980 and 1984, much work was done by negotiators on an agreement in principle. The completed document was rejected by the leadership of CYI in 1984. In 1985 the process began again and in 1987 the federal government produced a new comprehensive claims policy that enabled the negotiators to craft what was called the master framework agreement for the Yukon, which would be sensitive to the needs of different First Nation communities. This agreement, or AIP, was reached in November of 1988. Between 1989 and 1990, the three parties used this AIP as the basis for negotiating the umbrella final agreement, which was completed in March 1990. The umbrella agreement sets out the general provisions for the comprehensive claim in the Yukon. It took another year or so to complete the legal drafting and to finalize the text for public release. During this period, the community negotiations resumed and, between 1991 and 1992, the first four of the 14 First Nation final agreements were concluded. Those four were the First Nation of Na-Cho Ny'ak Dun, the Vuntut Gwich'in, the Champagne/Aishihik First Nation and the Teslin Tlingit Council.

In parallel with completion of the first four, a model self-government agreement was negotiated by the three parties and agreement was reached in November of 1991. This model serves as the framework for the finalization of First Nation self-government agreements. The four First Nations that have concluded their final agreements have also completed their self-government agreements. The outstanding issue is the completion of the implementation plans, which are being negotiated presently by what is called the Implementation Planning Working Group, made up of representatives from CYI and the two governments. The working group essentially takes the finalized agreements and translates them into operational plans to give effect to the agreements. The implementation plans also set out the amount in dollars that will be paid by the federal government to First Nations and the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the *Constitution* and land claim agreements will essentially be treated as treaties, with constitutional protection.

Some of the elements in the final agreements are that the agreements provide for an exchange of rights between governments and First Nations that will compensate First Nations for relinquishing their outstanding claim to title to all the lands in the territory and will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The umbrella agreement also provides for monetary compensation for what is being given up. That compensation is \$242.6 million, in 1990 dollars; the money will be divided among the 14

First Nations and paid out over 15 years. The compensation package also provides for a \$25 million buy out of the tax exempt status of Yukon Indian people. The agreements also set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. It also sets out the amount of land retained by First Nations. There is a total of 16,000 square miles of settlement land, which is divided into 10,000 square miles of category A lands and 6,000 square miles of category B lands. Category A lands includes title to the surface and subsurface, and category B includes surface title only. There is also a small amount of fee simple title. There is an additional 60 square miles of land available for selection in lieu of existing reserves and land set aside. Aboriginal title will be retained on both category A and B lands. This is the only claim in Canada that provides for aboriginal title.

The agreements make provisions for continued access to settlement lands and sets out a process to resolve any access-related disputes. Conflicts between the use of the surface and the subsurface in category B will be referred to a surface rights board established through the claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nation representation in management decisions and will provide advice to both the minister responsible and to the First Nation.

Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide and a regional level. In each of the 14 traditional territories there will be provisions to establish what is called a local renewable resource council that will provide advice to ministers, First Nations and to the territory-wide fish and wildlife management board on issues ranging from fish and wildlife management within the traditional territory to forest management and the establishment of special management areas. These special management areas are also created in the First Nation final agreements and will allow for the protection and management of critical areas that are important both to government and to the First Nations because of their special or distinctive wildlife heritage or natural resource values. Some of the areas that have been protected in the first four agreements were Dalton Post, Lansing historic site with the Na-Cho Ny'ak, Rampart House, Lapierre House with the Vuntut Gwich'in, and there are also provisions for the McArthur Game Sanctuary.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. In addition, there are chapters on water management, forestry and heritage. The heritage chapter provides for First Nation ownership and management of the Indian heritage resources directly related to the culture and history of the First Nation.

The umbrella agreement also provides for the establishment of a training trust. A committee has been established that will identify the training needs for First Nations to enable Yukon Indian people to meet the requirements of the claim.

Each First Nation final agreement sets out what is called specific provisions. These specific provisions may include the details relating to arrangements regarding access, heritage or special management areas that may have been included as part of the First Nation final agreement.

There is also a separate land chapter or appendix attached to the final agreement that sets out the descriptions of the parcels of land, the amount of settlement land, and any details regarding the land, such as any arrangements or exclusions made for third party

interests such as leases or easements and that sort of thing.

The fish and wildlife chapter sets out the harvest allocation provisions for each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes. Both the Yukon First Nations and government recognize the importance of fish and wildlife to all Yukoners and the agreements provide for a sharing of resources and resource harvesting opportunities. Until a total allowable harvest needs to be established, each First Nation will continue to harvest within its traditional territory all species to meet its subsistence needs.

The UFA also commits governments to the negotiation of self-government arrangements. These agreements will not be constitutionally entrenched at this time, although both the Council for Yukon Indians and the Yukon government are continuing to lobby the federal government to change its policies.

Self-government allows the people of a First Nation to have control over their lands and communities and recognizes the authority of their own government structures. The model self-government agreement forms the basis for specific self-government agreements with each First Nation. Self-government will apply on settlement land and to the beneficiaries or citizens of a First Nation. The essential elements of the model agreement will be contained in each First Nation self-government agreement and these individual agreements allow for the establishment of First Nation governments, including models based on a clan system and the replacement of the Band structures as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures and constitutions, providing the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Self-government agreements will define the jurisdictional authority or powers that are available to First Nations. The structure, provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibility under these areas of jurisdiction in a flexible manner and according to the priorities set by each First Nation.

Federal laws are paramount over First Nation laws, unless the parties agree otherwise. Territorial and municipal laws will stay in place until such time as a First Nation decides to enact a law. A public registry of First Nation laws will be established and each First Nation will have its own registry system as well, which will be available to the public.

On community lands, each self-government agreement may differ slightly. Where there is no municipal government in place, such as in Old Crow, very little is negotiated. In Mayo, Teslin and Haines Junction, there are provisions where there are limited self-government powers and small parcels of land within municipal boundaries. The First Nations in these areas had each agreed to limit their authority over zoning and bylaws, administration of justice, control of construction, et cetera. The list of powers that will not apply to these lands are listed at the back of each First Nation's self-government agreement.

Another provision that applies to community lands is compatible land use. We feel that most problems that could arise from self-government agreements will likely result from disputes over land use. The compatible land use provisions encourage the parties to resolve the conflicts, first through consultation and then mediation, if necessary. There is also a provision that the dispute can be referred to arbitration if all parties agree.

Generally, these agreements establish mechanisms for continuing relationships between First Nation governments and federal, territorial and municipal governments.

I think I will stop there and throw it open to questions; what I

cannot answer, I am sure Ken Kane can.

Hon. Mr. Devries: Are there any questions?

Mr. David Sennett: Are there any projected time lines for the implementation of land claims?

Ms. Armour: For their completion?

Mr. Sennett: Yes.

Ms. Armour: I think we are optimistically hoping that it will be done within two or three years from when the first agreements are legislated. We finished four agreements, and I believe we will be working with five First Nations in March — the two Whitehorse First Nations, Carmacks/Little Salmon, Selkirk and Dawson, I believe. The last time we spoke with the negotiators here, the two Kaska First Nations were to be coming in some time in late summer but I am not sure whether those time lines have changed. So we are hoping that we can complete all of the First Nations within two or three years.

Mr. Sennett: Thank you.

Mr. Brian Hemsley: Who represents the organized communities in negotiations? You were mentioning that the villages and hamlets, where the municipal councils are involved in discussions on zoning and bylaws. In a case such as Ross River or Carcross, would this happen?

Ms. Armour: If there is a community organization, similar to the one in Carcross, then the YTG negotiators would meet with that organization. We anticipate that the same would happen here. In the other communities, the municipalities can attend negotiations as observers, with the consent of all the parties. That has been the case in the municipalities to date, where all three parties agree that they can sit as observers.

Mr. Hemsley: So they are only there as an observer?

Ms. Armour: Only as observers, not as a party to the negotiations.

When we are in the communities, we also try to meet with fish and game associations and whatever established interest groups there are. We meet with them and get information about things that are pertinent to the area or to the citizens.

Mr. Hemsley: It is my concern that you would not set up a potential for having different rules on either side of the main street, or whatever — on one side you get one set of rules and on the other side there would be something different.

Ms. Armour: If the First Nation has full self-government powers on their lands, there is that possibility; but there are provisions in the agreement where those powers are negotiated as they take them over so that any conflicts would, we hope, be resolved during the negotiations.

Mr. Cable: Are there not some exceptions, Karyn, in the Champagne-Aishihik agreement, for building permits and zoning — I think that is probably what this gentleman is thinking about.

Ms. Armour: It is all part of those negotiations — where the First Nation had agreed to limit their powers on certain lands within the municipal boundaries. The citizen-base powers would continue, but they had agreed to limit their land-base powers so that they were under the same zoning and bylaws as the village of Haines Junction. But that is all part of the self-government negotiations. Generally, there has been a limiting of powers for small individual lots, but in the case of a large tract of land the full self-government powers apply.

There is a community planning group here, is there not, a joint First Nation group?

Mr. Rawlings: Yes. It is not formally recognized yet but I am sure it will be.

Mr. Cable wanted me to ask a question — I am Mike Rawlings, representing the Kaska Dena Council. On page 25 it says: land already held by third parties cannot be obtainable for selection unless the third party agrees to the selection. Could a First Nation

enter into an agreement with Curragh Resources and have Faro as class A lands?

Ms. Armour: I suppose so. There is always the possibility but I do not know about the likelihood. Lands that are covered by mining claims are available for selection without the consent of the claim holder. If they have leases on their lands, provisions have been made in some of the other agreements whereby the land has been selected but government continues to administer the lease; when the lease lapses, then the First Nation has control, unless the leaseholder and the First Nation strike an arrangement. Generally, that is only looked at on leases that we know are short term and are only going to be in existence for four or five years.

In Mayo, with Na-Cho Ny'ak Dun, there were actually five or six titled properties — and the same with the Vuntut Gwich'in and the Champagne/Aishihik, I think — that will be transferred to the First Nation. But it has to be with a title transfer in the Land Titles Office from the owner to the First Nation. So, anything is possible.

Mr. Hemsley: You mentioned that the wildlife management will be done both on a territorial and on a regional basis?

Ms. Armour: There will be a fish and wildlife management board, which has been pre-implemented now, and there will also be what are called renewable resource councils, which will be on a traditional-territory basis. They can make recommendations to the territory-wide board.

Mr. Hemsley: Are their recommendations still subject to being overruled by any other powers?

Ms. Armour: Yes. There are recommendations to the board and there are also recommendations to the minister. The Minister of Renewable Resources would have the final say.

Mr. Hemsley: So, it is still an advisory board and it does not have any powers, per se?

Ms. Armour: No, they are advisory boards, but it does bring it down to the local level where the board is made up of 50 percent nominees from the First Nation and 50 percent by government. Generally, they are to be people who are resident in the area and familiar with the issues in the area.

Mr. Hemsley: Does the local board supersede the territorial board as far as local management is concerned?

Ms. Armour: On some issues they would advise directly to the minister; on others they would go through the territorial board and then to the minister.

Hon. Mr. Devries: We will take a break for a few minutes and have a coffee; if you think of any more questions over coffee, then we will reconvene for a few more minutes. Discuss it among yourselves and come up with another good question.

Recess

Hon. Mr. Devries: Did anyone come up with any more questions?

As you review the summary sheets, on page 3 you will see some contact names and numbers; if you have any questions pertaining to any particular section, you can contact the appropriate authorities at these numbers. Hopefully, they can take care of your concerns.

I would like to thank everybody for coming out, and we will close the meeting.

Meeting adjourned at 8:25 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 14

Official Transcript

**Tuesday, February 16, 1993
7:45 p.m. to 8:45 p.m.**

**Recreation Centre — Sportsman's Lounge
Faro, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Miller (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Faro, Yukon**Tuesday, February 16, 1993 — 7:45 p.m.**

Hon. Mr. Devries: It is good to see everyone here. I have a speech here that I will just skim through. If there are certain areas of the land claims agreement that you are interested in then we can focus on those instead of going through the whole thing.

As you know, my name is John Devries. On my left is Jack Cable, the Member for Riverside, and Danny Joe, the Member for Mayo-Tatchun. Tonight, I will be chairing the meeting of the special committee.

We are here to listen to your comments about the land claims agreement and the self-government agreement. We have a Yukon government land claims official with us who will be answering most of the questions.

As you know, land claims are very important to all Yukoners. I cannot suggest for a moment that it is a simple task to try and understand everything that is in the agreement in principle and everything else. Even those who have been negotiating the agreement do not understand all the little implications.

As you know, the mandate of this committee was put forward by the Legislature. Two bills were passed: one on the agreement in principle and the other in relation to the self-government agreement.

A lot of work still has to be done. Each individual First Nation has said that it is important to them in the specific agreements that have been signed to date.

The signing of this legislation is not the conclusion of land claims but it will be a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the road of implementation. Things will not change in the Yukon overnight and it will not always be easy, but with care and dedication, I am sure that all Yukoners will benefit from the land claim.

Basically, this meeting will be very informal. We hope you have some questions to ask. We also have with us tonight Ken Kane, from the Council for Yukon Indians, and Karyn Armour, from the Land Claims Secretariat. She will give us a very brief description of the land claims and self-government agreements. You can indicate your areas of concern or she can give you the whole spiel. It is up to you.

Ms. Armour: I do have a lengthy presentation, which I will not go through. I will just brief you on where we are now. There may be particular areas of the agreement that interest you, so I will not touch on absolutely everything.

Mayor Bob Gault: Back in Haines Junction in 1987 at the AYC meeting they were speculating that it would be through in the Yukon within two years. I got the feeling at the last one, in Haines Junction, again, that if we were done in 10 years it would be something. Now, Yukoners are getting together. Now, they are frigging us up in Toronto, trying to sign up for sidewalks or something. The treaties that have been signed up here, or, are just about signed, depend now on what happens back east. Actually, the Yukon is a pioneer in land claims. Anything different or better achieved by another agreement anywhere across Canada changes the ones that are already in place here.

Ms. Armour: Only in the self-government agreements. That does not prevent the self-government agreements from going ahead here. It is what is called the "most favoured nation" clause and it only relates to specific areas of the agreement. If the federal government grants something in a treaty elsewhere in Canada, this agreement would be looked at. It is possible that similar provisions could be added to this agreement.

Hon. Mr. Devries: Before people begin speaking, I wonder

if you could identify yourself. This is recorded and will be transcribed.

Mayor Gault: I am Bob Gault. I am the Mayor.

Ms. Armour: Right now, where we are with the agreement is that the umbrella final agreement has been completed and the model self-government agreement. We have completed four First Nation final agreements and four First Nation self-government agreements. In June of 1992, legislation was introduced for the Vuntut Gwich'in, or the Old Crow, agreement and, again, in December, the Champagne/Aishihik agreement went forward. That is what the committee here is to be dealing with.

Once the Champagne/Aishihik agreement goes through — and we anticipate that it will also go through federal legislation before early summer — it signifies quite a bit of progress in the Yukon.

Mr. Gault: You are saying that agreement will go through. How long after that ...

Ms. Armour: How long after that will all the others be done?

Mr. Gault: No. How long after that do we have to have our municipal papers in place — the cost of land and the total of class A lands, for example per square foot or per acre, according to one portion or another, and the purposes for the land.

Ms. Armour: I am not quite sure what you are getting at. Do you mean where First Nations select land within a community?

Mr. Gault: Yes. I understand ours is a blanket agreement.

Ms. Armour: I do not believe it is.

Mr. Gault: That is what you said at the last one.

Mr. McLachlan: Can you clarify that, Karyn, because they have been told one thing at AYC. You are here as a government negotiator with a different story. Ken may yet have a different interpretation on what the municipalities have to outline back, in this case, to 1969, which is the start of the incorporation of the community.

Ms. Armour: If the First Nations have selected land in or around the municipality, we would negotiate through the self-government agreement what self-government powers the First Nations would retain on those lands. There are provisions that we have negotiated in the other four agreements — though not in Old Crow, as there are no municipal issues to deal with, but with Haines Junction, Mayo and Teslin — where there are small parcels of land where the First Nations have agreed not to exercise their land-based self-government powers on those land selections. The lands would then be subject to the laws of general application, such as zoning and municipal bylaws, similar to the community. The First Nations would then have self-government powers over the citizens who live there but not necessarily over the lands. All of that is up for negotiation.

Mr. Gault: What is the monetary portion?

Ms. Armour: The monetary portion?

Mr. Gault: Yes, for example, there are a couple of portions within the municipality that are being blanketed.

Ms. Armour: That are being looked at?

Mr. Gault: Yes. When you put them against the hamlet, we are also told that you can put water and sewer by a place or whatever. We are supposed to have all our costing in place and what it costs to develop it. The federal government will reimburse municipalities for their costs in that land development. That is what we were told. I want to know when we have to have this done. It is a major undertaking.

Ms. Armour: The land that is being selected would be owned by either the territorial government or the federal government. Land that would be owned by the Town of Faro would not be available for selection. It would be a third-party interest. You actually have title to the land; not lands that you may have obtained through the block land transfer, but lands you may have got back through a tax lien process, or whatever. They would actually be

held in title to the town.

Mr. Gault: Some of the land is block land transfer. We just have one block that was transferred to us. Another one is hopefully underway.

Ms. Armour: Those lands are still owned by the Commissioner. What has been transferred to you is the administration. Those lands will still be available for selection by a First Nation. They would still be considered to be Crown lands.

Mr. Gault: Even though we have a plan in place? The reason why we wanted that released was because we have developers interested in that land. We have got to get it freed up.

What you are saying is that the work and studies we have done and the people we have talked to and any effort done in regard to this is down the tubes.

Ms. Armour: If those lands are agreed to as settlement lands, you would not be reimbursed for those costs, as I understand it. The territorial government will be reimbursed for any costs they have put into the land, such as land development costs, surveys, water and sewer, and so on. The federal government, as part of the implementation funding, pays the Yukon government its costs. It would be reimbursed for any dollars it put into that. If it was in the planning stage by the Town of Faro, I do not believe there are any provisions for that.

Mr. Gault: That is unreasonable. That is what happens all the time. They sit in Ottawa and make these decisions. The people in the communities at the municipal level do the work for basically nothing, because when you run any kind of municipal government you are working for nothing. You put in your time, but you do not get reimbursed for it. The feds or territorial government do. Tell me that is right.

Once again, they are nailing the municipalities; they do the hands-on work, but they do not get reimbursed.

Ms. Armour: Maybe we need to back up. The lands that have been identified here are land selections. They are not agreed to by the First Nation. They are not owned by the First Nation. They are not considered to be settlement lands. They are lands that the First Nation has expressed an interest in and asked government to note on maps in government records for negotiation purposes.

The Ross River Dena, at this time, is not actively negotiating with us. We have completed the Vuntut Gwich'in in Old Crow, Na-Cho Ny'ak Dun in Mayo, the Champagne/Aishihik in Haines Junction and the Teslin Tlingit Council agreements. In the next set of negotiations, we will be negotiating with five additional First Nations. Neither of the Kaska First Nations are included in the next group. It will probably be a year or two before we are negotiating with the Ross River Dena Council. That could change, but with the resources that the governments have and that CYI has to allocate to the First Nations are not enough for all ten of the remaining First Nations to negotiate at the same time.

I am not absolutely sure what the land selections are in Faro, but I understand that there are a couple of parcels that have been identified. Until we actually sit down to negotiate those lands, governments have agreed to what is called interim protect or map notate parcels of land so that all the lands are not alienated or disposed of in an area prior to the First Nation getting to the table to negotiate. At this time, they are only selected lands. They are not lands that have been retained by the First Nation.

When it comes time to negotiate within a community, the negotiators will meet with the municipal council. We sit down and look at their long range plans and the First Nations plans and try to identify lands that are going to meet the First Nation's needs — if it is residential, industrial or commercial lands they are interested in, or it could also be lands that the community can work with the First Nation on.

Mr. Gault: So the consultants' fees that we have paid out for

three- and five-year government plans, which are required by law, and which the municipality has paid, is \$20,000 down the tubes.

Ms. Armour: You are looking at land use plans for the entire community.

Mr. Gault: Yes, within the municipality.

Ms. Armour: That may include those small parcels that the First Nation has identified.

Mr. Gault: For any of the studies we have paid for — consultants' fees and all that — they indicated in Haines Junction in 1987 that municipalities would be reimbursed if it was incorporated in the plan. At the last meeting, they said no; you are agreeing that the answer is no?

Ms. Armour: You are planning for your entire community. It may take in some of the lands that will be retained by a First Nation, but it is up to the self-government negotiations, when we get to that stage, as to whether those lands will comply with the municipal plan.

As for identifying how much of the overall planning process those two or three parcels may have cost the community and then being reimbursed for that, I do not believe there are provisions for that.

Mr. Gault: So we do not need to do the studies they told us to do at the AYC.

Ms. Armour: You probably want to do the studies of the remaining area of your block land transfer.

Mr. Gault: They said there that we need to gather up the prices from surveying right through to the prices of developing streets, water and sewer.

Ms. Armour: The federal government does reimburse the territorial government for those costs if there are any on lands that are selected.

Then, in the future, if the First Nations do retain a parcel of land and want water and sewer taken to it, that is an arrangement you make with the First Nation through a service agreement. You would negotiate it with the First Nation.

Mr. Gault: Will it be frozen in the same way that the feds have frozen everything else?

Ms. Armour: The parcels of land?

Mr. Gault: Yes.

Ms. Armour: I do not know. I would have to go back to look at that.

Mr. Gault: We would require more taxes. If the rate goes up, everyone pays more taxes. Now, according to the legislation, the federal government is not. It has a freeze on the grant-in-lieu. Does that mean that will be based, also, on the 1992 figure, seeing as it comes under the federal umbrella?

Ms. Armour: That is a federal policy that has come in recently with their budget concerns. They have put a freeze on it. I do not know how long the freeze is for.

Mr. Gault: It is on indefinitely. I have never seen a tax removed or given up yet. I have been around for a few years.

Ms. Armour: The Village of Mayo worked together with the First Nation and did a joint planning process. The two councils sat down together and planned what was going to take place within the community.

Mr. Gault: This is where we are tied in a way, too. We basically do not have a native population in Faro. Our native population is in Ross River. Right now, I have been over there and talked a couple of times. Right now, it is in two different directions. Ross River is over there and Faro is here. We have done some things in co-operation, like the raft race and things like that — part of our economic development; if we ever get anything like the bathtub race from Vancouver to Victoria, we will be laughing.

Mr. McLachlan: Again, just to clarify what Bob was talking about, my understanding is that if, for example, there are just one

or two lots in Faro that are picked in the self-government negotiations, they could very well be taxed the same as a lot next door. It is not like the town is going to lose anything.

Ms. Armour: Yes, there would be taxation. If that is what you were getting at, there will be taxation.

Mr. Gault: Okay, then the taxes will still be the same, they will not be frozen because of the federal government.

Ms. Armour: Not if they are subject to the municipal taxation under the laws of general application. In the negotiations to date, parcels of land within municipal boundaries are subject to the municipal taxation; they would be taxed at the same rate.

Mr. McLachlan: It would really be no different than someone owning the lot in that sense.

Mr. Gault: No. That was not the impression they were feeding us at the AYC. Right now, the AYC is studying the idea of whether or not to hire a contractor to gather all the information. I was just saying that they said we required an idea of the costing right from the bare dirt and surveying and all that. That means going through all the territorial things that are available.

Ms. Armour: I guess I am not sure what AYC's interpretation is and what is being asked of communities.

Mr. Gault: What they were saying is that we were going to have to do this. The last letter was even about seeing whether it could be done with one consultant going out and visiting the communities and gathering the individual information and then compiling it all into one package. That is how seriously they took it.

Ms. Armour: I am not familiar with what they were trying to do there.

Hon. Mr. Devries: I would suggest that we try and get a hold of a copy of that letter and prepare a response.

Ms. Armour: I will do that. I will clarify what will be required.

Mr. Gault: I know from talking to the different communities, like Teslin and the others you mentioned, they all get along great. I do not see why we should not be able to do the same.

Hon. Mr. Devries: Are there any more questions?

Mr. Gault: Yes, do we get any money? Are there any grants available in this for us to do anything?

Ms. Armour: I think not.

Mr. Gault: You cannot blame a guy for trying.

Ms. Armour: John is the one to talk to about grants.

Mr. Gault: I do not want to talk to him; he already took something away from me.

Mr. Cable: We have a sawmill for sale for you, Bob.

Mr. Gault: I was one of the ones who asked Maurice if there was going to be another sawmill here. Then I disappeared.

Hon. Mr. Devries: Just for the information of late comers, we did not give the full overview of the agreements. There are not too many people here, but if there are any specific areas you are interested in, you could mention it and Karyn could give you a brief overview of it.

Ms. Dorine Girouard-Fiches: I am actually from Whitehorse (*inaudible*)

Mr. Gault: We have more people here from Whitehorse than we have from the town.

Hon. Mr. Devries: Did everyone get one of the summaries? We have some more here somewhere.

Ms. Armour: I do not think the claim will affect Faro as it will some of the other communities.

Mr. Gault: No, the only thing we were concerned about was one in the industrial area where we are trying to get surveying plans in place. It may all be down the tubes, anyhow, now.

Mr. ??: Would they not be reimbursed for something?

Ms. Armour: For the preparation? From government?

Mr. ??: Yes.

Ms. Armour: No, there are some dollars that are available through AYC. AYC has been given money each year to help municipalities to prepare for the land claims. I do not know what AYC has chosen to use the money for.

Mr. Gault: That is what the money is being used for now. They are considering hiring one individual to go through all the communities. That was what I meant before when I spoke about getting prices and values for things. They figured they were getting reimbursed.

Ms. Armour: You mean the municipality would be reimbursed?

Mr. Gault: Yes. This is what they are figuring.

Ms. Armour: The land is owned by the Commissioner, not the municipality.

Mr. Gault: Why do they have municipal boundaries?

Ms. Armour: My understanding is that it defines the boundaries for the administration of the city for taxation.

Mr. Gault: That is what they were getting at. Any of the costs of studies they carried out in relation to those different areas, such as doing test holes in an area to see if it was feasible to do something, should be recoverable. That is the information they are supposed to be compiling in their studies. Maybe they are wasting their time.

Ms. Armour: I do not know. Those kinds of things may be reimbursed, but as far as the land selections that the First Nations would retain, the federal government reimburses the territorial government for those costs.

Hon. Mr. Devries: It sounds like most of your questions are related to the same thing. We will try and get a copy of the letter and then respond to it. I hope that will answer all your questions.

Mr. Gault: I do not see any problems here. Places they will be claiming for sure will be along the river. They already have cabins and houses there before we moved to town, so why would we be wanting to boot them out?

Hon. Mr. Devries: There is also a certain distance from the river.

Ms. Girouard-Fickes: I have a question here. I have a piece of farmland and I have an option for it. My agreement with the lands branch was that, once I had all the work done and I got the title, I could apply for my option. I put my application in a year and one-half ago and I have not received that piece of land yet. It has gone to the agriculture branch and they okayed my feasibility proposal. They said that First Nations had to look at it. I do not know which First Nation.

Ms. Armour: I know a little about where your land is. It may be caught up in the freeze.

Ms. Girouard-Fickes: It is 102 and 202. I am not sure, but I think that land was supposed to be transferred as soon as I got the title.

Ms. Armour: My understanding of the program is that when someone comes in to apply for their first application, they may identify some other application areas of what is called option areas. If the land has not been alienated or disposed of for any other purpose, including land claims, then at the time the person fulfills all the terms and conditions of their original agreement, they would then be eligible for the second.

There are land selections in the area. I do not believe they include the area you have.

Ms. Girouard-Fickes: I have not come across that yet.

Ms. Armour: The government also consults with the First Nation on all land dispositions in an area if the First Nations in the area has not completed their land selections so that if they are also planning to select one of the sites within that region, they are aware of what government has also planned for the area. That is part of

the consultation process.

I think your land has been caught up in the freeze for the Hootalinqua planning area. There are other reasons than just the consultation with the First Nation.

Ms. Girouard-Fickes: It is just that I put the application in one and one-half years ago. It has been in reserve for seven or eight years.

Ms. Armour: I think people have been waiting since the early 1980s.

Ms. Girouard-Fickes: Other people have got theirs, though.

Ms. Armour: Have you checked with the lands branch?

Ms. Girouard-Fickes: I have not found my original copies. I am still looking for them. I do not remember the terms of my first application.

Ms. Armour: I am aware of what the policies are, but I do not know if there are any other reasons for your particular selection application area being held up. I do know that part of the reason would be that they would consult with probably Ta'an Kwach'an and Kwanlin Dun because it is in the overlap area. Yours is along the Takhini River.

If you cannot find anything out through the lands branch, let me know.

Mr. Gault: Usually, if you talk to the secretary of the assistant deputy minister you will find out more. No offence, but that is how it works.

Hon. Mr. Devries: It is a very cumbersome process. We hope that with the settlement of land claims and once the transfer of lands to YTG and all the devolution transfers have taken place, we can streamline that process. Meanwhile, you have to go through the regular channels.

Ms. Girouard-Fickes: This is a territorial matter.

Ms. Armour: Yes, yours is on Commissioner's land.

Hon. Mr. Devries: Are there any other questions?

Mr. McLachlan: I have one. My question is for Ken Kane and Karyn. Perhaps Danny Joe has some ideas, too. The entire area of what has been the Faro No. 1 ore body is covered by a hereditary group trapping permit owned by the Ross River band. Under the land claims settlement, will anything happen to change the status of the group trapping permit imposed over the surface land claims of that ore body?

Ms. Armour: No. It should not.

Mr. McLachlan: Further to that, in this section in here on the natural resources, suppose an area suddenly becomes valuable for its surface rights — perhaps some lead zinc is discovered there 20 years from now — what happens to the mineral rights if it is already covered by a group trapping permit?

Ms. Armour: If it is covered with a trapline, I believe that Renewable Resources and Community and Transportation Services are looking at a trapper's compensation policy. I do not think it has been completed yet. They have been working on it for a couple of years.

If it is also covered by a land selection, there are provisions in the agreement as to the access to the minerals. The mineral claims still exist. It is a third-party interest that will still be retained on the land as long as the claim is in good standing.

Chapter 18 of the final agreement sets out some terms and conditions to that access. The access is guaranteed. If there is a dispute over the terms and conditions, it goes to the surface rights board.

If there is no land selection and it is just a concern with the impact on the trapline, I am not sure where that policy sits right now. I do not believe the policy is in place. I think it is still being worked on in government.

Mr. Jim McLachlan: Twenty-five years from now, mining may take place somewhere else. If it were banned, but still covered

by the group trapping permit and it has to be identified as a site selection now — correct? — it cannot be identified 25 years from now.

Ms. Armour: No, it would be at the time of negotiation and if it is category A lands, the First Nation has title to the surface and to the subsurface, so whatever mineral claims are in existence are guaranteed until they lapse and you would not be able to restake those claims on category A lands. On category B lands, the First Nation has surface title ownership, so you could continue to stake, but if there is a dispute between the disruption of the surface to get to the subsurface, then the agreement sets out the terms and conditions.

Mr. Jim McLachlan: Then tell me, Karen, bands' mineral claims, or lapsed mineral claims — can they move from category A to B, or back?

Ms. Armour: In the same way that you would normally restake claims. It has nothing to do with the category A or B lands at that point; if the claim lapses, it is no longer an interest and you cannot sort of pick up the claim and move it elsewhere. I do not believe you can do that now.

Mr. Jim McLachlan: My question then is: right now that is covered by a third party interest, at the moment by Curragh Resources. That is the situation in 1993. If there is a cutoff date at which point people can claim the land, they should be protected. How long will this process go on?. The Ross River Band may identify land that they may be interested in, for whatever purposes; when is the cutoff date?

Ms. Armour: Until their final agreement is reached, so if we began negotiations with them, for argument's sake, this month, it would probably take six to eight months to complete the negotiations and at that time they can move their selections around, or whatever, until we finally agree on what is going to be the land selection and what would be considered to be a balanced package.

Mr. Jim McLachlan: Has the Ross River Band done its initial land selection?

Ms. Armour: No, it has not. In 1988 and 1989, we went through a process that is called interim land selection. Ross River Dene selected approximately 800 square miles, I believe, at that point. Their final allocation is 1800 square miles, so they have quite a bit of additional land yet to select. They have tabled maps, over the years, identifying where some of their interests are but I do not know what the final land selections will look like. We did not do a lot of negotiation on the interim protection. They were lands pretty much that the First Nations put forward that they were concerned may be at risk of disposition, so we just checked the existing interests on those lands and the government determined whether or not they could live with those selections being, I guess, frozen for anywhere from one year to five years — at that time, that is what we anticipated it would be.

Mr. Bob Gault: Has the Government of Yukon put together a map for the Ross River Band's initial land selection that the municipality may be able to examine?

Ms. Armour: Oh, certainly. I would have thought that you have had a copy of the interim land selections.

Mr. Bob Gault: We had one of the original ones.

Ms. Armour: It has not changed if the date of the order-in-council was 1988 or 1989, or somewhere in there.

Mr. Gault: No, I am talking about a map that we have from 1987.

Ms. Armour: I can provide you with a copy of what has been protected but I just want to caution that the selections could change considerably between what is protected now and what the final selections will look like. There may be similarities; some of those blocks may remain and some of them may be deleted and moved elsewhere altogether.

Mr. Jim McLachlan: Just as a matter of curiosity, because I am sure somebody here could answer it, in between here and Pelly, along the Pelly River, are there only the two bands that have to be talked to the Pelly Crossing and the Ross River Bands?

Ms. Armour: The Selkirk First Nation is what they changed their name to.

Mr. McLachlan: Well I talked to natives from Pelly Crossing and to ones from Ross River. I do not know all the other names.

Mr. Gault: So, the Carmacks/Little Salmon Band land selection does not come that far this way that it impacts on any portion of the Little Salmon land claim?

Ms. Armour: I believe it does. I have a map showing the overlaps, but it does not show the rivers on it so I do not know what they have used as the boundary but there may be an overlap between Little Salmon and Carmacks.

Mr. Danny Joe: (inaudible)

Ms. Armour: Certainly along the lake.

Mr. Jim McLachlan: Along the lake, I agree. My question is: does the Little Salmon/Carmacks Indian Band go over to the Pelly River and will it overlap the claim?

Ms. Armour: I do not know. I am not sure whether they do or not. I do not think they do but I cannot remember. I think it is around where Drury Creek is.

Mr. Gault: I raised my initial questions, Karyn, because of the mining in this area, 35 miles down on this side of the river after Ross River crosses the North Campbell, which has been the scene of a lot of exploration. There is some concerns over the conflict between land selection and potential mineral exploration in the area. It is an issue in this area. So, aside from the hunting in the North Campbell region, there is some mineral potential as well.

Ms. Armour: Well, if there are existing claims at the time of the land selection, then you can continue to access those claims and on category B you can continue to stake claims.

Hon. Mr. Devries: We will give Karyn a short break, have coffee and then we can come back in five or 10 minutes. Meanwhile, I would like to talk to Bob for a minute on another little matter in a corner somewhere.

Recess

Hon. Mr. Devries: I will call the meeting back to order. Does anybody have any further questions?

Mr. Gault: With all the expertise here, we do not have many questions.

Mr. Jim McLachlan: I was hoping that you could explain to us what happens now — after March 1 — once the series of community visits is completed. What happens then?

Hon. Mr. Devries: Basically, these committee meetings are being recorded and the committee will, on the basis of what has been discussed in the communities, make a decision on whether the existing legislation is acceptable. Perhaps because of some of the discussions that have taken place there could be some slight changes recommended by the committee. I believe that is the way it is.

Ms. Armour: I think there is a possibility. I do not know what the probability of that is.

Hon. Mr. Devries: That is the way I understand the mandate. Can the committee make recommendations for some changes, Jack?

Mr. Cable: Not in the contracts.

Hon. Mr. Devries: No?

Mr. Cable: No, just in the bills.

Hon. Mr. Devries: We either accept the bill or reject it?

Mr. Cable: No, we accept the agreements or reject them.

Hon. Mr. Devries: Okay. We either accept the agreements

or reject them, but there are some bills pertaining to these agreements and there can be some changes made to those bills. Perhaps something can be renegotiated at a certain stage.

Ms. Armour: In most of the communities, to date, the reaction has been very positive.

Mr. Jim McLachlan: Even in Whitehorse?

Ms. Armour: Yes, generally.

Hon. Mr. Devries: Yes, that was a good meeting.

Mr. Bob Gault: We had agreements in place in Mayo before they even started talking about land claims. They were working together before that.

Ms. Armour: The Mayo Band Council and the town council have had quite a good relationship.

Mr. Bob Gault: It was all one, it was not one against one, it appeared to me.

Ms. Armour: They had joint council meetings.

Mr. Jim McLachlan: In Whitehorse the main concern was from the Kwanlin Dun and some concerns about block transfers of land. I think that has been resolved since then or there have been discussions about that.

Ms. Armour: The greatest number of land dispositions, of course, take place in the Whitehorse area so both the First Nations are concerned that they want to get to the table as soon as possible to complete their selections. They are always concerned about the number of continuing land dispositions that take place in the area, as well.

Mr. Bob Gault: What are the four that have now have been completed?

Ms. Armour: The Vuntut Gwich'in in Old Crow, the Na-Cho Ny'ak Dun in Mayo, Teslin Tlingit Council and Champagne/Aishihik First Nations, in Haines Junction.

Mr. Bob Gault: Is Carmacks just about finished?

Ms. Armour: Carmacks and Little Salmon, Selkirk and the two Whitehorse First Nations — Kwanlin Dun and Ta'an — and Dawson are negotiating now. We have been negotiating with Dawson, actually, for a number of months. They are making quite good progress in their land selections.

Mr. Bob Gault: (inaudible)

Ms. Armour: Yes.

Mr. Jim McLachlan: Do we not have problems between Dawson and Na-Cho Ny'ak Dun with overlaps, between Na-Cho Ny'ak Dun and Selkirk with overlaps, and Selkirk and Little Salmon with overlaps?

Ms. Armour: All of the First Nations have overlap.

Mr. Jim McLachlan: Except with the Gwich'in?

Ms. Armour: No, Vuntut Gwich'in overlaps with Dawson and Na-Cho Ny'ak. There are provisions in the agreements to work out the overlaps. Eventually, there needs to be contiguous lines for the management provisions in the agreements. There are provisions in here that I believe provide for a process for the First Nations to try to work it out internally, which includes elders' councils, and whatever, with a time line. If it cannot be resolved at that point then I believe it goes to dispute resolution.

Mr. Bob Gault: Then a lot of that will be shared land?

Ms. Armour: Yes. The First Nations are looking at a sharing accord, as to how they will share those overlapping areas. A number of things in the agreement are based on traditional territories, so for the purpose of the agreement, the First Nations will determine an administrative line but internally they will have their own sharing accord for those overlapping areas.

Mr. Bob Gault: If the territory were smart they would only sign a temporary agreement until this wolf kill project is over with because I am sure the natives would be able to handle it a hell of a lot smoother than most white people could handle it. I suppose you agree with me on that, do you?

Ms. Armour: The tape does not pick up anything that Ken is saying. It is probably just as well.

Mr. Bob Gault: You know, there is something I cannot understand. Mr. Cable has not spoken tonight. Everybody else has spoken. I heard that he was not the quietest chap in the world but he has not spoken all night.

Mr. Cable: Turn the tape off. If you had to listen to the Clerk for two days, you would be quiet, too.

Hon. Mr. Devries: Jack is quiet, but when he speaks, he speaks with authority.

Mr. Cable: You can put the tape on for that.

Ms. Armour: Yes, Jack has been doing a lot of talking but the Clerk keeps editing him out.

Mr. Kane: They do not usually print what I say.

Hon. Mr. Devries: Are there any further questions? Okay, then I thank you for coming out. Follow the proceedings through the media once we get back into session.

Mr. Cable: Do the transcripts get forwarded back out to the communities?

Hon. Mr. Devries: They will be public documents, yes.

Meeting adjourned at 8:45 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 15

Official Transcript

**Monday, February 22, 1993
7:30 p.m. to 9:00 p.m.**

**Watson Lake Secondary School
Watson Lake, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Misay Follwell, Deputy Clerk

Watson Lake, Yukon
Monday, February 22, 1993 — 7:30 p.m.

Hon. Mr. Devries: I would like to thank everyone for coming out to the meeting. I am not going to introduce myself. I think everybody knows who I am. Tonight I will be chairing this meeting of the special committee. The other Members with me are Jack Cable, the Member for Riverside; Margaret Joe, the Member for Whitehorse Centre; and Dave Millar, the Member for Klondike.

This committee was appointed by the Legislature last December and the bill approving the Yukon land claim final agreements and the First Nations self-government bill were referred to the committee, as were the agreement that were attached to them.

The committee's main task is to seek the views of the Yukoners on this legislation and these agreements and to report its findings to the Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected. The Yukon Legislative Assembly has given its approval in principle to this legislation, very clearly expressing its commitment to the settlement of land claims and to self-government, during debate in the Legislature last December.

We are here to listen to your comments on land claims and on self-government and with the assistance of the Yukon government land claims official who is with to try and answer any questions that you might have.

The settlement of the land claims is a very important issue to all Yukoners and it is imperative that we have a thorough understanding of what it is all about, so that we can all work together over the coming years to ensure that the Yukon is strong and vibrant.

I cannot suggest for a moment that it is a simple task to understand these agreements and I am sure that even those who have been working on them at the negotiating tables for many months, or even years, could not say that they are fully knowledgeable about all aspects of the claim and the self-government agreements. A lot of work still has to be done to put into practice what the negotiators have worked hard and long to put on paper and what individual First Nations have said is important to each of them in the specific agreements that they have signed to date.

The signing of the settlement legislation is not the conclusion of land claims; rather, it is a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change in the Yukon overnight and it will not always be easy, but with care and dedication, I am sure that all Yukoners will benefit from the Yukon land claim.

I hope that tonight we will be able to have a very open and informative discussion. We plan to be very informal but we are taping the meeting so that transcripts can be prepared and attached to the committee's report. For that reason, I would ask that, when you ask questions and make known your views, you identify yourself for the record. Coffee is available in the room just behind here and anytime you want to get up and get a coffee, feel free to do so. If, during the discussion, any questions comes to mind, feel free to jump in and we will see if we can give you a satisfactory answer.

We also have with us tonight Albert James, from CYI, and Ken Kane; they both represent CYI. We also have with us Karyn Armour, from the Land Claims Secretariat, who will give us a very brief overview of the land claims and self-government agreements. After that, I will turn the meeting over to the floor for discussion and questions. Karyn?

Ms. Armour: As Mr. Devries indicated, we are in the last stages of the process to legislate final agreements. The legislation

was originally introduced in the Yukon Legislature in June of 1992, with the Vuntut Gwich'in final agreement, and was reintroduced in December of 1992, with the Champagne and Aishihik First Nations final agreement. We hope that the legislation will be introduced in federal Parliament before early summer.

The land claims process began 20 years ago with the presentation, in Ottawa, of the claim *Together Today for Our Children Tomorrow*. The Yukon comprehensive claim was one of the first to be filed with Canada after the 1973 acknowledgement of the federal government that outstanding claims issues remained to be resolved. Negotiations continued during the 1970s as the federal government re-examined their claims policy. The early negotiations were bilateral, between the federal government and the Council for Yukon Indians, which had become the negotiating organization for the Yukon First Nations. In 1978, the Yukon government became a party to the negotiations and now participates as a separate party from the federal government. Between 1980 and 1984, there was much work done by the negotiators on an agreement in principle. The completed document was rejected by the leadership of the Council for Yukon Indians in 1984. In 1985, the process began again and in 1987 the federal government produced a new, comprehensive claims policy that enabled the negotiators to craft a master framework agreement for the Yukon, which would be sensitive to the needs of different First Nation communities. This agreement, or AIP, was reached in November of 1988 and between 1989 and 1990, the three parties used this AIP as the basis for negotiating what is called the umbrella final agreement, which was completed in March of 1990.

The UFA sets out the provisions for the comprehensive claim in the Yukon. It took another year or so to complete the legal drafting and to finalize the text for public release. During this period the community negotiations resumed and between 1991 and 1992 the first four of the 14 First Nation final agreements were concluded: the First Nation of Na-Cho Ny'ak Dun, in Mayo; the Vuntut Gwich'in, in Old Crow; the Champagne and Aishihik First Nations; and, the Teslin Tlingit Council.

In parallel with the completion of the first four, a model self-government agreement was negotiated by the parties. An agreement was reached in November of 1991. This model serves as a framework for the finalization of First Nations self-government agreements and the four First Nations that have concluded their final agreements have also concluded self-government agreements.

The outstanding issue is the completion of what is called implementation plans, which are being negotiated presented by the implementation planning working group, made up of representatives from CYI, the four First Nations that have completed their agreements, and the two governments. The working group essentially takes the finalized agreements and translates them into operational plans, to give effect to the agreements. The implementation plans also set out the amount of dollars that will be paid by the federal government to First Nations and to the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution and land claim agreements will essentially be treated as treaties with constitutional protection.

Some of the key elements that are contained in the final agreement are that the agreements provide for an exchange of rights between governments and First Nations, that will compensate First Nations for relinquishing their outstanding claims title on all the lands in the territory, and will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The umbrella final agreement also provides for monetary compensation for what is being given up. The final compensation is

\$242.6 million and I believe that is in 1990 dollars. The money will be divided among the 14 First Nations and will be paid out over 15 years. This compensation package also provides for a \$25 million buy out of the tax exempt status of Yukon Indian people.

The final agreements also set out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. The agreements also set out the amount of land to be retained by First Nations. There is a total of 16,000 square miles of settlement land, which is approximately eight percent of the Yukon. It has been divided into 10,000 square miles of Category A lands, which have title to the surface and the subsurface, and 6,000 square miles of Category B lands, which have surface title only. There is also a small amount of fee simple lands, which are primarily small parcels within municipal boundaries. There is also an additional 60 square miles of land available for selection in lieu of existing reserves in land set aside. Aboriginal title will be retained on both Category A and Category B lands and this is the only claim in Canada, to date, where aboriginal title is retained.

The agreement also makes provisions for continued access to settlement lands and sets out a process to resolve any access-related disputes. Any conflicts between the use of the surface and the subsurface on Category B lands will be referred to a surface rights board that is also being established through the claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nation representation and management decisions and will provide advice to both the Minister responsible and to the First Nation. Some of the boards that will be established are for the management of fish and wildlife, both on a territory-wide and on a regional level. In each of the 14 traditional territories there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and the territory-wide Fish and Wildlife Management Board, on issues that range from fish and wildlife management within the traditional territory and also includes forest management and the establishment of management of what is called special management areas. These special management areas will be described in each First Nation final agreement and will allow for the protection and management of critical areas that are important, both to government and to the First Nations, because of their special or distinctive wildlife heritage or natural resource values.

In the first four agreements, some of the special management areas that have been agreed to are Dalton Post, Lansing historic site, which is near Mayo and the Old Crow Flats. There are a number of them within each First Nation final agreement.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in economic activities in the Yukon. The agreements also provide details regarding taxation provisions on settlement lands; for example, there will be no taxes for unimproved settlement lands and fee simple settlement lands are subject to taxation in the same manner as other fee simple lands throughout the territory. In addition, there are chapters on water management, forestry and heritage. The heritage chapter provides for First Nation ownership and management of the Indian heritage resources directly related to the culture and history of the First Nation.

The umbrella final agreement also provides for the establishment of a training trust. A committee has been established to identify the training needs for First Nations, to enable Yukon Indian people to meet the requirements of the claim. The umbrella final agreement is included in each First Nation final agreement, so it is a single document. There are specific provisions in each

final agreement that set out what has been negotiated for that particular First Nation, which could be details relating to arrangements regarding access, heritage, or special management areas. There is also a separate land chapter, or appendix, attached to the final agreement, that sets out the descriptions of the parcels of land, the amount of settlement land for that First Nation and any details regarding the land, such as exclusions made for third-party interests — leases, easements and that sort of thing.

The fish and wildlife chapter sets out the harvest allocation provisions for each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes. Both the First Nations and government recognize the importance of fish and wildlife to all Yukoners and the agreement provides for the sharing of resources and resource harvesting opportunities. Until a total allowable harvest needs to be established, each First Nation will continue to harvest, within its traditional territory, all species to meet its subsistence needs.

The umbrella final agreement commits to governments to the negotiation of self-government arrangements with each First Nation. These agreements will not be constitutionally entrenched at this time but both CYI and the Yukon government continue to lobby the federal government to change its policy. Self-government allows the people of a First Nation to have control over their land and communities and recognizes the authority of their own government structures. The model self-government agreement forms the basis for specific self-government agreements with each First Nation. Self-government will apply on settlement land and to the beneficiaries, or citizens, of a First Nation.

The essential elements of the model self-government agreement will be contained in each First Nations self-government agreement and these individual agreements allow for the establishment of First Nation governments, including models based on clan system, and the replacement of the band structures as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures and constitutions, providing the ability to make their own bylaws and manage their own programs, without the prior approval of Indian Affairs. Self-government agreements will also define the jurisdictional authority, or powers, that are available to First Nations. The structure, provisions and powers of First Nations self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibilities under these areas of jurisdictions in a flexible manner and according to the priorities set by that First Nation.

Federal laws are paramount over First Nation laws, unless the parties agree otherwise. Territorial and municipal laws stay in place, until such time as a First Nation decides to enact a law. With respect to aboriginal justice, First Nations will have the authority over administration of justice on their settlement lands and there has been time set aside to negotiate these structures. On community lands, each self-government agreement may differ slightly. Where there is no municipal government in place, such as Old Crow, there has been very little negotiated in this area, to date, but in Mayo, Teslin and Haines Junction, there were provisions negotiations where there are limited self-government powers on small parcels of land within municipal boundaries. The First Nations have agreed to limit their authority over zoning and bylaws, administration of justice, control of construction, et cetera. The list of powers that will not apply to the lands are listed at the back of each of those self-government agreements.

Another provision that applies to community lands is compatible land use. We expect that most of the disputes that could arise from self-government agreements will be over the use of land and there are provisions that encourage the parties to resolve the

conflicts, either through consultation and then to mediation. It can also go to arbitration, if all parties agree.

There are also provisions in the final agreements for local service agreements, to be negotiated by the municipality and the First Nations. The local service agreements are based on the cost of services being similar to people in similar situations.

Generally, these agreements establishment mechanisms for continuing relationships between First Nation governments and federal, territorial and municipal governments.

As John said, this is a brief overview of the two agreements. I guess we can throw the meeting open to questions.

Hon. Mr. Devries: Does anybody have any questions?

Mr. Doug Thompson: Is that brief overview contained in this document?

Ms. Armour: No, it is not.

Mr. Thompson: That was a lot to take in.

Ms. Armour: Certainly, all of the elements of each of the chapters are in the summary. There are 28 chapters in the agreement, plus the self-government agreement, and it will give you a brief summary of each of them, but if there are areas that you have particular questions about, we can try to answer them.

Mr. Holt: My name is Jim Holt. What is meant by "not relinquishing the aboriginal title"?

Ms. Armour: I do not believe aboriginal title has not been defined as yet but First Nations have agreed to relinquish their aboriginal title on all but the settlement lands that they retain. Possibly Albert could better define what aboriginal title may mean but it has not been defined, to date, so I guess if government, at some point in the future, determines that aboriginal title gives First Nations anything over and above what is contained in the treaty, then they would have that ability on their settlement lands.

Mr. Holt: I ask that because you said it was unique to this land claim.

Ms. Armour: Yes. In the rest of Canada, to date, the government has insisted that First Nations extinguish their aboriginal title. CYI presented an argument to the federal government and it agreed to retain aboriginal title on settlement lands.

Mr. Dennis Fewke: What exactly does that mean? The rest of Canada is going to be different from the Yukon — is that what you are saying?

Ms. Armour: No, I suspect it will be used in other land claims in Canada that have not been settled yet. In some of the old treaties, aboriginal title has already been extinguished, but in the areas where that has not happened, I expect that First Nations will make similar arguments to government. The federal has not admitted that there is such a thing as aboriginal title and I think the agreement reads, "aboriginal title, if any"; that is their clause, I guess, stating that they do not really agree that there is really such a thing, but they have agreed to include it in the agreement.

Mr. Ian Oostindie: Ian Oostindie. I am just wondering what would be in the definition of aboriginal title that the federal government would not want to see.

Ms. Armour: I do not know. I do not know whether aboriginal title has ever been defined.

Mr. Ken Cane: It goes from this to that. You could say it is anything you want. So that is probably why the government does not want to recognize aboriginal title.

Ms. Armour: I believe the federal government feels that everything that is involved in the treaty is contained in the document and I believe that it would hold firm on that, but they have agreed to the wording, "if any". So, at some future time, if it is defined...

Mr. Oostindie: How far are we along, locally, in settling a Yukon land claim agreement with the Liard Indian Band?

Ms. Armour: I am not sure. We are just completing the

implementation plans for the first four, and in the next phase of negotiations five First Nations have been identified. I think the Kaskas, to date, are not part of the next five that are being negotiated, but we anticipate that we would be starting here, I think, next fall. The first seven negotiations took much longer than we had anticipated, but one hopes we can use the experience of those to speed up the next set of negotiations.

Mr. Fewke: Are you confident now that this thing can be settled in a minimal amount of time or do we have a long way to go yet? All you people who have been involved in this — what is your feeling on it? Are we close?

Ms. Armour: I think we are close. Certainly the legislation is a major milestone in the process, and the completion of these first four agreements. There are still a number of outstanding issues. We have never met any of deadlines that we have set to date, but we are hope that within the next two to three years we could complete all of the negotiations for the remaining First Nations. I do not think that would be far off.

Mr. Doug Thompson: My name is Doug Thompson. Do you have a map of the Yukon showing where the various land claims are and the various types?

Ms. Armour: Showing the 14 First Nations' territories?

Mr. Thompson: With Categories A and B lands.

Ms. Armour: To date, there are only the first four where you could see the split between the A and B lands and the selection of land. The remaining 10 First Nations have interim-protected lands. In 1987-88, the government went through a process of what was called interim protection, where we agreed to protect from surface and subsurface alienation lands that the First Nation was interested in and felt that those lands were at high risk — primarily subsurface, or mineral staking.

There is no onus on the First Nations to keep those lands so when it comes to the time to negotiate, they may retain some of those lands that have been protected and they may give them up and identify other lands. It was a very quick process; there was not a lot of review involved but governments had agreed to protect the land. I think it is approximately 50 or 60 percent of their overall allocation.

So, there are maps that show the interim protected lands for the remaining 10 First Nations but they may not be the lands that are taken down in the final land claim. The final maps only show the first four.

Mr. Oostindie: Do you have a set of maps with you?

Ms. Armour: I do not have a set here, I am afraid, but I can send copies of maps to you. If you want to give me your address afterwards, I can provide you with maps.

Regarding the land allocation in this area, the Liard First Nation has approximately 1800 square miles of land that they can select and I believe approximately 800 is what has been interim protected, so the maps for the Liard area will not reflect all of their interests.

Mr. Holt: Subsurface rights — if the band has a company coming in to do some mining, or they themselves do some, and they make a deal regarding all sorts of things — labour, et cetera — is the Yukon government still able to collect royalty on the mining?

Ms. Armour: No, not on Category A lands.

Mr. Holt: You are not sure, you mean?

Ms. Armour: No, on Category A lands, they cannot. The royalties would be to the First Nation, as they would have title to the subsurface.

Mr. Holt: On Category B, it is simply that agreement has to be made between the Yukon government and the band?

Ms. Armour: On Category B lands, you can still continue to stake on the lands but there are provisions in the agreement — in

chapter 18 of the agreement — for any impact that it would have on the surface.

Other than for Old Crow, most of the A and B split is approximately a 50/50 split.

Mr. Holt When it comes time for the self-government agreement to be negotiated here in the Watson Lake area with Kaska, will the Town of Watson Lake have representation regarding the governing of the municipality and having a reserve within the municipality boundaries?

Ms. Armour: Yes, there will be representation. We have an arrangement with the First Nation and the federal government that the municipalities can sit as observers, but not as negotiators. They can sit as observers, with all parties' consent. In the agreements that have been negotiated to date, the municipalities have been present as observers. In the next wave of negotiations there has been an agreement signed between the City of Whitehorse and the two First Nations — the Ta'an Kwach'an and the Kwanlin Dun — where the city sits as an observer. If that arrangement cannot be worked out, then the Yukon government includes the municipality as part of our caucus and we brief them regularly and try to represent their interests at the table, but we prefer to have municipalities in attendance. If there is not all-party agreement to have them there at the beginning, we try to facilitate that as the negotiations go on. Teslin, Mayo and Haines Junction all attended the negotiations and took a very active part.

The First Nation of Na-Cho Ny'ak and the village of Mayo have regular joint council meetings and most of the time the village councillors sat with the First Nation caucus rather than with the government caucus, so they had a very close working relationship.

Mr. Oostindie: What kind of programs are the bands that have completed agreements interested in running, so far?

Ms. Armour: None of them, other than Teslin — Teslin is involved with a tribal justice agreement and it is being used as a preliminary agreement to set the parameters for tribal justice — have taken on any programs as yet. They have just completed their self-government agreements. I do not know where their interests will lie once they are legislated. Champagne/Aishihik has discussed child welfare. The Na-Cho Ny'ak had been interested in education, but I do not know where their priorities will lie or what kind of time lines there will be — whether it is something they want to do immediately or five years from now. I do not know. They have the right to take on the programs or the powers as they feel they are ready to do so; then they enter into negotiations with government at that time for the transfer of the program.

Hon. Mr. Devries: Karyn, you mentioned the 1,800 square miles that the Kaska Nation had. Is that the maximum that is allocated to them?

Ms. Armour: Yes. The Liard First Nation has 1,820 or 1,830 square miles, and I believe the Ross River Kaskas have the same allocation. Yes, it is 1830 square miles, and it has been divided up into 930 square miles in category A and 900 in category B land. I believe Ross River is just slightly less; it is 1,820 square miles.

Mr. Thompson: Can you give us any idea of what portion or percentage of the territory could end up in claims.

Ms. Armour: In land claims? A little over eight percent.

Mr. Thompson: And that would be categories A and B?

Ms. Armour: Yes. It is 16,000 square miles: 10,000 square miles of category A and 6,000 of category B.

Mr. Thompson: How was that land picked, the eight percent? What vehicles did you use. Is it traditional land or was a geologist involved or were other kinds of people involved in going over the land they chose?

Ms. Armour: Each First Nation has research people working with them. Quite a bit of the land is traditional — lands they have

used for many years, and the Elders are usually involved in the identification of lands that are important to them. The lands are also identified for future economic potential. Some of the First Nations have used geologists, others have not.

Mr. Thompson: Have they changed any areas, as a result of expert advice or whatever?

Ms. Armour: Yes, that has happened. But once the land selections are agreed upon, once they are finalized, they do not continue to change. During the negotiations, some of the selections can change.

Mr. Thompson: So some of them can still change?

Ms. Armour: No, not of the first four that have been agreed to and finalized.

Mr. Thompson: There are 10 more yet, and out of those 10 there could be changes in the plans?

Ms. Armour: There could be variations, yes. There are 14 traditional territories, so the First Nations select land from within that traditional territory.

Mr. Fewtie: If I remember correctly, in the original UFA, there seemed to be some desire to try to get this done within a certain timeframe. There was so much time for signing and then there was an extra two year period in case something happened. I am wondering if that kind of time line is still being thought of; is there any incentive to get this done within a certain period of time?

Ms. Armour: Possibly — and perhaps Albert can correct me if I am wrong. I think there is some additional interest. I believe there is some kind of interest penalty on the dollars that are paid out — after a three year period after the effective date of the first final agreement. When we take a break, I will look in the chapter; but I know there used to be. In the AIP there is a reference to three years.

Mr. Fewtie: The reason I asked is because part of the reason we would like to see this done is to have the certainty. We realize our local band here is behind, and other people were wondering how far down the road we can expect this happen or not to happen — are there some incentives built in? I do not want to rush the situation and have a poor agreement built, but there should be some timeframe in mind.

Ms. Armour: Most of the First Nations — in fact, I would say all of them — are very anxious to have it over with. Part of the reason that some First Nations are behind is simply that neither government nor CYI has the resources to fund everyone to be negotiating at the same time. We can only handle so many First Nations at a time. We did four simultaneously, to begin with, and we are doing five in this next wave of negotiations. I know the Kaskas have, at a number of times, expressed interest in getting to the table.

Mr. Kane: I remember back in 1973 I was told it would only take five years. I am getting grey hair now. We still have the same negotiators that we started with in 1973 — Dave Joe and Vic Mitander — and we have been at it since day one, going through about four governments.

Ms. Armour: I think we are coming very close to finalizing things.

Mr. Holt: Is it reasonable to say that four out of 10 have been completed in 20 years and we have another six to go — that means 30 years?

Ms. Armour: No, I do not think that is reasonable to say.

Ms. Reams: Is it my understanding that, after the negotiations and after the agreements with the Yukon First Nations, this goes back to the federal government?

Ms. Armour: Yes, each First Nation ratifies its final agreement and then, after the Yukon government has passed legislation, the federal government passes the legislation. Once the first final agreements go through federally, the remaining ones are appended

to it. That is my understanding. Albert, did I get that right?

Mr. James: Yes.

Mr. Oostindie: Has the training dollars section been started up?

Ms. Armour: Again, either Albert or Ken may know better than me, but a committee has been established and some of the allocated money has flowed to that committee; I believe they are working with First Nations to determine the requirements. They have also been working with Yukon College to look at what kinds of courses the college can offer that would provide First Nations with the skills they will need.

I cannot remember exactly, but approximately \$6 million has been identified to the training committee; I do not think that is going to be enough for all the training required but certainly First Nations will take advantage of other training that is being offered.

Mr. Thompson: That \$6 million is to be shared between the 14 First Nations?

Ms. Armour: The training allocation? Yes. But I am sorry, I am not clear on how the training committee is working. Again, I can get back to you if you are interested.

Ms. Reams: John, I am not sure of your panel's role here. Are you acting in the capacity of just an audience?

Hon. Mr. Devries: We are observers.

Ms. Reams: So we are not to ask you any questions pertaining to what you think might be hangups, or whatever?

Hon. Mr. Devries: No, we have had opportunities in private briefings and so on to indicate some of our concerns.

Ms. Holt: My name is Ruth Holt. I have a question: can we look forward in the future to Indian Affairs going home to Ottawa?

Ms. Armour: I do not think you will see the end of Indian Affairs; I think you will see it down sized significantly and I know that those discussions are ...

Ms. Holt: Concerning the Yukon in particular; I realize they exist nationally.

Ms. Armour: No, in the Yukon I do not think you will see them disappear completely. As long as there are First Nations who have not finalized their agreements, there will still be a requirement for Indian Affairs. They will also be in existence until the transfer of programs is complete to First Nations. There are First Nation people living in the Yukon who are not part of any of the First Nations, so there may be a requirement for Indian Affairs to still provide services to those people — people from elsewhere in Canada. Certainly, the federal government has indicated to both us and CYI that Indian Affairs will be down sized considerably in the Yukon, but I do not really know what it will look like.

Ms. Holt: I read something here that said people will still be entitled to status programs. I suppose some of those programs will continue to exist, right — individual rights to health programs and so on are not being extinguished in any way?

Ms. Armour: No, those programs will still exist. The First Nation may themselves take on the delivery of those programs, rather than have Indian Affairs deliver them.

Mr. Kane: Yes, DIA will only exist here because there are First Nation people here from Alberta and B.C., who are not residents of the Yukon and are not beneficiaries of the Yukon claim.

Ms. Holt: So DIA will just exist as administrators for funding for status programs, for instance?

Chair: Let us take a few minutes break for a coffee, so that you can talk among yourselves and if you come up with some more questions we will get back together in about five or ten minutes.

Recess

Chair: I am sure during that coffee break some of you have

thought up a good question to try and trip up Karyn.

A lot of people here are involved in the resource sector and perhaps, Karyn, you could explain how the resource sharing will take place on traditional lands?

Ms. Armour: Land use planning is generally a federal responsibility. Planning commissions will be set up — sorry, I have not looked at some of these areas of the agreement in a while. There will be regional planning commissions set up at some point. I do not think it is obligatory to set them up; I think everyone agrees that there is a requirement. At least one-third of the planning commission's members will be nominations of Yukon First Nations. If all parties agree, the land use plans can be done for settlement land and non-settlement land. Then it is up to the First Nation to implement the plan or not on their lands and up to government if they choose to implement the plan. After having gone through the planning process, there is no obligation on the First Nation to carry through and implement the plan on their land; but one assumes that if everyone has been part of the planning process there would be an interest in doing so. The land use planning chapter does not apply to community plans. The municipality can continue to plan municipal lands and the First Nation can plan for its lands. Through the self-government agreement, again there is no obligation that the First Nations and the municipalities have to plan together, but there are provisions that encourage the two to work together.

In respect to royalty sharing, the First Nations will get up to 50 percent of the first \$2 million and 10 percent of any additional royalties. I believe that sounds better than it is, because I do not believe the Yukon takes in anywhere near \$2 million in royalties at the moment. Do you know, John?

Chair: Once the northern oil and gas accord is settled, we see a potential for about \$1.5 million dollars in royalties coming from the gas wells, and it would be shared 50/50 with the First Nations, up to the \$3 million level; after that, it drops.?

Ms. Armour: Up to \$2 million, and then 10 percent.

Chair: No, I think there is a special deal with the northern accord; I think it is \$3 million there, to tell you the truth. Every transfer or devolution agreement might stipulate a different division of royalties.

Mr. Fewtie: If all 14 Bands decide they are ready to settle, would you ever put it out to a vote within the Yukon and let all Yukoners vote on it? Essentially, we are all paying for it.

Ms. Armour: My understanding is that this is what this committee is to do — go around to hear Yukoners' views, rather than put it out for a vote.

Mr. Fewtie: I like the vote idea best. That is democracy.

Ms. Armour: There is a legal obligation to settle the claim. The Government of Canada has a legal obligation to settle land claims in the Yukon.

Hon. Mr. Devries: Just from travelling around with the committee, in the meetings I have been to the general consensus is to get it over with and get on with things; let us get together to make it work. At least we will know where everybody stands and we can plan for the future.

Mr. Thompson: I understand from the way you word it that it all falls under the Canadian Constitution.

Ms. Armour: The self-government agreement does not, at the moment, but we hope it will at some point in time.

Mr. Thompson: How about civil law and criminal law?

Ms. Armour: The First Nations do not have jurisdiction over criminal law.

Mr. Thompson: Do you mean it will be universal — there will be no change? Criminal law will be criminal law across the country?

Ms. Armour: Yes.

Ms. Holt: But there is a deferment to First Nations to look for solutions in sentencing, right?

Ms. Armour: In some of the sentencing, yes.

Ms. Holt: It is just deferring the directional right they have?

Ms. Armour: No, that is not part of the final agreement here now.

Ms. Holt: It is happening today, right?

Ms. Armour: They are being involved in some of the sentencing decisions, yes; and that is the choice the courts have made. Perhaps Margaret, in her former role, can elaborate?

Ms. Joe: You are absolutely correct. There are some First Nations groups in the Yukon who are working with the courts in regard to alternate sentencing. That has been the case in all the communities for a number of years, with diversion committees and such; but these are more traditional ways of sentencing, as some of our elders remember from generations ago.

Ms. Holt: And it is authorized by the courts?

Ms. Joe: Yes.

Mr. Thompson: And civil law is not so universal?

Ms. Armour: There are negotiations that still remain to be done. The parties plan to negotiate justice agreements within the next five years, with the possibility of extending the time period to December 31, 1999. There are areas that still have to be negotiated, but until they are negotiated the status quo remains.

Mr. Fewtie: If anything overlapped, for instance, into areas of self-government, or you had any kind of law that was broken might overlap the two areas, do you have any sort of formula where you can address that?

Ms. Armour: Not now, but it would be part of the negotiations.

Mr. Fewtie: That is something that will come along with self-government when it is implemented?

Ms. Armour: Yes. When a First Nation identifies an area or power that they want to take down, it will be clear where the jurisdiction lies.

Mr. Thompson: I understood, too, that the taxation provision is that the government is buying out the right to not be taxed. Will we all be taxed as Yukoners or as Government of Canada?

Ms. Armour: On income tax, yes. After the agreement is legislated, the existing moratorium will be in place for three years. After that, the First Nations will be taxed as the rest of the Yukon citizens are.

Property tax is slightly different. It is ten years on property taxes, but the Government of Canada pays the first year. The Government of Canada pays a grant-in-lieu of taxes. They will pay 100 percent the first year and 90 percent the next year with the First Nation picking up the remaining amount. In ten years, the First Nation would be paying the full amount.

Mr. Oostindre: The idea of monies being given to settlement corporations and investments not being taxable — what are the time lines on that?

Ms. Armour: I am sorry, that is not an area of the agreement I am familiar with. Where are you?

Mr. Oostindre: I am just reading page 47 on taxation. It talks about settlement corporations. You can set up one or more settlement corporations to invest in financial compensation to carry out community and social development activities.

Ms. Armour: My understanding is — and I do not know what the percentages are — that it has to be primarily a corporation that is providing services to its citizens before being eligible for the tax breaks, similar to what governments are.

Mr. Oostindre: So a community centre or day care would not be a taxable institution?

Ms. Armour: Yes.

Mr. Forsythe: It has not happened yet and probably has not been taken into consideration, but with the federal grant-in-lieu being frozen, how will this affect the ten year buy-in period?

Ms. Armour: Good question. I do not know. That is something that has been raised with Community and Transportation Services. That department has raised the question as to whether or not the amounts the federal government would be paying would be the amount at the time it was frozen or the assessed amount. That has not been determined. It is being looked at through the implementation negotiations between Canada, the First Nations and the Yukon. But that question has been raised.

Hon. Mr. Devries: We can get back to you once we know. It will probably not be for a while. It is a legal question more than anything.

Ms. Armour: There are a few of those we are still discussing.

Ms. Holt: I would like to know if I have some misinformation. I have just looked at the only thing I can find about self-government and it mentions this idea that the constitution will be put in place and you mention something about financial systems that might be negotiated. I know there is some anguish across the country about First Nations not wanting to just have self-government dropped on them. I heard, for instance, last year, that our local chief, Chief Dixon Lutz, actually could have the power to just send in a constitution of his own making. Here it says that each First Nation will develop a constitution that will be put in place. Is that right?

Ms. Armour: I do not know how it is under Indian Affairs. I do not believe that First Nations have their own constitutions under Indian Affairs, but, under the self-government agreements, it is a part of ratifying First Nation final agreements. I believe that each First Nation also ratifies their constitution, but I am not positive about that. Certainly, after ratifying their self-government agreement, they would have to be in agreement with the provisions of the constitution.

Ms. Holt: Well, under whose terms? It is a Catch-22. We cannot go in and impose a system of a vote, saying we want them to do it our way. They are going to come up with something their own way.

Ms. Armour: The federal government does have some requirements for the ratification of these agreements, since First Nations are giving up a number of rights off settlement lands. The federal government has put some requirements on the ratification vote. You will not find the chief and council ratifying the agreement with no input from all the beneficiaries, unless the beneficiaries voted, at some point, to allow the chief and council to do that. I believe it is 50 percent plus one of the beneficiaries that has been used to date.

Mr. James: I think it is a little confusing when you talk about the ratification of the overall land claims agreements and talk about the constitution as part of the package. The ratification of the constitution is the sole interest of the band. It has nothing to do with the federal or territorial governments. They have the right to develop and institute the constitution within their band.

Ms. Holt: Any way they choose?

Mr. James: Whatever way they want to do it.

Ms. Holt: We went through this last year with a couple of grass roots referendum that did not need to be recognized in any percentage or anything official by Indian Affairs. They said it was all just internal.

Ms. Armour: I am sorry, I am not familiar with the processes used here.

Mr. Kane: When we ratified ours in Champagne/Aishihik, we brought it to our general assembly about four times, where it was examined clause by clause. It is a constitution. It is just like the constitution of the government of the country.

Ms. Holt: It did not hold up any land claims?

Ms. Armour: I think it was part of the requirement for a constitution under the self-government agreement. I guess if the beneficiaries of the First Nation were adamantly opposed to the constitution, they would not proceed with their self-government agreement.

Mr. James: Neither would they proceed with their constitution. They would have to go back and develop it again until everyone was satisfied.

Ms. Armour: Yes.

Mr. James: That is the way consensus is made, as far as I know. Everyone decides that something is the best they can get and move on it.

Ms. Armour: I believe the first four agreements followed a process similar to the Champagne/Aishihik agreement, where the constitution was brought to the general assembly many times until it finally got agreement from everyone.

Mr. Kane: There were a few times when people got angry and people were saying things about self-government, but a lot of those were operating under DIA. Under DIA, the chief and council had the power from Ottawa over the land. We do not have that here. We have a general assembly, where things are passed. Outside, they have things imposed on them.

Ms. Holt: So you think you are better off, as far as native people are concerned?

Mr. Kane: Yes. Everyone has a say. When you ratify, it is like every member has to consent to the vote.

Hon. Mr. Devries: Is everyone questioned out?

Mr. Holt: Did you come up with an answer on the timetable thing?

Ms. Armour: No. I need to look at it a little more closely. What I was looking at was the ability to have the Government of Canada loan the money against the unpaid balance of the financial compensation. Three years after settlement legislation, that ability will exist, but that was not the clause that I was thinking of. I will find out for you.

Mr. James: What is the question?

Mr. Holt: Is there some sort of time frame you have in mind that this is anticipated to be all done? Originally, there were some dates set out in the package that we all have. Since then, we have gone past most of those dates. Is there anything new in place that is going to be targeted?

Mr. James: I think there will be once we have the third reading. Then the process begins where we keep adding these agreements to that legislation. Then we do not have to do through legislation when the next four or five are completed. Once we go through legislation, we do not have to go through it again. Negotiations will be pretty well complete at that time. Then we have to negotiate the band final agreements and self-government agreements.

I would say we need about a couple of years to finish negotiations. Then there are other areas where the details may take longer.

Mr. Kane: The first four are breaking trail for us. After that, the thing that changes with each First Nation is, you know, the land and things. Most of those agreements are common to all of us. A few things change, such as the land and the ratification of the constitution and so on, but I think it will be pretty fast and be done in about two years. We could get five in one year and the last five the next year.

Ms. Armour: We will all quote Ken and Albert on those dates in the years to come.

Mr. Reams: This employs quite a few people. You do not want to race through it too fast.

Ms. Armour: I think there are days that we would all like to be through with this job and going on to the implementation of the

agreements.

Mr. Fewtle: How many more of these little committees are you going to have that go out to the communities?

Ms. Holt: When the next government comes in.

Hon. Mr. Devries: This should be our final kick at the cat. Once the Liard First Nation gets further along, there will probably be some public meetings related to that land claim.

Ms. Armour: We do try to meet with people in the communities when we are negotiating with a particular First Nation. We meet with the outfitter in the area, the municipal councils, the fish and game association, and whoever. We do try to talk to people. We have offered to have public meetings in the past. They have not always been well attended, but we do try to make ourselves as available as possible.

Mr. Fewtle: Do you find it strange that people do not attend the meetings?

Ms. Armour: No. Generally, people seem anxious to have the claim over with.

Mr. Fewtle: Maybe they do not know. I can tell you right now that 90 percent of the people here do not have a clue what this is.

Ms. Armour: It is a complex agreement.

Mr. Fewtle: Very. Maybe that is why they do not attend. They do not know. Its possible that you should perhaps get a little more information out.

Ms. Armour: There is a lot of information out.

Mr. Kane: It is the same way among our people, too. What we did in Champagne was develop a video of all the 28 agreements. We broke the agreements down into a small booklet. We walked into our members' houses and stuck the video on. A lot of people only speak southern Tutchone. It was a lot easier to use the video to inform our people.

We called a meeting in Haines Junction and put it on the media and everything. We told them that this is your life that is on the line. That is what we had to do. We had to go into their homes.

Ms. Armour: So, after the meeting, we are sending Ken to your homes with the video.

Mr. Kane: I hope you all speak southern Tutchone.

Hon. Mr. Devries: Now that we have everyone smiling, I would like to thank everyone for coming out. If you think of any questions in the coming months, if you look at page three of the document, there are some contact numbers. I do not know if it is a toll-free number, but you can always use the YTG toll-free number to access these numbers.

Mr. Ersfeld: I have one more question. Does the government realize that these pages have been designed by lawyers to be understood only by lawyers? I am wondering what these public meetings are for. We do not really know what we are talking about.

Chair: This has been developed in the clearest language we can get it in, Fritz.

Hon. Mr. Devries: There is lots of stuff in there that will be settled in court.

Mr. Ersfeld: It is too complicated; only lawyers can understand it.

The meeting adjourned at 9:00 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 16

Official Transcript

**Tuesday, February 23, 1993
1:30 p.m. to 2:40 p.m.**

**Two Mile Community Centre
Upper Liard, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

- THAT a Special Committee on Land Claims and Self-Government be established;
- THAT the Committee be comprised of seven members of the Legislative Assembly;
- THAT Hon. John Ostashek be the Chair of the Committee;
- THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;
- THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;
- THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;
- THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:
- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
 - (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
 - (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
 - (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;
- THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;
- THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;
- THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:
- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
 - (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
 - (c) to hold public hearings,
 - (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
 - (e) to print such papers and evidence as may be ordered by it; and
- THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Millar (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Folwell, Deputy Clerk

Upper Liard, Yukon

Tuesday, February 23, 1993 — 1:30 p.m.

Hon. Mr. Devries: I will call the meeting to order and thank you all for coming out.

I had hoped that more people would show up today; however, I believe that the meeting yesterday was a good one so perhaps everyone is meeting out.

I will be chairing this meeting. The members with me are Dave Millar, MLA for Klondike; Jack Cable, MLA for Riverside; and Margaret Joe, MLA for Whitehorse Centre. I am John Devries, MLA for Watson Lake.

This committee was appointed by the Legislature last December. Bills approving the land claims final agreement and the First Nations self-government were referred to the committee, as were the agreements attached to them.

The committee's main task is to observe the feelings of people who attend these meetings as to what they feel about the land claims and self-government agreements. The Assembly gave its approval in principle to the bills, very clearly expressing its commitment to the settlement of Yukon land claims and to self-government during debate last December.

We are here to hear your comments on land claims and self-government and, with the assistance of Karyn Armour, a Yukon government land claims negotiator, we will try to answer any questions you may have.

The settlement of land claims is very important to all Yukoners, and it is important that we have a thorough understanding of what it is all about so that we can all work together, once the settlement takes place, to ensure that the Yukon is strong and vibrant and that we can all live together in harmony.

The signing of this legislation is not the end of land claims; rather, it is the beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change overnight, and it will not always be easy; however, with care and dedication, I am certain that all Yukoners will benefit from the claims.

Also with us today are Albert James and Ken Kane, from the Council for Yukon Indians. They are also available to answer questions.

To begin, we will ask Karyn to give us a brief overview of land claims to this point.

Ms. Armour: As John has indicated, we are in the last stages of the process to legislate final agreements. The legislation was originally introduced in the Yukon Legislature in June, 1992, with the Vuntut Gwich'in final agreements and was re-introduced in December, 1992, with the Champagne/Aishihik final agreements.

The land claims process began 20 years ago with the presentation of the claim, *Together Today for Our Children Tomorrow*. The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement by the federal government that outstanding claim issues remained to be resolved.

Negotiations continued during the 1970s, as the federal government re-examined its claims policy. The early negotiations were bilateral between the federal government and the Council for Yukon Indians. In 1978, the Yukon became party to the negotiations.

Between 1980 and 1984, there was an agreement in principle reached, but the completed document was rejected by the leadership of the CYI and, in 1985, the process began again. In 1987, the federal government produced a new comprehensive claims policy that enabled the negotiators to craft what is called the master framework agreement for the Yukon, which would be sensitive to the needs of different First Nations communities.

This agreement in principle was reached in November, 1988,

and between 1989 and 1990, the three parties used this agreement as the basis of negotiating the umbrella final agreement, which was completed March, 1990. The umbrella final agreement sets out the provisions for the comprehensive claim in the Yukon.

During this period, the community negotiations resumed, and between 1991 and 1992, the first four of the 14 First Nations final agreements were concluded with the First Nations of Na-Cho Ny'ak Dun, the Vuntut Gwich'in, the Champagne/Aishihik First Nation and the Teslin Tlingit Council. Also, at this time, the negotiators worked on a model self-government agreement, and agreement was reached in November, 1991, and the first four First Nations that have completed their final agreements have also completed their self-government agreements.

The outstanding issue is the completion of the implementation plans. A working group has been set up with representatives from the governments, the CYI and the first four First Nations. The group translates the final agreements into plans to give effect to the agreements. The implementation plans will set forth the monies that will be paid by the federal government to First Nations and to the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution, and land claim agreements will essentially be treated as treaties with constitutional protection.

The final agreement also sets out the amount of land to be retained by each First Nation. There is a total of 16,000 square miles of settlement land, which has been divided into 10,000 square miles of category A land — which retains surface and subsurface rights — and 6,000 square miles of category B land, which consists of surface title only. There is also aboriginal title retained on both category A and B lands.

The agreement also sets out the monetary compensation to the First Nations; it totals \$242.6 million, to be divided among the First Nations and will be paid out over 15 years.

The agreement also makes provisions for continued access to settlement lands and sets out a process to resolve any access-related disputes.

The agreement also sets out provisions for a number of boards and committees, some of which are being established for the management of natural resources. In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and to a territory-wide fish and wildlife management board on issues that deal with fish and wildlife management within the traditional territory and, also, forest management, and the establishment and management of special management areas.

These special management areas are described in First Nations final agreements and allow for the protection and management of critical areas that are important to both government and the First Nations because of their special or distinctive wildlife, heritage or natural resource values.

In addition, there are also chapters on water management, forestry and heritage. The heritage chapter provides for First Nations ownership and management of the Indian heritage resources directly related to the culture and history of the First Nations.

There is also a training trust that will be established, and a committee has been established to identify the training needs for First Nations, to enable Yukon Indian people to meet the requirements set out in the claims.

The fish and wildlife chapter will set out the harvest allocation provisions for each First Nation. These provisions will apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes.

Both the Yukon First Nations and government have recognized the importance of fish and wildlife to all Yukoners, and the agreements provide for a sharing of the resources. Until a total

allowable harvest needs to be established, each First Nation will continue to harvest within its traditional territory all species to meet its subsistence needs.

The umbrella final agreement also commits governments to the negotiation of self-government arrangements with each First Nation. Self-government permits the people of a First Nation to have control over their land and communities, and recognizes the authority of their own government structures. Self-government applies on settlement land and to beneficiaries or citizens of each First Nation.

The essential elements of the model self-government agreement will be contained in each First Nation final self-government agreement, and these individual agreements allow for the establishment of First Nation governments, including models based on the clan system and the replacement of the band structures as they currently exist under the *Indian Act*. First Nations will have the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Federal laws are paramount over First Nation laws, unless the parties agree otherwise, and territorial and municipal laws stay in place until such time as the First Nation decides to enact a law.

There are also provisions in the self-government agreement for community lands, which are lands that are within municipal boundaries. In the self-government agreements that have been negotiated to date, the First Nations have agreed to limit their authority over zoning and bylaws. There are also provisions for compatible land use within municipal boundaries, and these provisions encourage the municipality and the First Nation to resolve conflicts, either through consultation and then to mediation, if necessary.

Generally these agreements will establish mechanisms for continuing relationships between the First Nation governments and federal, territorial and municipal governments.

I think I will stop there. Are there any questions?

Hon. Mr. Devries: If anyone has any questions, feel free to ask them. If you have questions of the CYI representatives and you want it on the public record, then feel free to ask.

Mr. Alfred Chief: I only have one issue to ask you about, section 25.5 of the UFA.

Ms. Armour: The transboundary provisions?

Mr. Chief: Right. You know that one of our First Nations is willing to take you guys, or the federal government, to court. We, as part of that nation as a whole, will have to back them on that. Where it says "the consent of the Yukon" — what are you guys doing about that? We have had that brought up to the main table, I believe, by our negotiators.

Hon. Mr. Devries: I do not know if that has been addressed at all. Has it, Karyn?

Ms. Armour: Yes, it has been. As you know, Alfred, after the Tetlit Gwich'in agreement, this clause being put into the UFA was very important for the Yukon government, and it was part of the amendments that all of the negotiators had agreed to. It is my understanding that the Yukon government and, I believe, the federal government, are not prepared to change the provisions in the UFA. We do not feel that the clause will interfere with reaching a transboundary agreement with the Kaskas.

Mr. Chief: Is this the other First Nations that you are talking about?

Ms. Armour: Your concern is with the Kaska Dena transboundary agreement and whether or not this clause --

Mr. Chief: I think they are a nation that had a transboundary agreement. I am looking at four other First Nations with whom we have a conflict.

Ms. Armour: Are they outside of the Yukon Territory?

Mr. Chief: Yes, two are outside of the Yukon Territory.

Ms. Armour: Two are within the Yukon?

Mr. Chief: Well, Ross River has one.

Ms. Armour: I am sorry, Alfred; I am not sure. Are you talking about the overlap?

Mr. Chief: Well, I am really not too sure why we should have your consent for areas we consider our traditional territory.

Ms. Armour: Is it the land that you are concerned about?

Mr. Chief: I am concerned about your veto power. It says, "consent of the Yukon".

Ms. Armour: Yes, over anything that the Yukon government--

Mr. Chief: What is stopping us from going unilateral with the federal government? They do have the last say, do they not?

Ms. Armour: The federal government has also agreed to this clause, and if it is anything that the Yukon government has jurisdiction over--

Mr. Chief: Has CYI agreed to this also? Without consulting the Kaska First Nation?

Ms. Armour: The CYI negotiators had agreed. I do not know how that worked, internally. I know the negotiators agreed to it.

Mr. Chief: I do not know where it is going to lead us, because we are definitely not satisfied with that clause.

Ms. Armour: I gather that it is one of the outstanding issues for the ratification of the UFA, or of the amendments.

Mr. Chief: We cannot proceed with that clause in there, unless we come to terms. I am not too sure what the terms are going to be. I cannot speak for the rest of the Kaska Nation.

Ms. Armour: I know that we were going to get together for a meeting with your lawyer and the two governments.

Hon. Mr. Devries: Albert or Ken could correct me, but my understanding was that basically there would be no transboundary claims without the Yukon government's consent, so there is still the option of negotiating between the federal government, the Yukon government and the Kaska First Nation. Is that not how it is?

Mr. Ken Kane: Yes.

Hon. Mr. Devries: So, it is not like the door is shut.

Ms. Armour: No, not at all.

Mr. Kane: We have a transboundary claim, too, on our side, down to B.C. and into Alaska. We have set those aside right now, while everything else is being worked on. Also, the overlaps that we have with the other First Nations have sort of been set aside, and we will work out some kind of sharing agreement.

Mr. Chief: I understand the Yukon government, the federal government, the CYI and the Kaska Dena Council signed an agreement in principle — or a memo of understanding, or whatever it is — in 1989, with respect to our transboundary agreements.

Ms. Armour: We signed an agreement.

Mr. Chief: Well, we think those agreements were breached.

Ms. Armour: I understand that that is your interpretation of it. We do not feel that this clause in the agreement breaches that memorandum. That memorandum stated that governments would be prepared to negotiate a transboundary claim with the Kaska, and we still are committed to doing that, and we do not feel that the Yukon, having a veto over areas of our jurisdiction, will prohibit us from reaching an agreement. It just means that we will be involved in the negotiations, rather than what happened with the Tetlit Gwich'in, where the federal government unilaterally reached an agreement without our involvement.

Mr. Chief: I am not sure whose interests you were looking after there when you added the amendment to the UFA. I think it was an oversight on CYI's part for not consulting with us when this was brought into the UFA amendments.

Mr. Albert James: In 1990, Alfred, we held a general as-

sembly in Whitehorse, in December. There, they went over all of the amendments and everything in the umbrella final agreement, and that was passed by the general assembly at that time so that they could move ahead toward the band final agreements. All of the amendments, and everything, that is in that document now have been passed by the general assembly.

At that time, also, there was no Kaska Nation incorporated because, after that, the people got together.

Mr. Kane: That should be no roadblock, eh?

Ms. Armour: We do not see it as a roadblock to reaching a transboundary agreement. I know that both governments are still committed to negotiating a transboundary agreement.

Mr. James: It is not so much a veto as being involved.

Ms. Armour: It is not a veto over land, for instance. The federal government still has the jurisdiction over land; we do not. It means that we play a larger role in those negotiations. There are some areas, such as involvement in wildlife management, that the Yukon would have a veto over.

Mr. Chief: Who would have a veto over that?

Ms. Armour: The Yukon government, as we have the jurisdiction for wildlife management.

Mr. Chief: When we get into self-government and all that, you will recognize our government when it is formed. I cannot see why we would give you a veto power over our traditional territory?

Ms. Armour: It is not over the traditional territory. It is over the federal government, including provisions that are primarily of interest to the Yukon government, that they cannot unilaterally include those in a claim without our involvement, but it is not a veto over your traditional territory.

Mr. Chief: I do not know, but that section has got a lot of our leaders upset.

Ms. Armour: Yes, I understand that.

Mr. James: Just one clarification, Karyn. Once we look at transboundary negotiations and if we cannot come to an agreement, what happens then? The federal government holds jurisdiction over the lands, and so on, and they can, unilaterally at that point, come to a conclusion on these negotiations.

Ms. Armour: I think they can, on those issues, for those provisions, where the Yukon does not have jurisdiction. So, similar to the transboundary agreement with the Tettit Gwich'in, I suppose the federal government could agree to land again in the Yukon, but other provisions that would be in a transboundary agreement may not be in a Kaska transboundary agreement without the Yukon consenting. I suppose that, if we could not reach an agreement on an overall package, the federal government could agree to a land allocation in the Yukon that the Yukon government was not happy with, because the federal government still has the jurisdiction over the land.

Mr. Chief: My next question is on the same issue. We have some agreements in principle with some other First Nations that they could come into our territory.

Ms. Armour: These are First Nations within the Yukon, Alfred?

Mr. Chief: That is a First Nation outside the Yukon coming into our traditional territory.

Ms. Armour: To do what?

Mr. Chief: To claim land, the same as what happened up north. As I see it, we do not have a conflict there. We definitely do not have a conflict there because, in the stories passed on through the generations, those people were there. Apparently, over the centuries, we came to an agreement with them that we had no conflict with them. We used their traditional territory, outside the Yukon, in the same way.

Ms. Armour: There is nothing in this agreement that prevents you from working out some sort of an arrangement,

internally, with another First Nation, for sharing your lands and resources. If it is a transboundary claim, then it would have to be a claim that would be negotiated with the other First Nation — I do not know which ones you are referring to.

Mr. Chief: To what lengths are you willing to go to uphold all of this now? One of our transboundary agreements is not going to be easy, and I am not sure if they are going to the Yukon. This is in your territory, Albert. I have not looked at the maps yet.

Ms. Armour: The Tahltan?

Mr. Chief: Is it going toward Kaska territory in the Yukon?

Mr. James: Not ours, no. Ours is way down in the western end of B.C. and in the Yukon, so it will mostly be the Teslin Band.

Mr. Chief: As well as Atlin.

Mr. James: Yes.

Mr. Chief: We foresee some problems that we are going to have concerning our transboundary agreement — not with all the First Nations, mind you — but there is going to be some conflict. How are you people prepared to deal with them?

Ms. Armour: Again, Alfred, I am not sure what you are referring to. If there is a transboundary claim where --

Mr. Chief: Let me put it in layman's terms, then: if you had a piece of property that I thought was mine, then what do we do about it, if you swear up and down that it is yours, and I say that it is mine?

Ms. Armour: I guess we negotiate.

Mr. Chief: And if the two parties cannot come to an agreement?

Ms. Armour: Well, first of all, if it is a transboundary claim, the federal government has to accept it as being a claim in the Yukon. They have to determine whether or not they feel the First Nation has a claim. I do not know if it is the Tahltans that you are referring to, but we can use them as an example. If they claim that they have had traditional use and occupancy of the Yukon, they would submit their claim to the federal government. The federal government would determine whether or not it was a valid claim, and then we would have to negotiate that claim. The transboundary agreement here also sets out that the First Nation whose traditional territory this claim has an impact on has to be involved in those negotiations, as well.

Mr. Chief: Over to John, there, on self-government. I understand the Yukon government is not comfortable with the concept of self-government for First Nations.

Hon. Mr. Devries: I do not agree you, Alfred.

Mr. Chief: You may not agree with me here, but down the road you are going to agree with me that we are going to have a rough time reaching an agreement.

Hon. Mr. Devries: Would you explain yourself there?

Mr. Chief: Look at jurisdiction. Our laws may not go along with your laws, especially in this area. You know there are a bunch of rednecks here, and they think that we are forming a Third World country.

Hon. Mr. Devries: I agree, Alfred, that there are some people who have that opinion, but I am certain that something can be worked out, because it is not the majority of the people in Watson Lake who hold that opinion — very few, really.

Mr. Chief: What are your views on the approximately one-third of your overall budget that the 14 First Nations are taking over? I cannot see the Yukon government giving it away.

Hon. Mr. Devries: That is part of the transfer of self-government. Karyn can probably answer that better than I can, because she has a better grip on exactly how that happens.

Ms. Armour: Are you referring to the implementation funding?

Mr. Chief: Yes.

Ms. Armour: Well, as you know, that is all under negotiation

now and we do not necessarily see it as money being taken away from the Yukon and going to the First Nations. It is part of the agreement that money would be provided to the First Nations and to the Yukon government to meet the obligations out of the claim — in both the final agreement and the self-government agreement.

Hon. Mr. Devries: The present government is fully prepared to go with this existing agreement, and that is self-government and everything.

Mr. Chief: Somehow, I have a hard time thinking you guys are going to accept this sort of thing.

Ms. Armour: It has gone to second reading.

Hon. Mr. Devries: Yes. It has been passed unanimously in the House, up to this point, and I do not see any problems in it getting through the Legislature, because we have had a fairly lengthy debate about it and then we spoke about it again in December. Everyone has been in agreement with it, and we are looking forward to all of us working together to see that it happens.

We know it is the thing of the future, and it is going to happen.

Mr. Chief: Tell me a bit about your lakeshore policy.

Hon. Mr. Devries: That would be like the highwater mark and things like that?

Ms. Armour: What do you mean by the lakeshore policy — ownership?

Mr. Chief: If we claimed some land by a lake or river, could you push the benchmarks back?

Ms. Armour: Within municipality boundaries, there has been an agreement made with some of the other First Nations. It is not a provision that is in the agreement. It states, in the agreement, that a First Nation and government can agree where the boundaries will be, as far as the waterfront is concerned. In some of the areas — I will use Mayo as an example — with Champagne/Aishihik, it was at Pine Lake, which is an area that is used by the community for recreation purposes. The First Nation agreed to set their lands back 100 feet in order to leave the waterfront open for use by the community, so that there was no private ownership right down to the water. That has been a provision that was agreed to, both with the Na-Cho Ny'ak and with Champagne and Aishihik, but that is something that we would negotiate at the time of land selection.

Ms. Armour: In both cases it was within municipal boundaries.

Frank Gill: John, speaking of working together, what happened to all our input into trying to work out a good forest management plan for the southeast Yukon. When we try to voice our opinions on that, we seem to be brushed aside, if not walked right over by all the outside logging interests around here. It states in AIP in 1988 that for anything over 1,000 cubic metres that people apply for, they should consult with us. I have voiced my opinions twice to Mark Drum, and them, and we never had any consultation for that. We are having a hard time with that.

Hon. Mr. Devries: My understanding about the way it has been done in the past is that when you apply for timber on a land use planning permit for one of those 15,000 cubic metre permits, it goes through various agencies. I believe Dixon used to sit on that board. He had input about whether or not that recommendation was accepted.

Mr. Gill: What board is that you are talking about?

Hon. Mr. Devries: It is a federal board. It has nothing to do with land use planning. I am not sure exactly how that board is made up, but I know there are about eighteen different agencies to cope with, when you apply for a small lot of timber, which is restricted to 15,000 cubic metre annually for a private individual or sawmill.

Mr. Gill: I am not talking about sawmills. I am talking about the logging of the timber.

Ms. Armour: Within the overall management of the area?

Mr. Gill: No. It states in the AIP that if anybody applies to cut anything over 1,000 cubic metres, we are supposed to be consulted. They are supposed to come and consult with us. It does not mean when they send their application to us it is consultation with us. Consultation is not just informing us that they are going to cut. That is not a consultation. A consultation is coming and talking to us and allowing us some input. They should show us their plans and show us what kind of rehabilitation will be done. We should be shown that people are not going to destroy the land.

Hon. Mr. Devries: That is supposed to be happening now. If it is not happening, I would like to know about it. As I read the forestry policy now, that is supposed to be happening.

Mr. Gill: Well, it is not. I addressed Mark Drum on it and reminded him that they have to consult with us first for anything over 1,000 cubic metres. We have not had that.

Hon. Mr. Devries: I will check into that and get back to you in the next week or so.

Ms. Armour: It is my understanding, as well, that you should be consulted.

Hon. Mr. Devries: The First Nations on that land is the owner. You are supposed to be consulted when that application is made. If you have a problem with it, you state your reasons why and all that is taken into consideration.

Mr. Gill: My direction from the chief and council is that we would like to see a holistic type of logging activity in our traditional territory. If southern loggers come in here, we do not expect that holistic approach to happen. We would like to express our concerns that we would like to see that happen. If they are not consulting with us, we do not have a chance to voice that opinion. We are being walked over. If they do not even do the consulting, it is not even brushing us off, it is just walking right over us.

Hon. Mr. Devries: Just to stick within the parameters of what we are talking about, I will speak with you privately about this some time. If it is a problem within the AIP, we can discuss it here. Outside of that, I would prefer to discuss it with you further later and we will see what we can do later. There are going to be forestry policy meetings in the next year as impending transfers are taking place. You will have lots of input into that policy development, I can assure you of that.

Mr. James: That is where the problems arise, when we are looking at the impending transfer that you are talking about prior to the settlement or with regard to input from the First Nations into any transfer, especially in essential items such as forestry and water. We have written statements to the Minister on this and have talked to Mr. Clark about it. We are in a position to oppose any of these transfers until we have had proper consultation and proper input into the development of any transfers from the federal to territorial governments. That is where the problems comes in.

I do not know which board you are talking about in terms of forestry. All I know is FTLAC, the final stage when land gets allocated or a land use plan gets decided for a certain area. Up to that point, we have no input into it, especially through any of the committees YTG has. We have all LARC and all of these different committees and we have no input and no one on them. All we can do is sit there and monitor the committees. We have nothing until we hit the final stage. When that final stage comes we will have everybody that is involved from YTG's different departments sitting around at the table and voicing their opinions as to why these things should go forward, whereas now there are only three or four First Nations people and they get outvoted at every point; and things go ahead. That is the problem.

If we want to look at a co-operative approach, all of these different areas have to be looked at as one. We have developed that before in terms of protection in the agreement that we have

developed with YTG and the federal government. It has not gone anywhere. I do not know why. CYI has already agreed to that agreement, which gives greater input into issues such as forestry. It gives them some manpower to put back into the communities so that they can work in that area.

As far as I know, the territorial and the federal government have not agreed on this document. That is one area you should be looking at in terms of the forestry management plan that Frank is talking about.

Ms. Armour: Maybe I can say something about the MOU. I attended a meeting the other day between the Executive Council Office and Joe Ganske. We are looking at ways to put the agreement into place. The problem was that it was very expensive to put that system into place. The federal government is looking for money to put toward it. We are trying to determine how much money YTG can put forward. But, we are looking at ways of putting it in place.

Mr. James: The thing is that the negotiators for the YTG, the CYI and the negotiators for the federal government, all parties, agreed to it.

Ms. Armour: The negotiators agreed to recommend it to their principals. The principals from the two governments have to determine whether or not it is a system we can afford to put in place.

Mr. James: It is a system that is vital and essential. It is not something you play around with and expect good, co-operative land claims at the end.

This is where the problems Frank talked about come about.

Ms. Armour: I agree. There was a lot of good work in that paper.

Hon. Mr. Devries: You were at the meeting among myself, John Ostashek and Judy Gingell, I believe. She brought up that same issue. It was discussed at some length. I cannot recall if we got a consensus agreement in that meeting, but John assured her that we would be doing everything possible to ensure that there was consultation. That is something we have to look at — whether we have to come to a consensus agreement rather than a majority vote or something. I am not at liberty to say yes. It has to be a combined decision between my colleagues and CYI. I am open to discussion.

Alfred, from your discussion I take it you are not particularly happy with the existing agreement in principle. Is that what you were saying? I am not trying to put words in your mouth; I am just trying to make things clear.

Alfred Chief: My concerns on section 25? We have a strategy meeting coming up and this issue will probably come up in it. Thus far, we have been holding back on a lawsuit. I would think it would be our last option.

The question is with some of the leadership. Why do we need the Yukon, particularly in this issue, especially when every time you make a damned agreement you break it. It is like the issue he just brought up. Sending a paper from FTLAC is not consulting with me. What is going to happen to our interim protection over forestry if this is going to continue? There has to be some sort of trust and co-operation that we can work on and I can bring to my people. The mistrust of the government is so high now.

Ms. Armour: Alfred, do you see it being worth getting together with the federal and territorial negotiators again to discuss this clause?

Mr. Chief: I can give you an answer after the weekend. This will come up in our Kaska strategy meeting.

Ms. Armour: I know we are prepared to meet with you again on it.

Mr. Chief: This is a concern. What is the sense of meeting with you people if agreements are not kept? There is no trust

involved. It does not make my job any easier. I can get back to you, say, Monday or Tuesday of next week. If we can meet with the leadership, fine. Give me something with a bit of meat on it that I can bring back to the people.

Ms. Armour: I do not want to give you any ideas that this clause will be changing.

Mr. Chief: You guys cannot give me any ideas.

Ms. Armour: I think what we would like to do is sit down and discuss why it is there and what it does and does not do. We do not feel that it is going to get in the way of a transboundary agreement. But if we can sit down and discuss that with you, it may be helpful.

Mr. Chief: You are Minister of Economic Development, John. Can you tell us about it? What are your plans for the future?

Hon. Mr. Devries: Well, that does not really pertain to this, but I would be happy to sit down and talk to you about it sometime.

Mr. Chief: You are talking about the Yukon land claim. Is it not going to be good for the Yukon economy?

Hon. Mr. Devries: I think it will be very good for the Yukon economy.

Mr. Chief: Then why are you saying it does not pertain to this subject?

Hon. Mr. Devries: No, I misunderstood your question.

I think there is a lot of potential jobs for everybody. There is no doubt about it, when you see an injection of \$255 million or \$300 million into the various First Nations. Everybody is going to benefit from that. We will all have to work together to ensure that.

Ms. Armour: Also, Alfred, the chapter in the final agreement, chapter 22, sets out a framework for provisions that can be negotiated within your final agreement.

Mr. Chief: What are we talking about? Our economic development or section 25?

Ms. Armour: Economic development measures, chapter 22 in the agreement.

Mr. Chief: Yes, I am familiar with that chapter.

Ms. Armour: Once we get to your final agreement, there are some specific opportunities that can be negotiated at that time.

Mr. Chief: At this point, our First Nation is not rushing into anything. We are going to take our time. This land claims process has been going on for 20 years and there is a new administration, so we are not going to rush into anything.

I can say with a fair amount of certainty that we will probably be the last First Nation at the table.

Ms. Armour: Have you identified any kind of time frame or when it is you would like to come to the table?

Mr. Chief: We have to meet with Ross River. They will be at our strategy meeting. We do have a work plan. We will go over it to see if we can shorten it somewhat. I am ready to go into preliminary talks, but that is about as far as we will go, I think.

Ms. Armour: Do you see Liard negotiating on its own or will you be negotiating jointly with Ross River?

Mr. Chief: We will probably be negotiating jointly, but on some major issues pertaining to our First Nation, we will go it along.

Ms. Armour: I know that they have been suggesting that they might like to come to the table in the fall.

Mr. Chief: In the fall?

Ms. Armour: If you are interested in having some preliminary discussions and can identify some time lines, we can see whether or not we have the people to do it.

Mr. Chief: I think we will finalize our work plan, and that is what we will follow. I am not prepared to commit myself in any way.

Ms. Armour: The way some of the other First Nations are approaching it is to identify particular issues they want to concentrate on, such as only discussing land until the land agreements are pretty well complete, and then go on to some of the other areas of the agreement, rather than taking on the whole agreement at once.

Hon. Mr. Devries: We will take a short coffee break for five minutes. Then we will sit down for a few more minutes.

Break

Hon. Mr. Devries: I will call this meeting back to order. Do you have any further questions, Alfred?

Mr. Chief: No, I am all questioned out, John.

Hon. Mr. Devries: Any other questions?

Leda Jules: I have one. As a First Nation person — I have to say that because I work for YTG — I have a concern. I am not really sure if it is to do with land claims or not. I heard that they are going to put in hydro in our rivers here. I was wondering if it was true that they are going to put hydro on Frances River. A lot of families have selected lands in the Frances River area from the river to the lake and around it. If they put hydro in the river there, all the land we have selected will end up under water. I am very concerned about that.

Also, they said they were going to put another one in by the canyon.

Hon. Mr. Devries: At Fireside?

Ms. Jules: Is that Fireside?

Hon. Mr. Devries: Well, that was the original plan. They were talking about flooding the whole Liard right up to Liard Ridge. It was the B.C. government.

Mr. Chief: There is a provision in the UFA concerning that, is there not?

Ms. Armour: Yes, in chapter 7 of the UFA, the Yukon government can identify up to 10 hydro sites.

Ms. Jules: Is there anything in our area?

Ms. Armour: There is one. One of the 10 is at Frances Lake. I cannot remember what the maps look like and what the proposed flooding would be if it ever went ahead.

Hon. Mr. Devries: There would be a big consultation process.

Ms. Jules: Especially for the Frances Lake area, there would be a lot of concerns and a lot of people would want input. Frances Lake has a lot of our own burial sites and we have many traditional ties with the area there.

Ms. Armour: There is an old village site there, as well.

Ms. Jules: Yes, all up and down the river there. My husband was born on the river. We visit the land every year, every summer since the late 1960's. You can see why it would be of great concern to us and our families.

Ms. Armour: When it comes time to negotiate with the Liard First Nation, we will bring maps of those areas that have been proposed and try and work something out there.

Ms. Jules: Another thing is that when we made our land selection, we had land selections from the early 1970s. I heard another concern that the lands that we have selected will be cut back. I am not sure if it is a rumor, but we would like to have some time given to us to go over these land selections that we have made, family by family, to make sure that our lands that we have selected are in an appropriate place. We want to be exactly correct that it is the land we picked. Last summer, we went over some of the lands we selected, just by following that map. It was not the correct area we had selected. My concern is that maybe we can review all those maps again to make sure that they are the appropriate places that we named.

Ms. Armour: Yes, the selections are interim-protected now. The First Nation does not have to keep any of those if they do not choose to. They can make changes from now until the final settlement.

From now until we sit down to negotiate land, I would expect that you would be working with Alfred in an effort to determine which lands the First Nation wants to put forward. How it is reviewed, whether by family or whatever, that is something for the First Nation to decide.

Ms. Jules: I am not really familiar with all those A blocks or B blocks. Those can be changed too, then?

Ms. Armour: Yes, you can drop all of them and start over or just keep some of them.

Ms. Jules: What about land selection for our members that are outside. I have family in Vancouver. I know they will be coming back to the Yukon one of these days, but I am not exactly sure when. What will happen to them? Can families select lands for them, too?

Ms. Armour: That is something that is decided by the First Nation. I do not know. All of the land will be owned by the Liard First Nation. How they want to allocate those lands is up to the First Nation. That is something that you will decide internally.

Mr. Chief: How soon we will have an answer about the rape of our forests?

Hon. Mr. Devries: I will be back in town next weekend. I will address that question then.

Mr. Chief: If I am not here, you can argue with this guy here.

Hon. Mr. Devries: I will check with the federal forestry people and I will get back to you next weekend.

This has been a very interesting meeting. I would like to thank everyone for coming and thank you for your questions. That is why we are here. We want to hear what you have to say and I hope we can get going on the road to resolving all the problems and looking to better days for our children.

Meeting adjourned at 2:40 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 17

Official Transcript

Tuesday, February 23, 1993
7:30 p.m. to 8:45 p.m.

Recreation Complex
Teslin, Yukon



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Miller (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Follwell, Deputy Clerk

Teslin, Yukon

Tuesday, February 23, 1993 — 7:30 p.m.

Hon. Mr. Devries: I would like to thank you all for coming out. My name is John Devries, and I represent the riding of Watson Lake. Tonight, I will be chairing this meeting of the special committee. The other Members with me are Dave Miller, from Dawson City, MLA for Klondike; Jack Cable, MLA for Riverside; and Margaret Joe, MLA for Whitehorse Centre.

The committee was appointed by the Legislature last December. The bill approving the Yukon land claims final agreement and the First Nations self-government bill were referred to the committee, as were the agreements attached to them. The committee's main task is to seek the view of Yukoners on this legislation and these agreements and to report its findings to the Assembly this spring, along with recommendations as to whether the agreements should be accepted or rejected.

The Yukon Legislative Assembly has given its approval in principle to the legislation, very clearly expressing its commitment to the settlement of the Yukon land claim and to self-government, during debate in the Legislature last December.

We are here to listen to your comments on the land claims and on self-government and, with the assistance of the Yukon government land claims official who is with us, we will try to answer any questions that you may have.

The settlement of the land claims is a very important issue to all Yukoners, and it is imperative that we have a thorough understanding of what it is all about, so we can all work together over the coming years to ensure that the Yukon is strong and vibrant.

I cannot suggest for a moment that it is a simple task to try and understand these agreements. I am sure that even those who have been working with them at the negotiating table for many months, or even years, could not say that they are fully knowledgeable of all the aspects of the claim and the self-government agreements.

A lot of work still has to be done to put into practice what the negotiators have worked long and hard to put on paper, and what individual First Nations have said is important to each of them in the specific agreements that have been signed to date.

The signing of the settlement legislation is not the conclusion of the land claim. Rather, it is a very positive beginning. All of us, both native and non-native, will have to be patient as we travel down the long road of implementation. Things will not change in the Yukon overnight, and it will not always be easy but, with care and dedication, I am certain that all Yukoners will benefit from the Yukon land claim.

I hope that, tonight, we will be able to have a very open and informative discussion. We plan to be very informal, but we are taping the meeting so that transcripts can be prepared and attached to the committee's report. For that reason, when you are asking questions, before you speak, I would ask that you identify yourself for the record.

Coffee will be available. You can help yourself at any time, and we will take a short break somewhere during the discussion. Feel free to jump in any time you have a question, and we will see if we can give you a satisfactory answer.

Tonight, we also have with us Albert James and Ken Kane, who represent the Council for Yukon Indians. We also have with us Karyn Armour from the Land Claims Secretariat. She will also give us a very brief overview of the Land claims and self-government agreements. She is also the expert, so most of the questions will be directed at her. However, if you ask some questions that specifically pertain to CYI, then either Ken or Albert will be answering them. I will turn the meeting over to Karyn.

Ms. Armour: As Mr. Devries indicated, we are in the last stages of the process to legislate final agreements. The legislation

was originally introduced in the Yukon Legislature of June of 1992 with the Vuntut Gwich'in final agreement, and it was reintroduced in December of 1992 with the Champagne/Aishihik First Nation final agreement. We hope that the legislation will be introduced in federal Parliament before early summer.

The land claims process began approximately 20 years ago with the presentation in Ottawa of the claim *Together Today for our Children Tomorrow*. The Yukon comprehensive claim is one of the first to be filed with Canada after the 1973 acknowledgement of the federal government that outstanding claims issues remain to be resolved.

Negotiations continued during the 1970s, as the federal government re-examined their claims policy. The early negotiations were bilateral between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations. In 1978, the Yukon became a party to the negotiations and now participates as a separate party from the federal government.

Between 1980 and 1984, there was much work done by negotiators on an agreement in principle. The completed document was rejected by the leadership of CYI in 1984. In 1985, the process began again and, in 1987, the federal government produced a new comprehensive claims policy that enabled the negotiators to craft a master, or framework, agreement for the Yukon that would be sensitive to the needs of different First Nations.

This agreement, or AIP, was reached in November of 1988 and, in 1989 and 1990, the three parties used this agreement as the basis for negotiating the umbrella final agreement, which was completed in March of 1990.

The umbrella final agreement, or UFA, sets out the general provisions for the comprehensive claim in the Yukon. Also during this period, the community negotiations resumed and, between 1991 and 1992, the first four of the 14 First Nations final agreements were concluded, with the First Nation of Na-Cho Ny'ak Dun in Mayo, the Vuntut Gwich'in in Old Crow, the Champagne/Aishihik First Nation and the Teslin Tlingit Council.

In parallel with the completion of the first four, a model self-government agreement was negotiated by the parties, and agreement was reached in November of 1991. This model serves as a framework for the finalization of First Nations self-government agreements, and the four First Nations that have concluded final agreements have also concluded their self-government agreements.

The outstanding issue is the completion of the implementation plans, which are presently being negotiated by an implementation working group, which is made up of representatives of CYI, the two governments and representatives from the four First Nations. The working group essentially takes the finalized agreements and translates them into operational plans to give effect to the agreements. The implementation plans also set out the amount of money that will be paid by the federal government to First Nations and the Yukon government to implement these agreements.

The land claim final agreements are protected by section 35 of the Constitution, and land claim agreements will essentially be treated as treaties with constitutional protection.

Some of the key elements in the final agreements are that the agreements provide for an exchange of rights between governments and First Nations that will compensate First Nations for relinquishing their outstanding claim to title on all the lands in the territory and will provide government with certainty over ownership and management of the lands that have been surrendered by the First Nations.

The umbrella final agreement provides for monetary compensation for what is being given up. The financial compensation is

\$242.6 million in 1990 dollars, and the money will be divided among the 14 First Nations and will be paid out over 15 years. The compensation package also provides for a \$25 million buy-out of the tax-exempt status of Yukon Indian people.

The claim also sets out a process to define who is eligible to be a beneficiary of the claim and which First Nations are involved. The agreement sets out the amount of land retained by First Nations. There is a total of 16,000 square miles in land, which is divided into 10,000 square miles of category A lands, which have title to the surface and subsurface, and 6,000 square miles of category B lands, which is surface title only. There is also a small amount of fee simple lands, which are primarily small parcels within municipal boundaries.

There is an additional 60 square miles of land available for selection in lieu of existing reserves and land set aside, and aboriginal title will be retained on both category A and B lands.

This is the only claim in Canada to date that permits aboriginal title to be retained on settlement lands. The agreement also makes provision for continued access to settlement lands and sets out a process to resolve any access-related disputes. Any conflicts between the use of the surface and the subsurface on category A lands will be referred to a surface rights board, which is also established through the claim.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. In each of the 14 traditional territories, there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and the territory-wide fish and wildlife management board on issues that range from fish and wildlife management within the traditional territory to forest management and to the establishment and management of special management areas.

These special management areas will be described in First Nations final agreements and will allow for the protection and management of critical areas that are important both to government and First Nations because of the special or distinctive wildlife, heritage or natural resource values. In the Teslin Tlingit final agreement, the Nisutlin Delta is a special management area.

The umbrella final agreement will also detail economic measures that may be available to First Nations and negotiated in final agreements. The agreements also provide details regarding taxation provisions on settlement lands. For example, there will be no taxes for unimproved rural settlement lands, and fee simple settlement lands are subject to taxation in the same manner as other fee simple lands throughout the territory.

There are also chapters on water management, forestry and heritage. The heritage chapter will provide for First Nation ownership and management of the Indian heritage resources directly related to the culture and history of the First Nation in question. The umbrella final agreement will also provide for the establishment of a training trust. A committee has been established to identify the training needs for First Nations to enable Yukon Indian people to meet the requirements of the claim.

In each First Nation final agreement, there are specific provisions for that First Nation. These provisions can include details relating to arrangements regarding access, heritage or special management areas that have been included as part of that final agreement. There is also a separate land chapter, or appendix, which sets out the descriptions of the parcels of settlement land, the amount of settlement land for that First Nation, and any details regarding the land, such as arrangements or exclusions made for third party interests, leases, easements, and that sort of thing.

The fish and wildlife chapter sets out the harvest allocation provisions for each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total

allowable harvest is required for conservation purposes. Both the Yukon First Nations and government recognize the importance of fish and wildlife to all Yukoners, and the agreements provide for the sharing of these resources.

Until a total allowable harvest needs to be established, each First Nation will continue to harvest within its traditional territory all species to meet their subsistence needs.

The umbrella final agreement commits governments to the negotiation of self-government arrangements with each First Nation. These agreements will not be constitutionally entrenched at this time, but both CYI and the Yukon government continue to lobby the federal government to change their policy.

Self-government allows the people of a First Nation to have control over their land and communities, and recognizes the authority of their own government structures. The model self-government agreement forms the basis for the specific self-government agreements with each First Nations. Self-government will apply on settlement land and to the beneficiaries, or citizens, of a First Nation.

These individual agreements allow for the establishment of First Nations governments, including models based on a clan system and the replacement of the band structures as they currently exist under the *Indian Act*. First Nations will have their own governmental procedures and constitutions, providing the ability to make their own bylaws and manage their own programs without the prior approval of Indian Affairs.

Self-government agreements will define the jurisdictional authority or powers that are available to First Nations, and the structures, provisions and powers of First Nations self-government agreements will be exercised within the context of the Canadian Constitution. Agreements are structured so that First Nations may take on responsibilities under their areas of jurisdiction in a flexible manner and according to the priorities set by each First Nation.

The federal laws are paramount over First Nations laws, unless the parties agree otherwise. Territorial and municipal laws stay in place until such time as a First Nation decides to enact a law. On community lands, each self-government agreement may differ slightly. Where there is no municipal government in place, such as in Old Crow, there is very little negotiated in this area. However, in Mayo, Haines Junction, and here in Teslin, there are provisions where there are limited self-government powers on some of the small parcels of land within municipal boundaries. The First Nation has agreed to limit its authority over zoning and bylaws, administration of justice, control of construction, et cetera. The list of powers that will not apply to these lands are listed at the back of each First Nations self-government agreement.

Another provision that applies to community land is compatible land use. Most of the problems we anticipate will happen as a result of self-government will be over land use, so there are provisions that encourage the parties to resolve the conflicts through consultation. It can then go to mediation, if necessary and, if all parties agree, the dispute can be referred to arbitration.

There are also provisions in the final agreement for local service agreements to be negotiated by the municipality and the First Nation. I believe here, in Teslin, some of those discussions are underway. The local service agreements are based on the cost of services being similar to people in similar situations. Generally, these agreements establish mechanisms for continuing relationships between First Nations governments and federal, territorial and municipal governments.

I am afraid this is just a brief overview of the final agreement and the self-government agreement. I think we can open for questions, at this time.

Hon. Mr. Devries: I would just like to remind you that, if

you ask a question, please give your name so that, when the transcripts are being prepared, we know who is speaking.

Ms. Armour: I cannot believe I answered all the questions.

Ken and Albert have not answered their fair share of questions today so, if you have any for CYI ...

Hon. Mr. Devries: It usually just takes one question to get the thing going.

Mr. Gerry Bruce: I am raising a question I know is coming up in meetings the band is involved in now. This is the issue of the impression of some people that there is almost like an open chequebook being left unsigned, at this stage, not because of what is in the agreement, but because a lot of people do not understand what is in the agreement. Could you comment on the whole issue of what it will cost, in the government's projection, to implement land claims, not only the immediate dollars that have already been mentioned, but over the next 10 years? Is there any indication of what that is going to cost the taxpayers of the Yukon?

Ms. Armour: At the moment, that whole issue is under negotiation. The federal government has made an offer to the First Nations and to the Yukon government. The Yukon government has not accepted the offer, as of yet. We are still reviewing, internally with the departments, and going through the obligations that are set out in the claim to determine what we think the claim will cost to implement and whether or not the monies that have been identified are adequate. It is safe to say that the money that has been identified by the federal government is not what the Yukon government had originally thought would be required to implement the claim. We do have a problem with the amount.

Ms. Jackie Bruce: Do I understand you to say that whomever negotiated on our behalf entered into a final agreement without knowing what it is going to cost us?

Ms. Armour: No, it is a federal obligation to pay for the obligations that are in the claim. It has always been part of the agreement that there has to be implementation plans attached, with the dollars set out. It is my understanding that it is the federal government's mandate that, what had originally been identified was in 1988 dollars, and that was prior to finalizing any of the agreements. Since then, the federal government has said it simply has no more money to put toward the claim at this time. So, the Yukon First Nations and the territorial government are presenting their arguments to the federal government as to why there should be more money allocated, or some sort of process where the implementation plans can be reviewed in years to come and additional dollars added.

It certainly was not the intention of any of the parties to negotiate a claim and then not provide adequate resources.

Ms. Bruce: I understand not providing adequate resources, but that is a different issue to knowing how much those adequate resources are going to cost.

Ms. Armour: It is difficult to determine exactly what the obligations of the claim will cost until the negotiations are complete and you have a final agreement. There has always been a ballpark figure but, when it comes down to actually costing it out, we feel it is going to cost more than what the federal government has identified.

Ms. Bruce: Is there any scenario whereby if the government runs out of money, and I understand the federal government is rapidly running out of money for anything — if that is to be believed — what happens to the agreement if it cannot be implemented because there is no money to do it? Do you not have any prioritizations of what is most important?

Ms. Armour: That is part of the implementation negotiations. Also, the money that the federal government has identified is protected dollars.

Hon. Mr. Devries: I see lots of puzzled looks on people's

faces, so I am sure you have some questions on your mind.

Ms. Bruce: With regard to land selection, I assume that once the final agreement is made and land selection is made, that is the end of it. Does that open up land for other uses immediately, or is there a waiting period? For example, Teslin has just signed its agreement, and I assume that it includes its land selection; does that mean that, today, the land it has not selected is free for other uses?

Ms. Armour: No, I do not believe so. All the programs within both the federal and territorial governments continue to apply on land, whether it is agricultural, or rural-residential, or whatever. However, once the land selections are finalized, the maps go to Ottawa for order-in-council protection. I believe it would be after the federal government legislates the First Nations final agreement that there may be provisions for devolving land to the Yukon; but, it is after the federal government has finalized the agreements. The remaining land is still Crown land, other than what is involved in block land transfers to municipalities. All the existing programs continue, and have continued through the negotiations. There is consultation with First Nations on all land dispositions.

I am not sure what you are getting at. If it is whether or not the lands would be devolved to the territorial ...

Ms. Bruce: Once the land has been selected, if we want land, for whatever reason, we can then start hassling with the territorial or federal government, without them saying, I am sorry, we have to wait because there is still uncertainty, or something like this?

Ms. Armour: There would not be uncertainty over land selections, but there is still provision in the agreement for land use planning, and those kinds of things, where First Nations will continue to be involved in what happens to the lands that surround their settlement lands.

Ms. Bruce: I have no problem with that. I mean, we are sure now that they have the land; then we can argue over the rest.

Ms. Armour: Once the agreements go through federal legislation, then the agreements will be put in place.

Hon. Mr. Devries: Eventually, we will devolve lands to YTG, then you will not have to go through the two levels of government to get your land. That is basically block transfers, and some of those will be in areas of traditional lands, the way I understand it; Ken may want to correct me on that. Therefore, in the land use planning process, it still goes through several different agencies, and CYI, or the First Nation, will be one of those agencies. At least, initially when you apply for the land, they will be able to say yes, that land is not part of the land claim and is available, and it is worthwhile for you to pursue it.

Ms. Bruce: The First Nations will then have a say, as citizens of the Yukon, as one interested party?

Hon. Mr. Devries: That is correct.

Mr. Bruce Aylard: I am just wondering if you could expand a little bit on the special management areas. What exactly are they?

Ms. Armour: There is a provision in the final agreement where special management areas can be created, either at the time of a final agreement, or if the local renewable resource council recommends to government the establishment of a special management area in the future. They can be areas that are of historical significance, of critical wildlife habitat, or whatever. The Nisutlin Delta was created as a special management area in the Teslin agreement. Robert Lee, do you know the name of the special management area for the Nisutlin Delta? It is not a wildlife habitat area, but I am not sure.

Mr. Robert Lee Jackson: The area that we have selected is called the Nisutlin Wildlife Area.

Ms. Armour: It was selected primarily for the waterfowl habitat in the area. In the agreement, the special management area

agreements set up a process for joint planning between governments and the First Nation, and they will determine how the area should be managed. There is a process for ongoing reviews. In the Old Crow and the Na-Cho Ny'ak agreements, there were areas like Rampart House and the Lansing historic site that were created. The Champagne/Aishihik agreement has Dalton Post, the Kluane sanctuary, or the portion of it that is within Champagne/Aishihik's traditional territory. It sets out the involvement of government and First Nations in the management of the area.

Mr. Aylard: Does that mean that, at the time the land selection was made, that was included?

Ms. Armour: Not necessarily, and it is also not necessarily selected land. It can be land that is retained by government; it can be land where half is owned by the First Nation and half is owned by government, where the two have decided to combine their lands in a joint management regime; or it can be lands that are wholly owned by the First Nation. No additional settlement land will be created afterward, but the parties can recommend that an area is important and should have special management, and that can be done 10 years from now.

Mr. Ken Kane: We talked about land earlier. There is also going to be a registry of all the land here, as well as a central registry in Whitehorse. You can go in there and find out about a piece of land and find out about title. *(Inaudible)*

Ms. Armour: That is true.

Hon. Mr. Devries: When you speak, could you speak up a little bit, because I do not think they are catching it on the tape.

Ms. Armour: There will also be maps available locally with the First Nation, with the RMO, the conservation officer, mining recorder or whatever, that will show the final land selections, once they have been protected, so that residents will know what lands are part of the final agreement. You would know that ahead of time, before applying for land.

Mr. Brandy Greenwood: I would like to ask a few questions on self-government. Is the self-government agreement a separate agreement in addition to the umbrella final agreement?

Ms. Armour: Yes, it is. It is not constitutionally entrenched, so it is a separate agreement.

Mr. Greenwood: Has the Teslin Tlingit Council negotiated their agreement?

Ms. Armour: Yes, they have. It is finalized. Those agreements will be public soon. They are just being printed. Robert Lee, do you have your final agreements yet?

Mr. Jackson: Yes, we do.

Mr. Greenwood: Under your Indian self-government hearings, there is a chapter outlining principles for how government funding to support self-government will be negotiated. Could you just expand on that a little bit?

Ms. Armour: What do you think of the word no? That is part of the implementation planning. The implementation plans will set out the dollars that will be coming to each First Nation. There is also a process where First Nations can take on different powers as the years go on. They do not have to take on anything, or anything at any certain time.

At that time, the First Nations and whichever government is devolving the power will sit down and negotiate those funding arrangements as part of the transfer of the powers.

Mr. Greenwood: What is the Yukon government's part in this paperwork?

Ms. Armour: It is a federal responsibility to pay for self-government. However, if a First Nation is taking on child welfare, for example, they would notify government that is an area they are interested in taking over. It is assumed that it will take anywhere from six months to a year to sit down and negotiate how that transfer of power will work and for the dollars that government

currently spends on that program to be transferred to the First Nation.

The agreement sets out a list of the powers available to each First Nation. It does not clearly set out how the dollars will be allocated or negotiated. It depends on which program it is.

Mr. Greenwood: Where I would like you to be more specific is where the federal government takes the policy that they are not going provide funding; for example, that they should not be funding an Indian band ...*(Inaudible)* or specifically for a service that is being provided to a community by the Yukon government when the federal government is providing the Yukon government with the money to provide a service. Do you follow me?

How does the Yukon government plan to address that issue of double funding?

Ms. Armour: You mean what may be coming now to a municipality and also going to a First Nation? I am sorry, I am not sure I am clear on what you are saying.

Mr. Greenwood: For example, suppose the band decided it wanted to look after their own provision of health and social services. Currently, that is a Yukon government area. Through their funding, they supply the money to the community to provide health and social services, but the Yukon government gets that from the federal government. If an Indian band wants to provide that service, they make application to the federal government to provide that service. The federal government will be saying that they are not going to pay the Indian band directly to provide social services for 400 people and, at the same time, still provide that block of money for the same 400 people through YTG.

Ms. Armour: I do see what you mean. The First Nation has the ability to take on that funding to provide the service to their citizens.

Mr. Greenwood: It will be a plus or minus. The federal government gives it directly to a First Nation, and it will come, dollar for dollar, away from the territory.

Ms. Armour: Again, that is all part of the negotiations, but there would not be double funding. There can also be arrangements where the First Nation may enter into joint service agreements with the municipality or government to provide services for everyone in the community, rather than just their citizens, but that is all to be negotiated. The self-government agreement really just sets out the principles, and not the details.

Mr. Greenwood: So the self-government agreement sets out the principles.

Ms. Armour: Yes, but not the details. I can leave a copy of one of the finalized self-government agreements with you.

I am sorry I am not very clear on it. Self-government is not an area I deal with all the time. However, if there are particular questions, I can certainly get back to you on them, if I am unable to answer them.

Mr. Greenwood: It seems to me to be an area of specific concern to the community of Teslin. The municipal boundaries are relatively small with relation to the entire service area. I suppose that two-thirds of the service population is within municipal boundaries and, of those, half is part of the First Nation. The evolution of self-government in the community is going to have a fairly major impact on how the community grows.

Hon. Mr. Devries: The way I understand it is that it is not necessarily dollar for dollar. Naturally, if it was, you would still have that little bit of bureaucracy to maintain for the Village of Teslin, and you are going to have a new bureaucracy started to administer it within the First Nation. It is not necessarily that you will be taking one dollar away from the village. It is probably only going to be 50 cents. Overall, it is probably going to cost a little more, at least the way I understand the way governments operate. I do not think it is going to be any different. When you split

something up, it is never more efficient and generally costs more.

Ms. Armour: The First Nations will certainly take all that into consideration when they decide which powers and programs are most important for them to take on, and whether it is cost effective, because there is not unlimited resources.

Mr. Greenwood: I am curious about the sharing of resources in terms of what the potential impact will be.

Ms. Jackle Bruce: I was just reading about the resource royalty sharing. It says new revenues received by the Yukon government for any future onshore resource royalties will be shared: 50 percent of the first \$2 million go to the First Nations, and 10 percent of any additional royalties. Does that refer to royalties on onshore resources on settlement lands?

Ms. Armour: No. It is throughout the Yukon, not just on settlement lands.

Ms. Bruce: So, they receive 50 percent of the first \$2 million of royalties on onshore resources anywhere in the Yukon?

Ms. Armour: Yes, that is my understanding.

Ms. Bruce: Can you verbalize a justification for the 50 percent sharing of resources on non-settlement land, when I do not think the First Nations make up 50 percent of the population? Where is the rationale?

Ms. Armour: I cannot give you the rationale for it, other than that it was agreed to in the negotiations. It was not part of the negotiations I was part of. That was a provision in the agreement made quite some years ago. I do not know if you, Albert, are able to elaborate on it more. You were at the negotiations then.

Mr. Albert James: That agreement came out prior to any settlement costs, or anything like that, coming from the Council for Yukon Indians, or any other Yukon Indian body. They looked at the amount of revenue that was taken from the Yukon in terms of resources toward the federal government prior to settlement; after settlement, you get a piece of that, also.

Ms. Armour: So, it is looked at as part of the overall compensation.

Mr. James: Yes.

Mr. Ken Kane: Considering that the First Nations would get 50 percent of the first \$2 million, we will probably never reach \$2 million. Last year, the total royalties were -- what? -- \$3500?

Ms. Armour: It is not much.

Mr. Kane: It is not up to \$2 million; only when \$2 million is reached, do we get it.

Ms. Armour: Fifty percent.

Mr. Kane: Yes, so we will probably never get... *(Inaudible)*

Ms. Bruce: It says they will get 50 percent of the first \$2 million. So, you get 50 percent of anything up to the first \$2 million.

Mr. Kane: No, when it gets to \$2 million, we get 50 percent. It will probably never reach \$2 million.

Ms. Bruce: It does not read that way. I do not understand it.

Ms. Armour: Those are just summaries, and not the actual final agreements.

Hon. Mr. Devries: Once you get beyond \$2 million, like the proposed oil and gas accord, once you get to \$4 million, I believe it is only 10 or 20 percent of the next million.

Ms. Armour: It is 10 percent.

Hon. Mr. Devries: It decreases substantially from that point on. It is still open to negotiation, depending on whether it is on traditional land or not.

Ms. Armour: So, Ken, what you are saying is that you are not planning to retire on your royalties any time soon?

Mr. Kane: No.... *Inaudible.*

Hon. Mr. Devries: We will stop and have a coffee and come up with more questions. We will take five.

Break

Hon. Mr. Devries: Are there any further questions?

Ms. Bruce: I have a question and it should have been said right at the beginning. I do not know the purpose of this meeting. We are asking all these questions and even if we disagree, the agreements are made, and they are being signed, so what is the reason for this meeting?

Hon. Mr. Devries: The purpose of the meeting is to determine whether or not you approve of the overall agreements. We would go back to the Legislature and say the majority of the people seem to agree with what we have up to this point, and we are going to go with it.

Ms. Bruce: If there was a consistent disagreement on some particular aspect, you really would go back and--

Hon. Mr. Devries: We would then make a recommendation to the Legislature to change that portion of the bill or agreement.

Ms. Bruce: It would have to be pretty extreme disagreement.

Hon. Mr. Devries: Yes, we would have to be running into the same thing over and over. Basically, any situation a person comes up with, where there seems to be a problem, will still be looked at. There is still the possibility of changing the wording to clarify it, or something like that. Nothing is written in stone yet.

Ms. Bruce: Just concrete.

Mr. James: I have a difficulty when you say you can go in there and change the process, if you want to change the wording, or something like that. To my knowledge, the only way you can change it is with the agreement of the three parties.

Hon. Mr. Devries: Okay.

Mr. James: The CYI has already ratified the agreements, as they stand.

Hon. Mr. Devries: I think we all realize that. I would suspect that, if CYI saw a major problem with the wording somewhere, they would probably be willing to go back and take a look to see if it could be clarified, would they not?

Mr. James: To my knowledge, so far, we have not seen anything like that.

Hon. Mr. Devries: Okay.

Ms. Armour: My understanding is that it would be a recommendation to the Yukon negotiators to go back and see if the other parties would agree to an amendment.

Mr. Wilf Carter: This training that will be set up, is there any specific direction the training is going to take, or will that be determined?

Ms. Armour: The training committee will make that determination. I am not as clear on the committee as I should be, but my understanding is that it is a tripartite committee and they are working with the First Nations and with Yukon College, looking at what kind of training is required and what can be provided for First Nations.

Mr. Carter: Will that have any effect on the actual educational system in the Yukon right now? Will they be taking on some of their own education, or possibly their own schools?

Ms. Armour: Not through the training committee but, through the self-government, there is that ability. It depends upon whether or not there will be funding to do that. The training committee is strictly to identify the kind of skills that will be required to implement the claim.

Mr. Frank Saligo: Do you have any idea when they are going to have to start the development assessment board?

Ms. Armour: It has to be put in place two years after the effective date of settlement legislation. If settlement legislation were to go through the federal parliament this summer, then they have two years to establish the legislation and put the board in effect. Work has not begun on it yet.

Mr. Saligo: Would all the nations of the Yukon have to sign it first before we start the board?

Ms. Armour: No, it can be put into place with the first agreement. However, they will then work on interim measures that the parties would use until the legislation came into effect. They have two years from settlement legislation to do the legislation.

Mr. Gerry Bruce: The understanding that most people have is that this is supposed to be a final agreement, but it really is not a final agreement, because there are a lot of other things to negotiate once this is put into legislation.

Ms. Armour: There are not a lot of things to negotiate. There will be ongoing negotiations for self-government.

Mr. Bruce: One specific question that has come up is the understanding that, if the first four First Nations that negotiate have a certain package, that for them is final, then band number six comes along and gets an advantage, then that advantage is available to all the bands that have negotiated ahead of time, right down to the last band. Can you explain how that works?

Ms. Armour: If there are provisions in the self-government agreements, something that we had not anticipated in the first four agreements, then it has been referred to as the most favoured nation clause, and those provisions would then be looked at in the other agreements that have been completed to see whether or not those agreements need to be amended.

Ms. Bruce: Just for self-government?

Ms. Armour: That is right. There is no clause like that in the umbrella final agreement. It is in the self-government agreement.

Mr. Bruce: It is a fairness clause.

Ms. Armour: Yes. It may be something we did not anticipate in the first half-dozen agreements.

Ms. Bruce: I heard a lawyer say, after this agreement, there were 33 other different types of agreements that had to be gone through.

Ms. Armour: It sounds like a lawyer looking for work. I am sorry, but I have never heard that.

Mr. Bruce: There is a framework here, and there are a lot of other agreements that will follow.

Mr. Sallgo: How soon after this is signed with the First Nations... the first four or the whole Yukon ... water management *(Inaudible)*.

Ms. Armour: I am sorry. Could you please repeat the question?

Mr. Sallgo: Will they be implemented after the first four are signed?

Ms. Armour: There would be a new water board that would be established that is in compliance with the water chapter. The provisions of the chapter on water management would only apply to those First Nations that have final agreements.

So, if Ross River, for instance, does not have a final agreement, whatever the laws of general application are now would still apply to water. With Teslin, once their agreement is in place, it would be the provisions of the final agreement.

Mr. Sallgo: Just within their area?

Ms. Armour: Within their traditional territory.

Mr. Sallgo: Just on their settlement lands?

Ms. Armour: No, my understanding is that it would apply within the traditional territory. A lot of the provisions in the agreement apply on a territory-wide basis and a traditional territory basis, not just to settlement lands.

Hon. Mr. Devries: Are there any further questions?

I would like to thank everybody for coming out. If you have any further questions as you review the summary, on page three you will see a list of addresses and phone numbers. You may use the government's toll free number to access these. If you have a question, they should be able to answer it there. If they cannot, we want to know about it.

I am sure there will be interesting times ahead, as Teslin settles

their claim and we get these first four claims ratified. We hope they can all live together, and everybody will benefit.

Meeting adjourned at 8:45 p.m.



Special Committee on Land Claims and Self-Government

28th Legislature

Number 18

Official Transcript

**Monday, March 1, 1993
2:10 p.m. to 2:55 p.m.**

**Community Hall
Old Crow, Yukon**



PRINTED ON RECYCLED PAPER

**SPECIAL COMMITTEE
ON
LAND CLAIMS AND SELF-GOVERNMENT**

The Special Committee on Land Claims and Self-Government was created by the following motion of the Yukon Legislative Assembly on December 16, 1992:

THAT a Special Committee on Land Claims and Self-Government be established;

THAT the Committee be comprised of seven members of the Legislative Assembly;

THAT Hon. John Ostashek be the Chair of the Committee;

THAT the remaining six members of the Committee are as follows: three members appointed by the Government Leader, two members appointed by the Leader of the Official Opposition and the honourable Member for Riverside;

THAT Bill #2, entitled *An Act Approving Yukon Land Claim Final Agreements*, and Bill #3, entitled *First Nations (Yukon) Self-Government Act*, be referred to the Committee;

THAT individual Yukon Land Claim Final Agreements and Yukon First Nation Self-Government Agreements be transmitted to the Committee, subsequent to First Nations ratification, by the Government Leader tabling such agreements in the Legislative Assembly or, if the Legislative Assembly is not then sitting, by the Government Leader delivering such agreements to the Speaker who shall forward copies to all members of the Legislative Assembly;

THAT the Committee report to the Legislative Assembly no later than the fifth day of the next regular sitting of the Legislative Assembly:

- (a) its recommendation as to whether the Agreement referenced in Bill #2 and considered by the Committee should be accepted or rejected,
- (b) its recommendation as to whether the Self-Government Agreement referenced in Bill #3, and considered by the Committee should be accepted or rejected,
- (c) its findings, if any, relating to the subject matter of Bill #2 and Bill #3, and
- (d) its recommendations, if any, for amendments to the clauses of Bill #2 and Bill #3;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, at such time as the Committee has reported to the Legislative Assembly, Bill #2, Bill #3, any agreements considered by the Committee and the report of the Committee stand automatically referred to the Committee of the Whole;

THAT, during its review of Bill #2 and Bill #3, the Committee be empowered:

- (a) to send for officials from the Land Claims Secretariat of the Government of the Yukon to appear as witnesses on technical matters,
- (b) to invite such other persons as it deems necessary to appear as witnesses on technical matters,
- (c) to hold public hearings,
- (d) to create a sub-committee or sub-committees which can question witnesses, receive oral submissions and conduct public hearings but which cannot make decisions on behalf of the Committee, and
- (e) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

MEMBERS

Hon. John Ostashek (Chair) (Porter Creek North)
Jack Cable (Riverside)
Hon. John Devries (Watson Lake)
Hon. Mickey Fisher (Lake Laberge)
Danny Joe (Mayo-Tatchun)
Margaret Joe (Whitehorse Centre)
David Miller (Klondike)

STAFF

Patrick Michael, Clerk of the Assembly
Missy Folwell, Deputy Clerk

Old Crow, Yukon
Monday, March 1, 1993

(Mrs. Frost provides introduction in Vuntut Gwich'in)

Prayer

Chair: Thank you for having such a large turnout for this select committee of the Legislature. It is really nice to see a lot of the people from the community come out to this. I am very happy to be back in Old Crow.

I understand that there are a couple of issues that the community would like to talk to me, as Government Leader, about, so once the land claims section of this is over, we will take away the microphones and the head table and Johnny Abel and I will discuss the issues that you want to discuss before we go back to Whitehorse this afternoon.

Again, I would like to thank all of you for coming out to this meeting. I would like to introduce the select committee to you. For the record, my name is John Ostashek and I am the chair of the committee. I represent the riding of Porter Creek North. With me are Jack Cable, MLA for Riverside. Next to Jack is Danny Joe, Member for Mayo-Tatchun. On my right is David Millar, Member for Klondike, and your own Johnny Abel is at the end of the table.

This committee was appointed by the Legislature last December. The bill approving the Yukon land claim final agreements and the *First Nations (Yukon) Self-Government Act* were referred to the committee, as were the agreements that were attached to them.

The committee's task is to seek input from Yukoners on this legislation and these agreements and to report its findings to the Assembly this spring.

The Yukon Legislative Assembly has given its approval in principle to the legislation. The Legislature expressed very clearly that it supported the settlement of Yukon land claims and self-government agreements.

We are here today as a committee of that Legislature to listen to your comments on land claims and self-government. With the help of the Yukon government land claims official, Karyn Armour, we will try to answer whatever questions you may have.

The settlement of land claims is very important to all Yukoners. It affects all of us directly, but I know that it probably affects the people of Old Crow the most. We must all work together over the coming years to be sure that the land claims benefit all Yukoners. A lot of effort will have to go into making the land claims work all across the Yukon with each First Nation. All of us, both native and non-native, will have to be patient. We will have to learn as we go along. Yes, we will make some mistakes, but we can learn from these mistakes and together we can make a stronger Yukon.

I hope that we can have a very informal discussion this afternoon, but as we are taping the proceedings of this meeting, prior to asking a question or making a comment, I would appreciate it if you would identify yourself so that when the people are transcribing the tapes they will know who make the statements.

Coffee is available. Help yourself at any time. As the meeting goes along, if you have a question, feel free to jump in at any time.

With that, I will ask Karyn to give a brief overview of the Yukon umbrella final agreement and the Vuntut Gwich'in self-government agreement.

Voice: Can we get an interpreter? Alice Frost works for YTG and she is willing to interpret.

Chair: Absolutely. Perhaps Alice would like to come up here.

Voice: Could she read from your notes?

Chair: Alice, do you want to come up and interpret?

Before Alice begins, I would like to make a couple of com-

ments. On behalf of the select committee, I would like to congratulate Allan Benjamin on his win and hope that he is feeling better in the near future.

Interpretation provided

Chair: I will now have Karyn give you a brief overview of the umbrella final agreement and the Vuntut Gwich'in self-government agreement.

Ms. Armour: Thank you, Mr. Ostashek.

As Mr. Ostashek indicated, we are in the last stages of the process to legislate final agreements. The legislation was originally introduced in the Yukon Legislature in June of 1992 with the Vuntut Gwich'in final agreements, and it was reintroduced in December 1992 with the Champagne/Ashihik agreement. We are hopeful that the legislation will be introduced in the federal Parliament early this summer.

The land claims process began 20 years ago with the presentation in Ottawa of the claim *Together Today for our Children Tomorrow*. The Yukon comprehensive claim was one of the first to be filed with Canada after the 1973 acknowledgement of the federal government that outstanding claims issues remain to be resolved.

Negotiations continued during the 1970s as the federal government reexamined its claims policy. The early negotiations were bilateral between the federal government and the Council for Yukon Indians, which had become the negotiating organization for Yukon First Nations. In 1978, the Yukon became a party to the negotiations. Between 1980 and 1984, there was much work done by negotiators on an agreement in principle. The completed document was rejected by the leadership of CYI. In 1985, the process began again, and in 1987, the federal government produced a new comprehensive claims policy that enabled the negotiators to craft a master framework agreement for the Yukon that would be sensitive to the needs of different First Nations communities. This agreement, or AIP, was reached in November 1988, and between 1989 and 1990, the three parties used this agreement as the basis for negotiating the umbrella final agreement, which was completed in March of 1990.

The umbrella final agreement sets out provisions for the comprehensive claim in the Yukon. It took another year or so to complete the legal drafting and to finalize the text. During this period, the community negotiations resumed and, between 1991 and 1992, the first four of the 14 First Nation final agreements were concluded with the Vuntut Gwich'in final agreement, the First Nation of Na-Cho Ny'ak Dun, the Champagne/Aishihik First Nations and the Teslin Tlingit Council.

In parallel with the completion of the first four, a model self-government agreement was also negotiated by the parties and an agreement was reached in November of 1991. This model serves as a framework for the finalization of the First Nations self-government agreements, and the four First Nations that have completed their final agreements have also concluded their self-government agreements.

The outstanding issue is the completion of the implementation plans that are being negotiated presently be an implementation working group, which is made up of representatives of CYI, the governments and representatives of the first four First Nations.

The implementation plans will set out the amount of dollars that will be paid by the federal government, the First Nations and the Yukon government to implement these agreements. The land claims final agreements are protected by section 35 of the Constitution, and the agreements will essentially be treated as treaties with constitutional protection. Some of the key elements of the agreements are that they provide for an exchange of rights between

governments and First Nations that will compensate First Nations for relinquishing their outstanding claim to title on all the lands in the territory and will provide government with certainty over ownership and management of the lands that have been surrendered by First Nations.

The agreement also sets out a process that defines who is eligible to be a beneficiary of the claim in which First Nations are involved. It sets out the monetary compensation for what is being given up. The financial compensation is \$242.6 million, in 1990 dollars. The money will be divided among the 14 First Nations and paid out over 15 years.

The agreements also set out the amount of land retained by each First Nation. There is a total of 16,000 square miles of settlement land, which is divided into 10,000 square miles of category A lands, which includes title to the surface and subsurface, and 6,000 square miles of category B lands, which includes surface title only. All of the lands in Old Crow are category A lands.

Aboriginal title will be retained on both category A and category B lands. This is the only claim in Canada, to date, that permits aboriginal title to be retained.

The umbrella final agreement also details the involvement of First Nations with government in the management of natural resources. A variety of boards and committees will be established that will allow for First Nation representation in management decisions and will provide advice to the Minister responsible and the First Nation. There will be boards established for the management of fish and wildlife, and in each traditional territory, there will be provisions to establish a local renewable resource council that will provide advice to Ministers, First Nations and the territory-wide fish and wildlife management board on issues that range from fish and wildlife management within the traditional territory to forest management and the establishment of special management areas.

The special management areas will be described in each First Nation final agreement and will allow for the protection and management of critical areas that are important both to government and to the First Nations because of their special or distinctive wildlife heritage or natural resource values.

I am sure you are familiar with the special management areas here; I believe they are Rampart House, Lapierre House, Bear Cave, or the fishing branch region, the Old Crow Flats and the Vuntut National Park.

The umbrella final agreement also details economic measures that may be available to First Nations and negotiated in final agreements. The intent of these measures is to allow for First Nation participation in the economic activities in the Yukon.

There are also chapters on water management, forestry, taxation and heritage. The heritage chapter provides for First Nation ownership and management of the Indian heritage resources directly related to the culture and history of the First Nation.

The fish and wildlife chapter will set out the harvest allocation provisions for each First Nation. These provisions would apply only when harvesting of wildlife species is restricted and a total allowable harvest is required for conservation purposes.

The agreement also commits governments to negotiate self-government agreements with each First Nation, and these agreements will not be constitutionally entrenched at this time, but both CYI and the Yukon government continue to lobby the federal government to change their policy. Self-government will allow the people of a First Nation to have control over their land and communities and recognizes the authority of their own government structures.

Self-government applies on settlement land and to beneficiaries or citizens of a First Nation. Self-government agreements will also define the jurisdiction of powers that are available

to each First Nation. The structure provisions and powers of First Nation self-government agreements will be exercised within the context of the Canadian Constitution.

Federal laws are paramount over First Nation laws, unless the parties agree otherwise, and territorial and municipal laws stay in place until such time as the First Nation decides to enact a law.

Generally, the agreements establish mechanisms for continuing relationships between First Nation governments and federal and territorial governments.

This is a very brief overview of self-government and the First Nation final agreements. I am open to questions, and if I am not able to answer them, possibly I will call upon Stanley who will be able to help.

Chair: Thank you, Karyn. You have had a very brief overview and we will now listen to your comments and answer any questions you may have pertaining the land claims or self-government agreements.

Would you like to interpret that, Alice?

Interpretation provided

Chair: Thank you, Alice. As I said earlier, ladies and gentlemen, that is a brief overview of the land claims. We will listen to any comments or questions you may have pertaining to the land claim or self-government.

Robert, do you have anything you would like to say?

Mr. Robert Bruce, Jr.: Thank you. Mr. Ostashek. I welcome you to Old Crow. My name is Chief Robert Bruce. I welcome you and your staff to Old Crow and hope you enjoyed your walk this afternoon. Thank you for bringing me up on the charter flight and for inviting me to your meeting.

I have talked to you about implementation. I will read it out as it is written. I will give you a copy later.

1. This question deals with implementation and negotiation, which are at the critical stage right now. There are time constraints that First Nations must work within. One of the problems that has slowed the implementation process and left it much less defined is not knowing whether the Yukon government is willing to accept the implementation dollars that the federal government has offered. This has been unresolved for quite some time now and it leaves the whole implementation process hanging.

1. (a) Will the government resolve this funding disagreement so that settlement legislation may be introduced in Ottawa by April as the federal government wishes to do?

(b) Our understanding is that the Yukon government is redrafting a new budget for implementation costs. Where is this at?

(c) If the Yukon government is unable to accept the offer from the federal government, will it pull out of the talks?

(d) Mr. Ostashek, you have stated publicly that you want legislation through the Legislature by spring. How will this be possible if the Yukon government and the federal government cannot agree?

2. How much of a priority is the settlement of land claims with the Yukon government? We realize that after the election the new government introduced the legislation into the House before Christmas. Still, we are looking for another sign from you as there have been concerns on this issue of commitment.

3. This question has to do with the self-government agreement that Yukon First Nations are negotiating. We understand that you have had some concerns with this agreement.

(a) What is of particular concern to you?

(b) Does the Yukon government support the full content of the self-government agreement? Do you support the powers and authorities that First Nations will have to govern themselves rather than the territorial government?

4. (a) This question concerns devolution. How do you define the word "devolution", Mr. Ostashek?

(b) We would like to know whether the Yukon government supports First Nations in taking over programs in the future.

(c) Do you support the bilateral process toward devolution from DIA to First Nations?

6. The Minister of Education, Doug Phillips, has made statements to the effect that it is important to focus on the basis of the education system. We are concerned that such a position might lead to cutbacks in cross-cultural programs and special training programs, as well as specified programs for native people. This is all relevant to the land claims process, as we are dependent upon a supportive education system in order for us to properly implement the agreement by our own people.

(a) Will there be cutbacks of such programs in the upcoming budget?

(b) What support can we expect in the upcoming budget for our education needs?

Regarding ratification, at this stage we want the Yukon government to know that we are prepared to set a date for the ratification vote. That date will be set once the chief and council meet on the matter.

That concludes my statement on land claim and ratification, but, as you stated, later on, I have some more things to talk to you about. One is about the natural gas pipeline and the other is on the Bonnet Lake issue. I will conclude for now and I will talk to you and Johnny on this issue. If any concerns or question arise, our negotiator, Stanley Njootli, will forward them to you.

Chair: I understand your concern, Chief Bruce, but I want to make it clear that this committee is to deal with the legislation that is in front of us. All of the questions you have put here are directed to me as Government Leader. I will discuss some of those with you later, and, because of the depth of the questions you have, I will have to provide you with a written reply.

Are there any further questions that pertain the land claims agreement or the Vuntut Gwich'in self-government agreement?

Mr. Colin Beairsto: My name is Colin Beairsto. I have three related questions. The first one is: are there any further public meetings planned for this committee after this one? The second one is: have any major concerns been raised in the meetings you have had to date regarding the basic agreements that have been reached? The third one is: what exactly is the legislative procedure that follows the completion of your committee's meetings?

Chair: Thank you. This is the last meeting of the select committee. After this, the select committee will be putting its report together based on what came out of all the meetings in all the communities and presenting it to the Legislature no later than the fifth day of sitting of the Legislature at the spring session.

To my knowledge, and in meetings I have attended and the reports I have had from the other meeting, there have been no major obstacles or concerns raised regarding the umbrella final agreement or the self-government agreements. I do not believe the committee will have much difficulty putting together a favourable report.

Mr. Colin Beairsto: Or to the band final agreement?

Chair: Yes, that is right.

The third part of your question was that this legislation will be going to the spring session of the Legislature. It went through two readings in the Legislature in December. It will be coming back in for third reading once the report of the select committee has been brought forward. It will then be ratified and put into law.

Mr. Robert Bruce, Jr.: I just have one question. It is not related to the land claim. Those boys out there wanted to use your plane to go hunting caribou. Is that okay?

Chair: They will have to charter it from Alkan Air.

Mr. Stanley Njootli: Did you get a copy of this?

Chair: Yes.

Mr. Stanley Njootli: Can you answer some of the questions in there?

Chair: I can talk about the implementation here if you want, but we can talk at the meeting afterwards. You are questioning the government on implementation, and this committee is not dealing with that. That is directly related to the government.

Mr. Stanley Njootli: I do not have questions.

This claim is a very comprehensive claim and these are political agreements so the reflection of any kind of project or any kind of activity in our traditional territory has adverse effect on our agreements because they are political. Because they are political, the mandate of your legislative committee is not restricted to dealing directly with how agreements can be legislated but contents of these agreements should be discussed and how we are going to proceed with these agreements. It is not as if the public has any direct input into this; it is the people who you are going to deal directly with as partners in the future. There are direct questions in here as to how you, as Government Leader, will deal with these issues.

We are on chapter 28 right now. We are almost finished that agreement. We are almost finished and we want to ratify it. After 20 years, there is no doubt; it is not a mystery any more. We want to get some things within this implementation before we ratify it. It is a process, but we need some commitment from you in order to get this implementation completed.

The other one is the content of the self-government agreement. It states that we will have some laws that are paramount to your government and we will have some authority over ourselves in terms of our self-government. The question is: do you agree with that so we can finish this political agreement?

Chair: Certainly, if we were not agreeing with it, we could not put it through the Legislature as a government. We presented them to the Legislature in the package that was brought forward. They were signed off and it is not our intention to open them up, so once those are ratified and passed into law, we have to follow what is in those agreements.

Mr. Stanley Njootli: Exactly, John. You are the Legislature and we are the people you are dealing with directly so we can be affected by what is political. It is political.

There are some things happening within our traditional territory that we should have direct input into in order to have a good political will and a good partnership with your government, so we can get this settled so our concerns can be met so we can get this agreement implemented. We are having some problems getting these agreements implemented. We are having some difficulties. There are some projects taking place and we have to have input into those projects and we have not been treated fairly by your government so we need more communication. We need to talk more and we need better treatment from your government. That is not too much to ask for.

Chair: I think the issues you are referring to are ones we will be discussing after this meeting.

Mr. Stanley Njootli: These are things that are reflected in the agreements themselves. How are we going to get these implemented if we do not deal with those matters?

Ms. Armour: Stanley, the YTG negotiators are attending the implementation negotiations and are certainly working toward meeting all the time lines. I do not think we have said anywhere that we are not working toward meeting the time lines.

Mr. Stanley Njootli: After this meeting, you will have a meeting on these matters?

Chair: Yes. I will talk to you about those things as a government. This meeting is with a committee of the Legislature that is

dealing with this legislation. The issues you are asking me about are directly between us as a government and you as a First Nation.

Mr. Stanley Njootli: You are dealing with it as if it is cut and dried.

Chair: No, this is a committee of the Legislature.

Mr. Stanley Njootli: I understand that it is a legislative committee.

Chair: I am prepared to meet with you after this meeting to discuss those issues that you want to raise.

Ms. Armour: You just have to wait five minutes for the answer.

Mr. Stanley Njootli: Okay. It is just that we want to finish off these agreements and that is why I ask the questions.

Chair: Are there any other questions pertaining to the agreements?

Mrs. Alice Frost: I do have a question. I have also been involved in land claims before the new government was elected. The question I would like to ask you is: are you supporting our settlement? Are you willing to support us in settling our land claim soon, because it has gone on for 20 years that the people of Old Crow have participated in negotiations. I heard on the radio that you were not satisfied with the funding from the government and you are asking for more funding. How long is that going to take? We want to settle it quickly and be done with it and get on with our lives. Like you said, "Together Today for our Children Tomorrow". Many of the elders who participated in the negotiating for this community have passed on. Are you willing to support us in settling this just settlement?

Chair: I certainly am. I have said that at every meeting. We are not the ones who are holding up the process. There are still more agreements to be ratified before you can take them to the federal cabinet. By the time those agreements are ratified, the territorial government will be in a position for you take them to the federal cabinet. We have made that commitment.

Mrs. Alice Frost: All we need to do is ratify them.

Chair: Mr. Siddon said he wanted at least three agreements ratified before he would take them to the federal cabinet. In the meantime, our negotiators are working on the implementation agreements. We are trying to cost them. We have said there is not enough money and so has CYI said that there is not enough money. If they are prepared to work within the total money we are getting, then we are prepared to sign the land claim. It is not our intention to hold up the land claims process.

If there are no more questions we will take a five minute break, after which I and Mr. Abel will sit with you for more talk as a government.

Committee adjourned at 2:55 p.m.

