



REPORT OF THE
PANEL OF PUBLIC ENQUIRY
INTO
NORTHERN HYDRO DEVELOPMENT

Appointed By
THE INTERCHURCH TASK FORCE ON NORTHERN FLOODING

Jack M. K. 1976

TABLE OF CONTENTS

Introduction	ii
CRITERIA FOR DOCUMENTARY SUBMISSIONS AND FORMAT OF PUBLIC HEARINGS	iv
AIMS OF THE PANEL OF PUBLIC ENQUIRY	vi
REPORT OF THE PANEL OF PUBLIC ENQUIRY	1

Appendices

I. Speech of Mr. Cass Booy	76.
II. Statement of Theological Colloquium	83.
III. Dissenting Comment on Final Report	86.

MY SON

May your spirit be as free
as a northern water-way.
May your path be as true
as a mighty river's flow.
May your judgements be clear
as the lakes they make.
May your courage know the magnitude
of the oceans they seek.
And may your soul always be serene
as the river at night.
But especially, my son,
in your dealings
with your fellow man
may your word be good
as a river
who's heart is free.

Jim A. Nicholas
April 14, 1976
Nelson House.

INTRODUCTION

Back in the early Fall of 1973, at the request of some residents of South Indian Lake, an informal meeting of Southern Manitoba clergy was convened. Our purpose was to see what role the Churches could play in actively supporting the people of that community who were to bear the brunt of the Lake Winnipeg, Churchill-Nelson Rivers Hydro-electric Project. But it was not long before we--who came to be known as the Interchurch Task Force on Northern Flooding--realized that the effects of the Project were not limited to South Indian Lake but would be felt by practically every community, both White and Native, along the total Project route.

June, 1974, found the Task Force in the thick of the struggle to obtain easy access to some 100 Government studies on the Project. In a press release, we stated the issue in this way:

"not simply that people have a right to plan their own futures, or that the public has a right to information, but that some people's futures have been planned in secret and these people, as well as the public at large, have a right to the details of all such plans. Manitoba Government and Manitoba Hydro have such plans that effect the futures of the eight Northern communities and are withholding this information."

Even when these studies did become available later that summer, it was with a note that they were "unofficial"; they really could not be used as reliable evidence of a Government position.

On April 3, 1975, the idea of citizen-called public hearings was conceived. It was at an all-day meeting held in Winnipeg. Present at this event, besides members of the Task Force, were such national Church representatives as the Most Rev. E. W. Scott, Primate of the Anglican Church; Rev. George Morrison, General Secretary of the United Church; Rev. W. Clarke MacDonald, Director of the Department of Mission in Canada of the United Church; Rev. Ross Nigh, Executive of the Mennonite Central Committee; Mr. Tony Clarke, Director of Social Action for the Canadian Catholic Conference of Bishops. Also present were representatives and legal counsel for the Northern Flood Committee; Mr. Brian Hartley, Executive Director of Policy Planning and Research, Federal Department of Indian and Northern Affairs; and other guests.

Besides some general information about citizen-called hearings held in Saskatchewan over the inland grain terminals and Ralph Nader's activities to the South, we had little to give us direction. We finally came up with two major resources:

Bertrand Russel's International War Crimes Tribunal (1966-67) and D. K. Ron's book A Public Citizen's Action Manual. The most gracious acceptance of Charles Rhodes Smith to chair our Panel of Public Enquiry lent us also several years of experience. Mr. Smith was a member of the Manitoba Legislature (1941-52); served on the Cabinet (1946-52) as Minister of Labour, Minister of Education, and Attorney General. In 1963 he entered the judiciary and later became Chief Justice of the Province of Manitoba. As the Panel members came on board and we hired a co-ordinator for their work, the Enquiry began to take its own shape. The final phase of this process--the handing in of Mr. Smith's report to the Task Force--occured on March 30, 1976.

We feel that despite the late date, we had to do what we did. As citizens of Manitoba, we were appalled by the process used by our provincial government in this Project to side-step public participation especially by the passing of Manitoba Regulation 207-72, under the Water Power Act.* We are sickened by the negligent manner in which the Federal Department of Indian Affairs carries out it's constitutional obligation under the Indian Act. And while Ottawa and Winnipeg play their football, the machines of Manitoba Hydro continue their relentless attack in the North.

All this, plus the demand of our Christian faith to each live our lives in justice despite the personal costs, has brought us to our present stance. We are certain that our willingness to continue acting together upon conclusions that we have made, fully cognizant of our limitations and the moral integrity we can draw from our faith, will work for the good.

April 12, 1976
Winnipeg

The Revs. M. Wiebe; I. Froese;
J. McLachlan; I. Macdonald;
R. Donnelly; B. Haverluck;
M. Wenstob; D. McMurtry;
A. Ferguson; B. Teixeira.

* This Regulation gave the Minister of Mines, Natural Resources and Environmental Management the right to issue licences simply by Order-in-Council without prior legal proceedings, involvement of the legislature, or any extensive publication.

CRITERIA FOR DOCUMENTARY
SUBMISSIONS
AND FORMAT OF PUBLIC HEARINGS

DATES FOR PUBLIC HEARINGS:

September 22, 23, 24, 1975 - Winnipeg
September 29, 1975 - Nelson House

TYPES OF REPRESENTATIONS

- A. Documentary: All documentary evidence shall be submitted to the Panel at least ten days prior to the date on which hearings commence, that is, September 12 for consideration at the Winnipeg hearings and September 19 for consideration at the Nelson House hearings. Two types of submissions are anticipated:
- (a) Informational - The weight afforded such submissions will rest with the Panel and its Chairman who will be guided by the nature of issues dealt with in the submission. Where points of controversy are raised it is expected that those submitting documents will attend the hearings to discuss their positions with the Panel and other persons present.
 - (b) Informational Material as Background to Oral Presentation It is expected that most participants who submit documentary evidence will adopt this course of action. Those so doing will be expected to answer questions from both the Panel and the public in attendance.
- B. Oral: All persons wishing to address the Panel will be expected to give notice of their intention at least ten days prior to the date of the hearings, that is, September 12 in Winnipeg and September 19 in Nelson House.

GUIDELINES FOR DOCUMENTARY SUBMISSIONS

It is expected that twelve copies of documentary submissions will be delivered to the Coordinator of the Panel ten days prior to the day of the relevant hearings.

All submissions will become public documents and will constitute appendices to the Final Report of the Panel of Enquiry.

Individuals or groups wishing to submit documentary evidence but who are without access to the means or facilities to duplicate their submission may wish to contact the Interchurch Task Force on Northern Flooding for advice and possible assistance.

ORAL SUBMISSIONS AT THE HEARINGS

The entire hearings will be recorded and transcripts prepared to become public documents as appendices to the Final Report of the Panel of Enquiry.

The Chairman of the Panel will determine the length of time available to those making submissions on the basis of relevancy to the issues under consideration by the Panel.

Questions from members of the Panel will be addressed directly to persons appearing before the Panel.

Questions from the public will be directed through the Chairman to those appearing before the Panel and their relevancy will be determined by the Chairman.

AIMS OF THE PANEL OF PUBLIC ENQUIRY

INTO

NORTHERN HYDRO DEVELOPMENT

This Panel of Public Enquiry has been invited by the Interchurch Task Force on Northern Flooding to address itself to the following questions:

Panel of Public Enquiry into Northern Hydro Development

"Aims and objectives: terms of reference"

1. What are the social and environmental costs of this project to the community as a whole? To whom will go the costs and to whom will go the benefits of this project?
2. Has there been a withholding of information for the purpose of proceeding with the least impediment? Has the information as to environmental and social impact, true economic cost and realistic electricity demands been made available for public scrutiny?
3. Have the people of the northern communities most immediately affected been duly consulted?
4. Has the severe social dislocation anticipated in the north been given its deserved priority by Manitoba Hydro and the Manitoba Government? Particularly has the Canadian stance of cultural pluralism been given sufficient consideration by Manitoba Hydro and the Manitoba Government in view of the unique but also realistically progressive forms of cultural continuity of the Indian and Metis peoples?
5. Does the plan involve the flooding of Treaty lands? If so, have the authorities followed a path which recognizes the rights of the communities affected?
6. What specific problems are seen to confront each community immediately affected by the project?
7. Does the publicized 1966 agreement between the Provincial and Federal governments give a mandate for the flooding of trapping, fishing and hunting areas, and for the interference with navigable waterways?

This Panel will examine all the evidence that may be placed before it by any source or party. The evidence may be oral, or in the form of documents. No evidence relevant to our purposes will be refused attention. No witness competent to testify about the issues with which our Enquiry is concerned will be denied a hearing. We invite the governments of Canada and Manitoba and Manitoba Hydro to present evidence or cause it to be presented, and to instruct their officials or representatives to appear and state their case. Our purpose is to answer the aforementioned questions. We sincerely hope that our efforts will contribute to a better understanding of the social and environmental costs of such projects.

REPORT OF THE PANEL APPOINTED BY THE
INTERCHURCH TASK FORCE TO HOLD HEARINGS
INTO THE IMPACT OF FLOODING OCCASIONED
BY MANITOBA HYDRO'S PROJECT TO DEVELOP
NELSON AND CHURCHILL RIVERS

INTRODUCTION

The Panel of Public Enquiry into Northern Hydro Development was created by the Interchurch Task Force on Northern Flooding, a group with representatives of four of the principal churches in Canada: Anglican, Mennonite, Roman Catholic and United, all of which have concerns about the welfare and livelihood of the people whom they serve in Northern Manitoba. These concerns, as they relate to Hydro development in Northern Manitoba, were given specificity in the form of seven questions to which the members of the Panel of Public Enquiry were invited to address themselves, through the medium of public hearings. These seven questions were expressed as follows:

1. What are the social and environmental costs of this project to the community as a whole? To whom will go the costs and to whom will go the benefits of this project?
2. Has there been a withholding of information for the purpose of proceeding with the least impediment? Has the information as to environmental and social impact, true economic cost and realistic electricity demands been made available for public scrutiny?
3. Have the people of the northern communities most immediately affected been duly consulted?
4. Has the severe social dislocation anticipated in the north been given its deserved priority by Manitoba Hydro and the Manitoba Government? Particularly has the Canadian stance of cultural pluralism been given sufficient consideration by Manitoba Hydro and the Manitoba Government in view of the unique but also realistically progressive forms of cultural continuity of the Indian and Metis peoples?
5. Does the plan involve the flooding of Treaty lands? If so, have the authorities followed a path which recognizes the rights of the communities affected?
6. What specific problems are seen to confront each community immediately affected by the project?
7. Does the publicized 1966 agreement between the Provincial and Federal Governments give a mandate for the flooding of trapping, fishing and hunting areas, and for the interference with navigable waterways?

Now, while this invitation was extended by the Task Force, the Panel, and the views expressed in its report, are completely independent of it. None of the members of the Panel are members of the Task Force.

Hearings were held in the morning, afternoon and evening, in Winnipeg on September 22nd, 23rd and 24th, 1975, and in Nelson House on September 29th, 1975. The hearings were well attended by the public and over fifty written submissions were presented to the Panel for its consideration. These submissions were filed as exhibits. As well, there were many oral presentations made and many questions asked of those making presentations. Not infrequently, those questions themselves became speeches or presentations, but they too were instructive from time to time. The presence of delegations and individuals from the native communities that will be affected by this project was most welcome and most instructive to the Panel. Without detracting from the high calibre of the many well-researched submissions that were made to the Panel, it was the sincerity of the native peoples in expressing their concerns about this project that enabled the Panel to come to grips with the difficult questions it had been asked to respond to.

As man after man, in Winnipeg and Nelson House, and there were many of them, together with several women, related things they had seen and opinions they had formed, there could be no doubt about the genuine deep-seated apprehension they felt about what lay ahead for their people and themselves. Their words were simple and often eloquent. The total effect greatly impressed the Panel.

At the outset it was necessary to recognize an apparent discrepancy between the enormity of the Panel's undertaking and the limitations of its enquiry. We were called upon to examine a highly complex engineering project, involving the diversion of a huge river, the regulation of a huge lake. We were asked to examine a northern lifestyle in which hunting, fishing and trapping are basic to the traditional way of life of the local people. We were asked to examine the growing demand for energy. Ultimately we undertook to examine the inter-relationships between these and other factors put before us. In short, we were to examine the problem in the context of the conflicting interests and the conflicting values that seem, inevitably, to accompany "development", wherever it occurs. All this we undertook to accomplish in four days of public hearings. It should therefore come as no surprise that in responding to the questions of our mandate, we have not come up with perfect or complete answers.

It is in order to say a word about the hearings themselves. In a letter to the Task Force, the Honourable Mr. Sidney Green stated,

"It would of course be wrong for any one in government to acknowledge that the prerogative of initiating public enquiries can be instituted other than through the democratic process, and in this connection I regard the Inter-Church Task Force's program as being in the nature of a mock parliament which I accordingly am willing to cooperate with insofar as it is feasible for me to do so."

The Panel does not accept Mr. Green's characterization of it as a "mock parliament". Granted, it did not have the authority to compel any person or government to act or refrain from acting on any recommendation it might make nor could it compel the attendance of any person at the hearings. Participants were not put under oath and there was no cross-examination, in a judicial sense, although both members of the Panel and the public were invited to address questions to those making presentations. Certainly our enquiry was not a judicial one. The Panel recognized that what it was involved in was a process, (a meeting, if you will, but a meeting open to the public) in which everyone concerned with the issues before the Panel was promised an opportunity to be present and to present themselves to the Panel. This process did not promise a full hearing of all the facts that might be related to the issues. It promised only a sincere effort on the part of the Panel to respond to the issues on the basis of the evidence presented to it. These limitations are reflected in the body of this report in the sense that there are many issues that the Panel was unable to examine, simply because the examination would require that the Panel ask questions of persons or agencies who chose not to attend the hearings. Notably, the Panel did not have the opportunity of asking questions of either Manitoba Hydro or the Federal Government. Nevertheless, while these limitations are reflected in the body of this report, a recognition of them also governed us in making the recommendations that we do.

If the Government of Manitoba had been willing to appoint a Board or Commission to inquire into the Nelson-Churchill Rivers project, including its impacts on people and the environment, the limitations affecting the work of this Panel would not have existed. A Board or Commission so appointed would have had the power to summon witnesses, to compel them to answer questions

and produce documents, and to punish for contempt anyone who did not comply.

OUTLINE OF HYDRO ELECTRIC DEVELOPMENT IN MANITOBA,
TO THE NELSON RIVER - CHURCHILL RIVER DIVERSION

From early in this century, when the Winnipeg Electric Street Railway Company, later the Winnipeg Electric Company, built the first generating plant in the Pinawa Channel of the Winnipeg River, electric power development and use in Manitoba have grown at a steady and even remarkable rate. Power demand has doubled every seven to ten years, with only a slight slowdown in the early years of the great depression of the Thirties. In 1952, the Provincial legislature enacted legislation under which the government acquired the Winnipeg Electric Company. By that time the company had built two larger plants on the Winnipeg River, at Great Falls and Seven Sisters Falls, the latter coinciding with the abandonment of the Pinawa Plant. Winnipeg City's Hydro had also fully developed two plants at Point du Bois and Slave Falls. A fifth plant had been developed at Pine Falls, mainly for the use of the Pine Falls Paper mill. Only one site remained on the Winnipeg River, at McArthur Falls, and this was developed by Manitoba Hydro, beginning in 1953.

The total power developed on the Winnipeg River is in the neighborhood of 600,000 kilowatts. Till 1953 practically all the power produced in Manitoba came from this great river. However, the Government and Manitoba Hydro were planning ahead to meet the steadily growing demand. Two thermal plants using steam to produce electricity were built, one at Brandon. Shortly afterwards the first northern hydro plant was commenced at Grand Rapids on the Saskatchewan River. This was much the largest plant yet built in Manitoba, but it was only a fore-runner of much bigger things to come.

1. In two or three recent years there occurred a remarkable slowdown with an annual growth of one percent or less. We have not heard any adequate explanation of this circumstance. The fact that sandwiched between two of these almost static years there was a year of normal growth further precludes any feeling of certainty or even probability that the period of steady strong growth of some seventy years is about to end. (See Exhibit 53: "The Rate of Growth of Manitoba Demand for Electricity" by Kenneth M. Narvey.)

Attention now turned to the great northern rivers, particularly the Nelson. Manitoba Hydro engineers studied the problem of how the enormous power potential of the Nelson and the Churchill could best be harnessed. Their purpose was to find the plan of development that would generate the most power from the two rivers at the lowest cost. Prior to 1966 they concluded that the best results from Hydro's point of view would be obtained by diverting most of the water in the Churchill into the Nelson, and that the best plan for the diversion would be to raise the level of Southern Indian Lake (through which the Churchill passes) sufficiently high that by building a dam and control structures to cut off 75 to 80 per cent of the water from flowing out of the eastern end of the lake downstream from Missi Falls, and by excavating a channel from South Bay to Issett Lake a very large volume of water would flow by gravity to Issett Lake and thence down the Rat River and Burntwood River to join the Nelson at Split Lake.

In late 1966 an agreement (part of Exhibit 7 at the Panel hearings) was made between the Governments of Canada and Manitoba to develop the power potential of the two rivers in accordance with the foregoing plan. The Federal Government agreed to provide the long transmission line required to carry the prospective enormous loads of power from ten proposed power sites on the diversion channel and lower Nelson to the populous areas of Southern Manitoba. Manitoba's government undertook responsibility for all the balance of the huge project, including control structures, dams and power plants.

Up to this time, so far as the evidence before the Panel discloses, there had been no discussions by either government or by Manitoba Hydro with Indian communities or other groups that might be affected adversely by the project. This was both surprising to learn and extremely unfortunate. The surprise was particularly sharp because, when the Grand Rapids plant was under construction, a whole community of Indians whose lands were to be flooded, were forced to move to another location. The moving and construction costs were paid by Hydro, but the Indian people affected were, and still are, bitter at being compelled to give up their long-established home area and settle in a new area which turned out to be far less satisfactory to them than the old, from a hunting, fishing and trapping point of view, and in which they considered living accommodations to be poor.

Naturally, when they heard of the huge new project for diversion of a great river and the erection of dams and power sites, the whole involving the flooding of large areas of land, including land forming part of and in the immediate vicinity of Indian

Reserves, the Indian people were confused, perturbed and angered. They had little information on which to estimate just what the impact of the project on their communities might be, or how seriously it would disrupt the whole way of life of at least five of those communities comprising in all over seven thousand persons. They did know that the project would affect a large part of northern Manitoba, in which several Indian communities were located, and that some of these communities would be or might be flooded. For example, under the project as originally designed, the level of Southern Indian Lake was to be raised some 35 feet. This would have almost doubled the surface area of the lake and flooded the community of South Indian Lake. This community is not situated on Indian Reserve land, but has been in existence for many years, during most of which, it has been reported to the Panel, as being the most economically viable Indian community in northern Manitoba.

Ecologists and environmentalists, as well as many groups who were interested in the wellbeing of Manitoba's Indian and Metis people, expressed great concern about the consequences that might be expected to flow from the implementation of the vast project. It became one of the chief issues in the provincial election of 1969, the New Democratic Party being particularly critical of it. After the election the N.D.P. formed the government and instituted a review of the whole project with a view to reducing if not eliminating the most feared results. It was found that by building control structures and new channels at the outlet from Lake Winnipeg into the Nelson River, the flow of water from the lake could be regulated so as to ensure a much higher minimum flow than had occurred in the past during seasonal periods when the lake level had usually been low. This would render it unnecessary to raise Southern Indian Lake by 35 feet. This high level had been designed so that if necessary as much as 55,000 cubic feet of water per second could be released for short periods of time down the Rat and Burntwood Rivers to the Nelson, using the water accumulated in Southern Indian Lake at this high level. By draining more water out of Lake Winnipeg at the appropriate times, not more than 30,000 cubic feet per second should ever be needed from Southern Indian Lake. Raising the level of Southern Indian Lake by not more than 10 feet would accomplish this end. The increase in the surface area of the lake would also be reduced to 172 square miles. Plans were altered accordingly and construction proceeded.

The dam and other control structures at Missi Falls have been completed and also those at South Bay. It had been expected that water would begin to flow from South Bay down the Rat

River by October or November of 1975, but rock and other problems in constructing the channel to Issett Lake have delayed matters considerably, possibly for more than a year. Meanwhile the dam at Notigi has been built and water is rising in the forebay behind it. Ultimately the plan calls for this forebay to fill and expand into a very long lake stretching all the way back to South Bay on Southern Indian Lake. If and when this has occurred the water immediately behind the Notigi dam will be about 50 feet higher than in its natural state, with flooding on both sides of the river, extending over about 100,000 acres of land.

The giant dimension of the whole Nelson-Churchill project is seen in the fact that when completed, probably in the last decade of the century, fourteen power generating plants will have been erected, four of them in the diversion channel and ten on the Nelson. Two of those on the Nelson have now been completed, one at Kelsey, upstream from the point where the Burntwood River joins the Nelson, the other, the largest in the entire system, at Kettle on the lower Nelson. Two others, at Jenpeg and Long Spruce, are under construction. Thus, while criticism of and opposition to the project have been growing, Hydro has been proceeding with it as nearly as possible on schedule. If the full project is completed the 14 plants will produce over 8,000,000 kilowatts of power, or four times as much as Manitoba was using as recently as two years ago.

In the intervening years between now and the year 2000, when it is estimated that Manitoba may need for the use of its own people all the power that can be produced on the Nelson-Churchill system, Hydro expects that there will be many years in which it has a substantial surplus of power available. Hydro proposes to sell the surplus outside Manitoba, chiefly in the United States, and by so doing to recoup a good part of the enormous capital cost of the development. From the point of view of Hydro economics this probably makes good sense, but whether it is wise for Manitoba to tie up two or three billion dollars, mostly borrowed, in one development, thereby limiting its borrowing powers for other purposes, is debatable. It just could become a case of having too many eggs in one basket for the overall good of the province.

Another question has arisen in connection with the export of power to the United States. From the evidence on the recent application by Hydro for an export license it appears that Hydro may have negotiated a price to Minnesota that was too low. At least, when the license was granted it was made subject to conditions, one of which was that Hydro renegotiate the price at

a level two-thirds higher than had been agreed to by Hydro and the importing company. Leaving aside the question whether the timing and skill of Hydro's negotiations were all that might be desired, the unanswered question that remains is: would the negotiated export price have produced, on any proper accounting basis, during the period of the contract net profits from the power exported, that would enable Hydro to recoup a substantial part of the capital cost of the whole Nelson-Churchill Rivers project? If not, Hydro's announced purpose in exporting power would not have been achieved.

Physical Effects of the Project

The physical effects of a project like this, stretching over many hundreds of miles of rivers and lakes and impounding great quantities of water behind dams at many points, are certain to be extensive, varied and serious. The Summary Report of the Study Board established under an agreement between the Governments of Canada and Manitoba in 1971, which report is dated April 30, 1975, and is Exhibit 1 in this Panel's hearings, contains a good description of the effects anticipated by the Study Board after completing a study of more than three years duration, during which the services of many experts from federal and provincial agencies, universities and consulting firms representing a variety of professional disciplines were utilized. The Report is admittedly not perfect. In fact, in a detailed critical review of it (Exhibit 4 in the Panel's hearings) prepared for The Northern Flood Committee by the Overview Planning Institute, a consulting service organization, it is stated to be quite inadequate in a number of areas and in many particular matters. It is, however, the only document we have that represents the results of a serious study of the whole problem. The report is supported by a number of technical reports prepared by the Board's experts and contained in some thirteen large volumes. We consider that what it says about the purely physical effects of the project is generally reliable, though sometimes understated.

The Report deals separately with the anticipated effects in the several areas of the project, viz:

1. The Lake Winnipeg area, affected by the regulation plan for that lake.
2. The Outlet Lakes north of Lake Winnipeg through which the Nelson River flows down to Split Lake.

3. The Diversion Route, from South Bay on Southern Indian Lake down the Rat and Burntwood Rivers to the junction of the Burntwood with the Nelson at Split Lake.
4. The Southern Indian Lake Area.
5. The Lower Churchill River, down to Hudson Bay.
6. The Lower Nelson River, from Split Lake to Hudson Bay.

Apart from the Lower Churchill River area, the physical effects of the project will be similar in character, but will vary considerably in degree. They will be due to the increase in the volume of water in each area and the levels of water in lakes and rivers. In the Lower Churchill area they will be due to the great reduction in the volume of water in the river.

It is not necessary in this report to set out in detail all the anticipated physical effects in each area, but some discussion of the more important effects is desirable because of their impact on people.

1. Regulation of Lake Winnipeg will result in smaller fluctuations in the lake level than formerly. The mean level will be about two-thirds of a foot higher than hitherto, but in periods of high water the level will be lower and in periods of low water it will be higher than under unregulated conditions. This should reduce anxieties such as those experienced by owners of summer cottages along the west shore of the south basin of the lake in flood years like 1950, 1966 and 1974. On the other hand shoreline erosion on both sides of the south basin, which has been going on for many years, is expected to increase for a period of years until the shore profile becomes adjusted to the higher lake level. This effect could be mitigated by erecting permanent dykes, a costly matter. It is further expected that the extensive marsh areas around the south end of the lake will become stagnant within a few years, resulting in serious reduction in wildfowl and muskrat populations in the area.

Fishing in the lake should not be affected and on the credit side navigation should be improved.

2. The project will produce a number of effects in the Outlet Lakes area north of Lake Winnipeg. In the first place some 23,000 acres of land will be flooded as the forebay above the Jenpeg generating station builds up. Hydro is clearing about 12,000 acres of timber, but the remainder will be left standing, to die and remain a problem for many years. Some 16,000,000

cubic feet of usable timber will be lost. Flooding in the west channel of the Nelson will probably eliminate muskrat and therefore mink in that area until new marshes form at the higher level. Beaver and lynx will also be affected. At Cross Lake the situation may be even worse, due to the intention of Hydro to reduce the outflow from Lake Winnipeg by about 35,000 cfs (cubic feet per second) for two or three weeks each November, and then increase it gradually to the normal rate by the end of December. During the cutback period the water in Cross Lake will drop a minimum of $2\frac{1}{2}$ feet to a maximum of 5 feet, with disastrous effects on aquatic fur-bearing animals, which could be permanent unless the lake level fluctuations are reduced. In the Cross Lake community four bridges, four causeways, four homes and from twenty to forty other buildings will be under water or threatened with flooding. At both Cross Lake and the area from Warren landing to Rossville and Norway House flooding will wipe out or seriously disrupt a great many traplines.

With these and other unpleasant things in prospect there is ample reason for the anger and consternation expressed by people from Cross Lake at the Panel's hearings.

3. Mention has already been made of the long lake that will be built up from Notigi to South Bay, with consequent flooding of about 100,000 acres of 158 square miles of land. Along the Rat and Burntwood Rivers downstream from Notigi the diversion of the Churchill will inundate another 70 square miles. But this is not the end of the flooding. As each of the generating plants is erected over the next 20 to 25 years it will require a forebay both for water storage and to obtain the highest feasible fall of water through the plant. For example, the construction of the other three plants on the diversion route will entail the flooding of another 172 square miles. The story will be similar for plants erected on the Nelson. A particular concern expressed to the Panel by Indians related to one of the last plants slated for erection, at Bladder Rapids. The Summary Report says nothing about the amount of land that will be flooded by the forebay for this plant, but Indians who spoke to us said the surrounding land in that area is quite low and expressed the fear that a very large area of land will be flooded if that plant is built. They were concerned that the flooding might extend as far upstream as the Cross Lake Reserve.

The heaviest losers along the Diversion Route will be the people of Nelson House. At present they are suffering from low water in Footprint and other nearby lakes, as water in the Rat River is held back by the Notigi dam. On the other hand their trappers and hunters are adversely affected by rising

water north of Notigi, which affects their traplines and covers the shoreline vegetation favored by moose. When the waters of Southern Indian Lake are turned loose down the Rat River the lake water will rise well above levels hitherto known. In times of ice jams it is expected to reach levels 28 to 30 feet above normal. If this happens, and it almost certainly will, Nelson House Community will become three islands in the lake. Hydro estimates some 2,000 acres of Indian Reserve land will be flooded, but our Indian spokesmen believe it will be about 4,000 acres.

Commercial fishing and even domestic fishing for family food will disappear for an indefinite period, both above and below Notigi, by reason of debris accumulating in the river. Fishing in the area around Nelson House will be severely limited, as will trapping.

Over the whole diversion route about 65,000,000 cubic feet of timber will be lost by flooding.

The City of Thompson on the Diversion Route, will suffer adverse effects to its water supply, recreation activities and transportation facilities. These problems are not insuperable, but the cost of their solution is not insignificant.

Nelson House is the only place in which a large area of Indian Reserve land will be flooded and this may be a convenient place to mention a legal question that was brought to our attention during the hearings. The question is not one for us to answer. It is whether the Province or Hydro has the right to flood Indian land under the Canada-Manitoba Agreement of 1966. The Agreement itself says nothing about Indian land. The Hon. Sidney Green, the only member of the Provincial Government who appeared before the Panel (he agreeing to come to answer questions) expressed the opinion that though under the relevant treaty (Treaty No. 5 made in September 1875 between Her Majesty the Queen and the Chiefs and Councillors of the Indian Bands concerned) portions of the lands reserved for the Indians, if required for public works or buildings, could be appropriated for that purpose by Her Majesty's Government of Canada, and though this provision gave no similar power to the Government of Manitoba, by the Agreement of 1966 between the Government of Canada and Manitoba, under the authority of which the Churchill-Nelson project is being carried on, the Government of Canada is implicitly bound to authorize the Government of Manitoba to flood such portions of Indian lands as may be required to carry out the project. This authorization could be given by Federal Order-in-Council. No such Order-in-Council

has been passed and so far as we could learn at the hearing there was no likelihood that one would be passed in the near future. Two experienced lawyers, who have acted for The Northern Flood Committee (composed of the chiefs of the five Indian communities affected by the project), both gave it as their opinion that unless and until such an Order-in-Council was passed, neither Manitoba nor its agent Manitoba Hydro, had any right to flood Indian land and if it did so it would be acting illegally. Further, a brief (part of Exhibit 7) submitted by the Federal Department of Indian Affairs and Northern Development to the Interchurch Task Force, together with a letter dated September 15, 1975, contains the following sentence:

"Canada's position is that the 1966 Agreement does not in any way give Manitoba the authority to flood Federal Reserve lands and that the Province must seek and obtain approval from the federal government before any flooding of such lands is legally permissible."

In our view this is a serious legal question which should have been cleared before any development was begun which would involve flooding Indian land, particularly since the Indian people have been very much concerned in recent years to prevent any interference with any of their rights. The failure to do so has contributed to the widely held view among the Indians that their rights have been infringed in an arbitrary fashion, without their consent or even adequate consultation.

4. Southern Indian Lake, prior to the inception of the Churchill diversion project, had a surface area of about 763 square miles. The lake is extremely irregular in shape, resulting in an enormous shoreline of about 2,280 miles. Raising the level of the lake by 10 feet will flood 110,000 acres (172 square miles) of land along this shoreline. Sixty percent of this flooded area is classed as productive forest land, but is regarded as being inaccessible. Where the shoreline consists of soil-covered bedrock it is expected to recover within 30 years, but beaches and marshes will never recover and large quantities of dead standing timber will be around for many years. Fallen timber and other floating debris will impede fishing and navigation.

Other diversion effects will include: submersion of low-lying islands and creation of new ones; faster shoreline erosion; increased sediment and nutrients in the water and changed ice-cover formation. In the northern section of the lake, where the water currents will be greatly reduced, the ice cover will be

even thicker than before diversion, but in the south, where the community of South Indian Lake is located on both sides of a channel, through which the great volume of water to be diverted to the Rat River will flow, the reverse will be true. The traditional winter crossings of the channel that have been regularly used by the members of the community, may become unsafe or even have no ice cover.

Since the hearing the Panel has been informed that Hydro has built a complete new village for the community, on higher ground, with better houses and facilities than the people have hitherto enjoyed, and that the first reactions of the Indian people have indicated reasonable satisfaction with their new quarters. It seems likely that the move to the new location will reduce the problem of winter channel crossings.

During the last few weeks it has been reported to us that some of the new houses are not standing up well. Eg: gaps of as much as an inch have developed between walls and the floors with which they should connect. It also appears that in the colder winter months the cost of heating the houses with electricity (for which they are designed) has run as high as \$80 to \$90 per month. These things have raised new apprehensions among the Indians.

It is expected that fish production in the lake will be reduced by about 10 per cent, partly by the loss of whitefish and sauger spawning grounds and by debris in pickerel (walleye) spawning streams. About 1,000,000 pounds of fish have been taken annually from the lake. Hydro proposes to attempt to reduce production losses by preparing new whitefish spawning grounds (it is doubtful that the fish will accept them), by clearing debris from major pickerel spawning streams, clearing shoreline landing sites for fishermen and providing safe boat access to settlements and fish camps.

Hunting by the community residents will be affected adversely. Destruction by flooding of shoreline feeding areas favoured by moose will surely lead to a reduction in the fifty or so moose killed each year, most of them by shoreline hunting. A thousand ducks and geese have hitherto been shot each year. Flooding of nesting grounds will lower production of these wildfowl, and also of gulls and terns.

Trapping of furbearing animals has produced about \$35,000 annually. Flooding will reduce the beaver population and probably also that of muskrat, at least for a short period, but the reduction is not expected to be serious. In addition, 22 traplines will be flooded, in whole or in part, affecting some 30 trappers.

5. The effects of cutting off at Missi Falls 75 to 80 per cent of the flow of water in the Churchill River can be very serious all the way downstream to Churchill. If as is possible under Hydro's license, the flow at Missi Falls should be permitted to drop to 1500 cfs or less in the late autumn, the river might freeze solid, killing all fish in the stream. The four lakes along the way, Partridge Breast Lake, Northern Indian Lake, Fidler Lake and Billard Lake would be dramatically affected, their levels dropping nine feet and their areas being drastically reduced. Minimum flows would damage, severely, fishing in all these lakes as well as in the river. The Ilford Community of 200 people, mostly non-Treaty Indians, depends heavily on fishing in the four lakes just named, both for the eleven men who fish there and for the Ilford Co-op. If a continuous discharge of not less than 5,000 cfs is maintained and if control structures are installed at the outlets of the four lakes, fish stocks can be preserved.

The reduced flow of fresh water may keep the port of Churchill open for as much as fifteen days longer in the fall.² On the other hand, some 250 polar bears that congregate in the area each year before heading out on to the sea ice, will be similarly delayed, which will raise problems for Churchill residents.

Trapping, though actively pursued, is small in extent on the lower Churchill. Ducks are few in number, but several thousand Canada geese nest and feed there. These will be seriously affected unless steady flows of water are maintained in the May-June nesting period.

Churchill townsite will have problems about its water supply. Lowered water levels and ice cover levels may disrupt the water supply by causing damage to the intake pipe. This problem can be dealt with by moving the intake pipe upstream, by constructing a weir downstream from the intake or perhaps by finding a new fresh water source.

One further result of the great reduction in the flow of water below Missi Falls, which may be serious and of long term duration, is its effect upon permafrost, which is common in the whole area. Very little is known about the reactions of permafrost in the banks of a river or lake when the level of the

2. It seems that there may be detrimental effects at breakup time in the spring. See Transcript of Hearing on September 29, 1925, pp 19-20 and 23-24; also Ex. 48.

water is substantially altered. For example, it seems likely that permafrost to some depth will thaw and sluff off into the river or lake, and that this process will be repeated for years until stability is restored. If this should happen over extensive areas of shoreline the discolouration of water in the rivers and lakes, and other forms of pollution might seriously affect the habitat of fish, waterfowl and aquatic animals as well as the quality of the water for human use. In our opinion, this problem warrants serious study in some depth, but we have no knowledge that such a study has been undertaken.

6. The lower Nelson River, from Split Lake to Hudson Bay, along which it is planned to harness the river's full electric power potential at seven power plants, will be affected not only by these plants but by both Lake Winnipeg regulation and the diversion of the Churchill River. The situation will be the reverse of that in the lower Churchill. Whereas in the lower Churchill the flow of water will be reduced by 75 to 80 per cent, in the lower Nelson it will be substantially increased. The average annual increase is expected to be 26,900 cfs, but the average winter flow at Split Lake, where the rivers join, is expected to increase from 63,400 cfs to 104,800 cfs. The average level of Split Lake will rise by two feet, while the range between maximum and minimum levels will be unchanged at 10 feet. It is expected that most of the floating debris engendered along the Rat and Burntwood Rivers will become lodged along those streams, with no great quantity reaching Split Lake. The shores of Split Lake itself, mostly clay-covered bedrock, will erode 10 to 20 feet and then quickly stabilize. Debris will accumulate in wind-sheltered bays of the lake.

Downstream from Split Lake, particularly below the Weir River, where the Nelson becomes shallower as it drops toward Hudson Bay, increased flows are deemed likely to increase ice jams which form there regularly and also the scouring and bank slumping effects of the ice jams. However, it is not anticipated that the impact of the higher water will be serious.

The Summary Report states that it is predicted that the total suspended sediment load discharged into Split Lake from the Burntwood River will increase from about 200,000 tons per year to 7,000,000 tons per year in the immediate post-diversion period, but that little or no reduction in the quality of the water in Split Lake is anticipated. The Panel is not sure of the exact meaning of this last statement. To us it would seem that multiplying the suspended sediment load in the lake thirty-five times would produce some significant effects upon the colour,

hardness or other qualities of the water. Certainly the Indian community of Split Lake, where about 1,000 people reside, has expressed serious concerns on this score.

The increased sediment load will undoubtedly affect fish spawning grounds, leading to significant losses to fish populations. Debris, here as elsewhere along the length of the project, will no doubt cause damage to fishing equipment. On this ground also the Indian people feel cause for alarm.

Treaty Indians, Non-Treaty Indians and Metis

One complicating feature of the situation with which we are concerned is that, as between Treaty Indians on the one hand and Non-Treaty Indians and Metis on the other, the government under whose jurisdiction they come differs, at least for many purposes, as do their legal rights. Most of the Indian communities, though not all (that of South Indian Lake being the most notable exception for us) are located on Indian Reserve land. Their rights to the land are derived from treaties (Treaty No. 5, dated September 24, 1875, being the one affecting the communities with which we are concerned, and being Exhibit 29 in the Panel's hearings), made between Her Majesty, Queen Victoria, represented by the Government of Canada and the chiefs and councillors of the several bands that were parties to the Treaty. By the treaty the Indian bands surrendered all their lands to the Crown in right of Canada, but certain areas of land, as described in the treaty, were reserved for each of the bands. In effect, the Government of Canada became the titular owner of these reserved lands, as trustee for the respective Indian bands. The Indians were also given the right to hunt and fish outside the lands reserved to them. That situation still subsists, and for many purposes, including their rights to reserve lands, treaty Indians are under the jurisdiction of the Government of Canada and are dealt with under the terms of the Indian Act, a federal statute.

Non-Treaty Indians and Metis have no treaties with the Federal Government and no reserve lands. Since 1930, ownership of and jurisdiction over all land in Manitoba not then retained by the Crown in right of Canada and not granted to other persons has been vested in the Crown in right of Manitoba. Non-Treaty Indians and Metis communities have no legal title to the lands on which they reside. They are simply located on land belonging

to the Crown in right of Manitoba, and with respect to property and civil rights they are governed in the same way as are all other residents of the province, by the laws of Manitoba.

From the foregoing it will be seen that when any question of interference with land reserved by Treaty for an Indian community arises, the Indians look to the Government of Canada for protection and redress. Non-Treaty Indians and Metis who consider themselves in a like situation must look to the Government of Manitoba. Today, trapping rights on Provincial Crown Lands are granted by the Provincial Government by way of registered traplines. Traplines, of which there is a considerable number in the province, are defined in area, and the person to whom a particular trapline is granted has the sole right or license, for the period of the grant, to trap animals within the boundaries of that trapline. This is a valuable right, though not a right of ownership in the land, and is recognized as such by the Provincial Government.

Mr. Green told us that though Treaty Indians have special rights, including their rights in respect of Reserve Lands, it was the Manitoba Government's policy and intention, in dealing with problems affecting non-Treaty Indians and Metis, to treat them in the same manner as it did Treaty Indians. In our view this is the wise and proper course for the Government to follow, for non-Treaty Indians and Metis should not be disadvantaged relatively to Treaty Indians on purely legalistic reasoning. Morally, Manitoba should treat them at least as well as the Federal Government treats Treaty Indians.

A related matter is that many years ago, when the Indian treaties were signed, it seems the Indians did not understand the full effect of what they were signing. In addition to the fact that they were in a very weak negotiating position during that period they may well have been misled as to the true meaning of some provisions of the treaties. While this matter is outside our terms of reference the question has risen in our minds whether justice does not require some modification of the treaties. What we are thinking of is the question of working out a new and more generous land settlement with the Indians. If this is deemed the proper way to redress wrongs done to them in the past, would not the occasion of this immense hydro project, affecting Indian lands, afford an appropriate opportunity for undertaking the task?

If a new land settlement were arrived at, involving payment of substantial sums of money to the Indian communities, they

would have in their own hands some capital which they could use for alternative economic development as they might see fit. This could result in Indian economic activities under Indian control. Where necessary they could hire outside expertise.

The result of divided jurisdiction to deal with the problems raised by this huge project has been in some instances, to confuse the Indian and Metis people. They have not always been sure to which government their appeals should be made and lack of prompt response from government has sometimes made them believe they were being given a run-around.

The Desires, Fears and Complaints
of the Indian Communities

1. First of all, the Indian people want to know with certainty what their legal rights are with respect to the lands reserved to their communities by the Treaty (No. 5) made a hundred years ago. They were assured at the time that these lands would be theirs for the undisturbed use of the several bands that resided on them, in perpetuity, or in the picturesque language used by one of Her Majesty's representatives, for as long as the sun shines, the rivers run and the grass grows. The treaty provided for an exception to the overall rights reserved to the Indians in those lands, by the following clause:

"It is further agreed between Her Majesty and Her said Indians that such sections of the reserves above indicated as may at any time be required for public works or buildings, of what nature soever, may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made for the value of any improvements thereon."

This clause is directly relevant to the matters being considered by the Panel, because the Lake Winnipeg regulation, the diversion of most of the Churchill River waters into the Nelson and the construction of electrical power plants and transmission lines are being carried out by government or government agents and are clearly public works.

It has been noted earlier in this report that it is only the Government of Canada, not that of the Province, which is given

the right to appropriate reserve lands for public purposes. At this point we further note that there is nothing in the Agreement made on December 14, 1929, between Canada and Manitoba relating to the transfer of natural resources, including Crown lands, from Canada to Manitoba, (Exhibit 40 in the Panel's hearings) which alters this position. On the contrary, paragraph 11 of that Agreement expressly provides that all lands included in Indian reserves within the Province shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada.

The Indians rightly regard reserve lands as belonging to them. They complain vigorously that the Agreement of 1966 between Canada and Manitoba for the Nelson-Churchill development was made without consultation with them and that though the development did not call for actual expropriation of Indian lands, it did and still does involve extensive flooding of such lands (not as extensive now as under the high level diversion first intended), and that such flooding is equivalent to expropriation. It effectively makes the land unusable. At Nelson House 2,000 or 4,000 acres of reserve land will, under ice jam conditions, become part of Footprint Lake and the community will be disrupted, with only the high ground remaining above water, in the form of three islands. In our view the complaint of the Indians has merit. Arbitrary interference with their land cannot be justified.

2. Related to the matter just discussed but on a somewhat different footing is the question of traplines. There are a great many registered traplines at various places along the route of the development, mainly held by Indians or Metis. These traplines are on Crown land not Indian land, but persons who hold a registered trapline, have invested money in traps, have spent time and effort in developing the area, locating the best places for traps, and have made the trapline an economic asset, have a right not to have that trapline destroyed by flooding through the actions of an agent of the government which granted it to them, at least not without adequate compensation.

As mentioned earlier, Hydro has recognized the trapline holders' rights to compensation, but difficulties have arisen in settling the basis and amount of compensation. Some two or three years ago the five communities of Treaty Indians most affected by the project formed an organization called The Northern Flood Committee, which was designed to represent all the people in the area in negotiations with the Government of Manitoba and Hydro. Non-Treaty Indians and Metis are not members of Treaty Indian

communities. The evidence indicates that the Government was willing to discuss with the Committee only matters affecting persons whom the Committee actually represented and insisted on upholding the constitutional right of any individual to take his claim directly to the Government. Hydro, for its part, began negotiating with individual trappers instead of the Northern Flood Committee, which naturally disturbed the Indians. Evidence submitted at the Panel's hearings further indicated that Hydro was making compensation offers for loss of all or part of a trapline which varied widely as between individuals, thereby creating confusion and additional dissatisfaction.

Since the Hearings it appears that a compromise has been agreed to in respect of representation by the Flood Committee, on the basis that the Committee will be advised of persons with whom Hydro proposes to negotiate individually, that the Committee may approach such persons and if they agree may appear and represent them at the negotiations. Some progress has also been made toward establishing a more satisfactory method for determining the amount of compensation to be paid but there are still some problems to be solved. At this moment the trapline picture looks definitely brighter than at the date of the Hearings.

3. Other economic results of the project which fill the Indian people with misgivings include its effect upon fishing and hunting. Moose are the animals of most value to the Indians as food and are more or less abundant throughout the whole area affected by the project. Moose prefer as food the fresh green vegetation that grows along the shoreline of lakes and rivers. All along the route from Southern Indian Lake to a point near where the Nelson enters Hudson Bay the level of lakes will be raised, in many cases sufficiently to cover the shoreline growth. In addition, extensive areas of river banks will be flooded by the great increase in the flow of water and by the creation of large forebays immediately above each of the fourteen power plants to be constructed during the next twenty years. The full effect upon moose hunting cannot be predicted with certainty, but it seems clear that for a number of years many hundreds of miles of shoreline where most of the moose killed by Indians have hitherto been found, will no longer be attractive feeding grounds for these animals. Wide areas may be abandoned by them altogether. Hunting them will be more difficult and the hunters will have to travel further afield.

In some areas, for example in the neighborhood of Southern Indian Lake, herds of caribou are a significant source of food. It is thought they will not be affected as greatly as will the moose.

Fishing on a commercial basis is important on Southern Indian Lake and on a smaller scale on other lakes. Everywhere the Indians catch fish for their own and their family's food. The evidence points to a reduction in fish production which in total may not be very great, but which is likely to be substantial for the more valuable fish, like whitefish, whose spawning grounds will be destroyed by deeper water and for whom new spawning grounds may not soon be available. Northern pike and other less valuable fish, like suckers, are thought likely to increase. The immense amount of debris occasioned by heightened water levels and the discolouration caused by bank erosion will not only make fishing more difficult but may have some deleterious effect upon the fish habitat.

Navigation of lakes and streams is likely to be made more difficult by debris, and as we have seen, swifter running water at some points may make the ice cover unsafe for winter travel or transportation.

The Panel was told by Hon. Sidney Green that not 10 per cent of the Indians really carried on trapping and fishing. This may be true as applied to commercial activity, but Indians assured us that at least one member of every family did engage in these pursuits, some of them not for the purpose of selling the product, but to supply the needs of their families. There is no doubt in our minds that trapping, hunting and fishing continue to be of considerable importance to a great many Indian families. Certainly hunting and fishing must have been considered important in 1875, for Treaty No. 5 (Ex. 29) expressly provides for the right of Indians to fish and hunt by the following clause:

"Her Majesty further agrees with Her said Indians, that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting, such tracts as may from time to time be required or taken up for settlement, mining, lumbering, or other purposes, by Her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government."

4. A number of Indians who testified at the Hearings stated that what they feared most was that this huge power project on the Nelson River coupled with the diversion of most of the Churchill

River water to augment the power potential of the Nelson would destroy their whole way of life. To us this seemed something of an overstatement of the probable consequences of the development, but several significant points must be considered before such fears can be dismissed as unwarranted. In the first place it was made clear to us that the Indian's relationship to his environment differs markedly from that of the European or North American white man. To the white man the land he occupies and the house in which he dwells are property, which can be bought and sold. He may become strongly attached to his home and to the community in which he lives, but he can adapt readily to a great many other places. He moves frequently, sometimes over great distances, in the hope or expectation of improving his status or economic position or for any one or more other reasons. His environment may or may not please him, but generally he does not think of himself as part of all that is around him.

What we were told indicated that, to the Indian, he and his fellows are one with their environment, with the land, trees, flowers, lakes, rivers, animals, birds and fish. It is as if all nature was part of him and he of it. To be forced to move from the place where he has lived, and to separate himself from so much that he regards as part of himself is a very serious matter. It is like giving up part of himself. Similarly, any substantial interference with his environment is tragic. It upsets his whole way of life and raises sharp fears for the future, fears which have been aggravated throughout much of the current dispute by inability to obtain information about matters that are vital to them.

The white man generally is unable or at least fails to understand the feeling of the Indian for the land and all that grows and lives on it. We heard some evidence that the group of professional men and experts who prepared the Summary Report, many of whom were quite young, as well as Hydro officials who talked to representatives of Indian communities, fell short in this area of understanding. For example, we refer to the evidence of Mr. David Young, B.A., M.Sc., who is by profession a specialist in resource management, has been employed for about 21 years in Manitoba, several of them by the Provincial Government, has lived for a couple of years in Indian communities and studied their cultures, and has reviewed all the major documents that have been made public in relation to the Nelson-Churchill project. He stated that he was one of a team called The Lombard North Group that reviewed a number of the reports received by the Government from the Canada-Manitoba Study Board. Some of the team visited some of the Indian communities in

the Nelson House and Outlet Lakes areas and studied the physical environment. Together the team prepared three reports for The Northern Flood Committee (Exhibits Nos. 30, 31 and 32). Mr. Young's particular area of investigation was the social and economic impact of the project. He told us:

"We found, in fact in our opinion, as a professional opinion, that the document purporting to represent the social and economic impact of this project on the people of Nelson House and Cross Lake and the others, were most inadequately prepared and do not in fact represent any adequate calculation or representation whatever of the social and economic impact on those communities." (Transcript Sept. 23, 1975 p. 10)

Mr. Young then discussed the difficulties that confront researchers attempting to estimate social and economic impact. We quote his evidence at length because while we do not necessarily endorse everything he said, we consider it a good exposition of this highly important problem:

Mr. Young: I suppose in essence, to open the subject, the difficulty that confronts any researcher, any team of researchers who are attempting to estimate social and economic impact, is that they must understand the nature of the society and the value system of the society where the impact is expected to occur. Now if in Manitoba a team of people is asked to examine the social and economic impact of a dam at Boissevain, there is very little difficulty, because the people of Boissevain are like most of us in this room of British or European ancestry, we share common cultural traditions, we live in the Judea-Christian tradition, we live within laws that have evolved over a very long period of time and which we understand more or less well, sometimes by intuition sometimes with considerable sophistication - we understand economic values and we are able to trade with one another with parity. Money equals cars equals trees, equals houses - we have values and symbols that we can attach. When a different culture is involved, one may encounter very disparate value systems, and we have here commenced the task where it starts with Manitoba Hydro and the Government of Manitoba on the one hand proffering some amount of money, a symbol of our value system as a reward and compensation for

the loss of things which are not valued in monetary terms by the people of Cross Lake or Nelson House or Norway House. In coming to grips with the social and economic impact, the economic impact alone must be measured not merely in terms of the value system predominant in our culture, that is to the Euro-Canadian, but must be measured also in the value systems which are comprehensible and accepted by people of a very different culture, the Cree culture in this case. This is further made complex by the fact that the Cree culture like all cultures is obviously changing, but perhaps is changing rather rapidly under the impact of our culture on it over the last 100 years. Now, no effort was made to come to grips with those economic problems. Furthermore, there was every evidence that there was no understanding at all on the part of the researchers of family organization, and why people built their houses in clusters here and there throughout the landscape, why this particular layout of a village seemed appropriate to the people there as opposed to a nice square grid the way we live in Tuxedo. There was no understanding that old family ties and even relationships going back to the time when some of these people drifted back and forth across the landscape in their traditional pattern of cultural organization, the pattern which obtained for 8 or 10 thousand years. There was no recognition of that. There was no recognition of things such as . . . Let me say that people who have lived in the north come out and they say "Well Indians live in very small houses." There were references to housing conditions in one of the Premier's letters. Here you have people living in the midst of a forest, surrounded by building material, and they don't build large white houses with pillars in front of them, so they must be stupid. Of course those things are not in my judgment true, and I don't think that the Indian man thinks of himself as lazy or ignorant or stupid, but he doesn't judge it important to build a large white house with pillars in front of it, even though he has the building materials around him. He places a higher value perhaps on something else, and while it may be difficult for most of us in Winnipeg to conceive of living, and our ancestors living for hundreds of years in a forest, and not building large houses, equally it is difficult for the

Indian to conceive of why a riverbank should be utterly destroyed in order to make electric power. And the riverbank may be a thing of great value to him. Now those varying values statistics (and I don't profess to understand perfectly by any means the value system of the Indian people) - however, I think that I have enough grey hairs now to know that when one deals with two cultures with such disparate values, one measures economic and social impact in terms of both value systems. Now the Government of Manitoba spent a lot of money investigating as they said social and economic values ... impacts - frankly I know the people that they sent in, and most of them still shave with a washcloth, and they were probably people with the best of intentions but they lacked technical qualification, they lacked qualification in the area of anthropology to the most woeful extent. There simply was not that anthropological expertise there which would have helped to interpret to the economists and the engineers and the foresters what the riverbank was worth, what 100 miles of riverbank was worth, what a traditional hunting right was worth. None of these things are present. This Study done by the government is of no value,

Mr. Smith: And they couldn't evaluate many of those things in terms of money, either, could you?

Mr. Young: Well, sir, we have within our culture a way of treating certain values. What is the value of a sacred Mosque at Mecca to a Moslem? What is the value of the Wailing Wall to a Jew? What is the value to a Christian of St. Peter's Basilica? Economic science says yes, you can treat that in economic terms. The value is infinite. The value can't be measured it is infinite and therefore you cannot destroy it. You can do a benefit cost analysis, and the government did a benefit cost analysis there, and you have something of infinite value that is going to be destroyed, that's an infinite cost and then you must have on the other side an infinite value, and however nice the lights may be, they are not of infinite value. Now if you take our value system, the trees along the riverbank are gnarled, knotty, not very good scrubby black spruce. If you take them from the point of view of our ecologists, they are somewhat more valuable,

they represent an essential component in an ecosystem. If you take them from the point of view of people who (and some Indian people still believe that the land is sacred) then they are of infinite value. They are of infinite value I think to some of those people up there. I am not sure of this - I think they are, I think they are valued much more highly than we would value them. Indian people understand the value of money, but they may place a different money to goods relationship on things than I do. They may say that my car or my house is really not worth very much, but that a patch of unspoiled forest is worth a great deal more than I as a European, or a person of European origin would think it is worth.

Mr. Allan: Mr. Chairman, are these opinions that you express in your reports that you submitted to the Northern Flood Committee?

Mr. Young: They are, sir.

Mr. Allan: And we can quote you on your comments on the government researchers and their lack of understanding?

Mr. Young: Yes sir.

While we heard no evidence on the point there is no question but that the gradual movement northward of the white man and western civilization during the last hundred years, climaxed by this enormous project spreading over such a large area, has given the Indian people increasing reason to feel that they were being squeezed out of more and more of the lands where they had fished and hunted for generations. It is in no way surprising that many of them now think that, unless a halt is called and steps taken to ensure protection of their rights, their way of life will ere long come to an end.

5. Some of the Indians who testified at the Hearings quite obviously desired nothing less than the abandonment of the whole project, with compensation for damage already done. They had lost confidence in promises made by Hydro or by the Provincial Government. They felt that nothing less than complete abandonment would preserve their rights. Others felt that matters had gone too far, that abandonment could not be expected and that, while not happy about it, they would accept a settlement including adequate compensation for all losses. Two witnesses said

that instead of a money payment, which they were afraid they might spend foolishly, they would prefer that Hydro provide them with free electric power on a permanent basis.

6. The Indians, feeling that as individuals they are in a very weak position in negotiating with Hydro, want negotiations on their behalf to be carried on by The Northern Flood Committee, which is financed by the Federal Government and has the benefit of technical and legal consultants. As the five communities have all formally authorized this Committee to represent them we consider their position on this point to be reasonable. Details of compensation will, of course, vary as between individuals, but the general principles should be the same and if possible should be determined by discussions between Hydro and representatives of all the Indians and Metis.

In our view full compensation should be paid for all loss actually suffered, with provision for anticipated future loss. Compensation will not always be in cash. Where rising water will flood or endanger a substantial part of a reserve area or the buildings situate upon it, adequate compensation will include moving the endangered buildings or erecting new ones, and sometimes moving the entire community. Hydro should make certain that the buildings, equipment and facilities in the new location are at least as good as they were in the old. With respect to land we were given to understand that Hydro had offered to give two acres of land to a community for every acre lost. At first glance this appears generous, but it is necessary that in the new location the community be viable. From the Indian point of view, since agricultural production is not of great importance, most of the land being unsuited for it, what makes the community viable is not so much the number of acres in the reserve, as its ready access to good water, fishing, trapping, hunting and transportation. Full compensation will require that after moving the community be in as good a position for these purposes as it was before moving. This may not be easy to accomplish for it is only realistic to think that when the Indians were locating their communities a long time ago, they selected the best sites they could find for these very purposes.

Losses suffered in returns from fishing, hunting and trapping, whether of short or long term duration, require compensation on a fair basis.

We understand Hydro agrees generally with what has been stated in the two previous paragraphs and is prepared to negotiate accordingly. There remains the much more difficult task of seeking to compensate the Indians and Metis for interference with and

partial destruction of their environment and way of life. These are matters of great psychological importance, but it is extremely difficult to put a money value on them. Nevertheless, because they are very real, in our opinion, a genuine effort must be made, so that the native people will be satisfied that in the overall picture they have been treated fairly. Much will depend on the manner in which negotiations about the claims for compensation in respect of the various items of direct economic loss are conducted. If these are carried on in a spirit that is clearly frank, open, friendly, fair and reasonably generous, with all relevant information fully disclosed, the suspicion and distrust so pervasive in recent years may be removed. If that should occur, our native people will not only be pleased with the outcome in this disturbing case, so far reaching in its implications for them, but will feel assured that in the future, when matters involving their interests arise, the white man will have a better understanding of their importance and will give much more sympathetic consideration to securing a fair solution of them than has been the case in the past. This is an outcome devoutly to be desired.

To emphasize the importance of creating an atmosphere of assured fair dealing we refer to two instances in which, whatever Hydro's intentions may have been, the results were to cause bitterness, anger and mistrust. The first of these has already been mentioned, viz: the forced Easterville move of a whole Indian community occasioned by the construction of the Grand Rapids plant, a number of years ago. It was clear to us, from comments made by several witnesses at the Panel Hearings, that this move and its consequences still rankle and that they have tended to exacerbate the fears aroused by the Nelson-Churchill development. One complaint related to us but not mentioned earlier was that the Indians were not asked to select the location of their new home and were given only a slight choice in doing so. In effect, the Indians were told where to go. Witnesses said they were told they had little choice in the matter.

The second instance relates to different causes of complaint. It concerns what happened at Gillam when the Kettle Rapids plant was under construction.

One witness, Murray Wenstob, said that he spent five years at Gillam, that when he arrived in 1967 the town had a population of about 400, nearly all native people and that in five years it grew to 2,000 plus a nearby construction camp of 5,000. He expressed a strong view that there was a need for much greater consideration for the people in the north than he had observed

at Gillam. For example, he said no notice was given to Gillam of what was about to happen, but that suddenly bulldozers and men began to pour in to start construction. He stated that the native people's life style was seriously disrupted, that construction people moved the houses of residents, sometimes without notice, that construction personnel shot most of the ducks, geese, ptarmigan and other wild fowl, leaving very little for the local residents for whom these birds had always been a significant source of food, and that the water in the river and tributary streams became clogged with timber and other debris. He further stated that the local residents felt they were becoming second-class citizens in their own town, giving the following as indicators: (1) That roads built for construction purposes were, after they had served their construction purpose, shut by chains against the native people; (2) that recreation for the construction people, eg: games, dances, was highly organized and the natives were excluded, and (3) that construction workers and their families had priority for many other things.

From this recital of facts, which were not disputed in any way, it seems clear that the local townspeople, who had previously lived harmoniously with the few white people who came their way, were overwhelmed by the sudden influx of large numbers of construction people, by whom they were treated with little respect and made to feel as if they, and not the newcomers, were outsiders. No wonder they resented such treatment.

7. As has already been indicated, one of the complaints most frequently presented to us was that the Indians have experienced great difficulty and have often suffered from a strong sense of frustration in seeking to get full, accurate information about Hydro plans. Simple questions like just where, over exactly what areas and to what precise height will the level of water be raised; how much of their own community will be flooded, if any, and to what depth; these have not yielded prompt answers nor in some instances any answers. More difficult questions, but which yet permit of approximate or at least explanatory answers like how long will it take for new whitefish spawning beds to form, for bank and shore erosion to become stabilized, for floating trees and other debris to clear up, or for water polluted by eroded materials to become usable by men or attractive for fish; these also have fared little better. True, in April of 1975, the Summary Report did provide answers to some of these questions, but often in very general, indefinite fashion.

In communities like South Indian Lake, Nelson House and Cross Lake, where it was anticipated that some or perhaps all of the people would be forced to move, witnesses told us they had been unable to get information as to when the move would be necessary or when the water would be turned loose. This caused a great deal of uncertainty among the Indian people, about which they complained to us. Much of this could easily have been avoided. It is true that unexpected problems arising from rock and muskeg along the route of the channel from South Bay to Issett Lake eventually delayed opening of the outlet to the diversion route by at least a year. Why was the existence of the problem and the likelihood of delay not disclosed much sooner than was the case? The plan had been that water from Southern Indian Lake would start to flow down the diversion route late in October, 1975, but it was not until March, 1975 that anything was said about the opening being delayed, when it was announced that because of problems encountered by the contractor the opening would be delayed for at least a year beyond the original anticipated opening date.

A second instance of apparent slowness in imparting information follows. Mr. Glen Sigurdson, one of the legal advisers for The Northern Flood Committee, questioned Mr. Green about why it was not until the autumn of 1973 that disclosure was made to the community of Nelson House that the project would have a substantial impact on their community, including water levels in excess of 20 feet above pre-project levels. Mr. Green replied that no information had been presented earlier that indicated a serious problem at Nelson House. Mr. Sigurdson was not satisfied. He said: "Surely it wasn't until 1973 that you had the contour profile sufficiently detailed that you could identify the timber and land loss that was going to be involved.." Mr. Green replied:

"Mr. Chairman, the young man says 'surely' and I tell you that the Underwood McLennan study and all of the studies that were presented did not recognize, nor was that recognized until (just before) the Hydro people went there, a serious problem at Nelson House. The amount of land that is involved at Nelson House is relatively small, and the amount of movement that has to take place at Nelson House is relatively small."
(page 144)

This is one of the least convincing statements made by Mr. Green. The Panel spent over a day at Nelson House at the end of September, 1975, at which date the water in Footprint Lake was 6 or 7 feet below normal. If the anticipated normal level

after diversion is to be 18 feet above the pre-diversion normal, or some 24 or 25 feet above the level as we saw it, we envisage substantial impact upon the community, and if due to ice jams the level as is anticipated, rises as much as another 10 feet, the impact will be very serious, not relatively small. It is difficult to understand how none of the engineers working in that area of the project had discovered these facts well before the autumn of 1973. Unfortunately, as stated earlier, no Hydro official or engineer, or any of their consultants, appeared before us, in consequence of which there was no one we could ask for an explanation. On the facts as far as we have them, we think the situation should have been known well before the date on which it was made known to the community. To the Panel it seems inexcusable that in this day and age construction of a well planned Hydro electric project could be undertaken before the high water line that would result from the operation was known. This is what appears to have happened at Nelson House.

Another complaint we heard several times was that there had never been any real negotiations between Hydro representatives and the Indian communities or their representatives. We were told it was true that on a number of occasions Hydro officials had come to a community and with the aid of maps had explained what Hydro proposed to do in that portion of the project. Then, we were told, the Hydro spokesman would say, in effect, "You won't be affected," or "You won't be much affected." To the Indians, this kind of answer was inaccurate and highly misleading.

Since no one representing Hydro appeared at the Panel Hearings we do not know what answer Hydro could make to the foregoing complaint. Assuming the complaint to be factually correct it is possible that the statement that the Indians would not be affected, or not very much, could have been made in good faith. In that event it would have been a good example of not understanding the values placed by Indians on their surroundings. As we have seen, in several districts they have already been seriously affected by too much or too little water, and they fear much worse is to come.

While, as stated above, no one representing Hydro appeared at the Panel Hearings, it is necessary for the purpose of completing the picture concerning negotiations and supplying information, to refer to statements made to us by two other persons, viz: Mr. Steward Martin and Hon. Sidney Green. Mr. Martin made it clear that he was not representing either Hydro or the Provincial Government, but was a special adviser to the

Premier not authorized to state the Government's or the Premier's position. In that capacity he had been asked to file a copy of a letter the Premier had written to the Panel Chairman (Exhibit 20) and a copy of a "Statement of General Policies -- a Focus on the North" (Exhibit 21), the latter being essentially a compilation of statements made by the Premier from time to time with reference to the North. He read the letter and Statement into the record and was then questioned at length by members of the Panel and others in attendance.

Mr. Martin's first comment on the question of giving or withholding information is found at the bottom of page 32 of the Transcript for September 22, 1975. He said:

"In actual fact, looking at your terms of reference, if I could just comment briefly, with reference to Number 2, the position of government very very clearly is that no information has been withheld. If your commission thinks that information has been withheld then we will certainly rectify it, because we can't conceive what information has been withheld."

Later Mr. Martin was questioned by Mr. Koolage, a member of the Panel. At the bottom of page 89 and on page 90 of the Transcript the following appears:

"Mr. Koolage: One further question then on the handouts from Mr. Green. We have a series of little booklets which seem to be, as you indicate, part of the communication with the communities involved. I'll hold up one . . . Would it be possible to obtain from you or from government as well as Hydro, details on the amount and type of communication that has gone on with these various communities? Has the totality of the social impact studies, have these been given to the communities so that they may use them to inform themselves of all the details?

Mr. Martin: I know that the Department of Northern Affairs through their liaison officers have had detailed discussions with native people and others in the North with reference to the implications and ramifications of the diversion project, and I understand that some of this dialogue was heard in Cree. As you are aware, the Study Board Report and supporting documents have not been translated

into Cree to the best of my knowledge, but I think it may be fair to say that the Department of Northern Affairs has attempted to at least have at the layman's level the kind of things that are germane and of concern to the native people of the north. How effectively they've done it, I don't know."

Mr. Martin added that the authors of the Social and Economic Study cautioned time and again that written communications are not the effective way to communicate with native people. In answer to a further question from Mr. Koolage, he agreed that there still seem to be many misunderstandings.

Again, a few minutes later, Mr. Martin was being questioned by John Wavey, of the Split Lake Community. At page 98 the following appears:

"Mr. Wavey: O.K., in the first place when you made this plan about diversion to Burntwood, for Churchill River into Burntwood, why didn't you at least sit down with the chief and council of each band and exactly tell them, be honest, and truthful, exactly what is going to affect them? You have engineers and technique to do all these things.

Mr. Martin: The representatives of government, the representatives of Hydro, over many, many many years have on a face-to-face basis spoken to representatives of the native people and attempted to point out to them what the consequences are. I personally have been involved in some of these discussions."

Finally, an exchange occurred between Mr. Martin and Jimmy Spence of Nelson House. In part, as recorded on pages 103 and 104 of the same transcript, it proceeded as follows:

"Mr. Spence: I would like to ask Mr. Martin to clarify himself what he just said a little while back. In regards to planning of the Hydro development in the north, you mentioned the fact that there was consultations with the people of the north in regards to the Hydro development. I as a resident of Nelson House don't know of any participation of the people of the north in the planning of the Churchill River diversion.

Mr. Martin: Well, I would agree with you there was no participation in the planning of the Churchill River diversion, but I hope you would agree with me that from time to time representative government has been prepared and wanted to meet with the various native people in order to indicate to them what consequences were going to flow from the implementation of the project.

Mr. Spence: I understand that, Mr. Martin, but no it just doesn't seem right to say that the people were actually involved totally all along in the planning you know. I think that it's not right because they weren't."

Mr. Martin's evidence obviously differs markedly from that of the Indians who spoke to us. On one point which is of importance to the Panel, Mr. Martin said nothing. He did not indicate whether and to what extent, at these meetings between Hydro officials and representatives of native people, the Indians were invited or proposed to offer any alternatives to or modifications of the plans for the project. Thus, from his evidence we do not know whether the Indians made any proposals, nor if they did, what were their proposals and what became of them. Unless something of this kind did occur the discussions cannot be described as negotiations, but only as explanations of Hydro's intentions. In the result his evidence does not contradict the Indians' statements that Hydro officials simply told them what was going to happen, ending with the conclusion that it would have little or no effect on them. In our opinion, it is most unfortunate that his evidence is incomplete in this respect.

Hon. Sidney Green stated most emphatically that the present Provincial Government had given much more information to the Indian communities than had ever previously been the case. In view of his opinion of what previous governments had done in this regard, this statement, standing by itself, would have little weight. However, Mr. Green gave us some details. He said that not only had the Summary Report of the Study Board been forwarded to the Indian communities and The Northern Flood Committee, but that the many volumes of technical reports which formed the material base for the Summary Report had similarly been supplied, at least to The Northern Flood Committee. In addition, all other reports received by the Government had been supplied to the Indian communities. Further, because he felt it might be difficult for the Indians to understand much of what was contained in the formal reports (which he said was true of himself), he had caused a number of small booklets or

brochures to be prepared, dealing with the various communities, and setting out briefly and in layman's language essentially the meaning of what was said in the formal reports. These booklets were also supplied to the Indian communities and to The Northern Flood Committee. He also stated that the background documents used by the Study Board had not been received by the Government, but that the Board had itself released those documents.

(Following the hearings, on October 2, 1975, Mr. Green wrote the Panel chairman enclosing a list of documents released, with the dates of their release and to whom they were released. The letter and list constitute Ex. 54.)

Mr. Green stated that the Government's intention was to make available to the Indian communities and their representatives all information in the Government's possession and that nothing had been withheld.

In the Panel's opinion, somewhere along the line there was a breakdown in communication. Somehow, much of the information in the various reports and documents was not brought home to the Indian people, so that they understood it. No one could doubt the sincerity of the many Indians who told us they had been unable to get information on vital questions. It may be that too much reliance was placed on written documents that were forwarded to the communities and The Northern Flood Committee. If so, it is pertinent to repeat that merely supplying written or printed documents to native people is not an effective method of communication.

Indians who spoke to the Panel not only complained about their inability to get information about the project, but went further, alleging that often, when they made requests to the Federal or Provincial Government, for something to be done, they received a favourable answer but long delays occurred before anything was done.

The General Attitude of Native People

Toward the Project

All of the Indians and Metis who spoke at the Panel Hearings were worried, concerned and fearful of the impact of the Project upon their economic and social life -- upon their whole way of life. As stated earlier in this report many were totally opposed to the Project, and wanted it to be stopped altogether. Mr. Head, speaking for the Metis Federation, said: "We don't want the diversion, period." Many others, while not happy about it, were willing to accept the situation if they were fully compensated for all losses sustained and steps taken to mitigate the injurious effects of the Project upon them and their people, so that in the end their life style would be no less viable than before.

Whether the intense desire to continue a life style based on fishing, hunting and trapping that was expressed at the Hearings truly represents the attitude of all Indians is doubtful. We were disappointed that none from South Indian Lake community came to the Hearings -- at least none who spoke was identified as being of that community. We do not know what significance, if any, should be given to their absence. Most of those who spoke to us, though not all, were of middle age or older. It may be that many younger people, though loyal to their Band and community, have different ideas so far as their own lives are concerned. One fact susceptible of more than one interpretation is that whereas, before World War II it was a rare thing to see an Indian in Winnipeg, they have been coming here in increasing numbers during the last thirty years to live, until now they number many thousands. Most of them are comparatively young. Though their experiences of life in the city have often been far from pleasant and sometimes tragic, they continue to come and their numbers increase. What this movement indicates was not a topic of our inquiry. We do know that the Indians and Metis in the north are increasing more rapidly than any other segment of Manitoba's population -- the Summary Report indicates that in the northern Indian communities over 50 per cent of the population is under 15 years of age. Is this growing population, as many people think, making it extremely difficult if not impossible for the traditional pursuits of hunting, fishing and trapping to provide a reasonable living, and is this a major cause of the movement to the south? On this point we do know that these communities are not entirely independent financially, as they would wish to be, but that part of their income is derived from social assistance payments. On the other hand, are the

growing contacts with and knowledge of the outside world causing many of the younger and more adventurous spirits in these communities to move to Winnipeg to sample more of the white man's way of life, and hopefully to earn a better living with less hardship than in the north? Perhaps both factors are important, along with others. One thing that we can say with certainty is that these young people's devotion to the old traditional ways is not sufficiently strong to prevent their southward exodus.

A Brief Look at the Government's View
of the Project

As stated earlier, only Hon. Sidney Green and Mr. Steward Martin, of all those who appeared at the Panel's Hearings, were in a position to tell us anything at first hand about the Project from the Government's point-of-view. In addition we had Mr. Schreyer's "Statement of General Policies -- A Focus on the North," which was filed by Mr. Martin as Exhibit 21. What these gentlemen and this document had to say about the Project and about the Indians' view of it differs markedly from that expressed by the Indians who spoke to us.

A paragraph beginning on page 1 of Mr. Schreyer's Statement reads:

"It is clearly recognized by Government that the attainment of a significant hydro resource of energy should not occur at the price of mutilating the physical structure of the north. The present Government, in keeping with this concept reduced by approximately 20 feet the original high water plan conceived for the Churchill-Nelson River Diversion Project. The plan now being implemented will not, in the long run, jeopardize the environmental conditions of the north. However, the implementation of the plan will result in certain short term dislocations."

Mr. Schreyer then stated his belief that a joint endeavour participated in by northern citizens with their Government was the only way in which new developments can take place to make the north truly viable. He went on to say that the Government looks at problems in the context of the province as a whole,

but that special attention has to be paid to certain specific areas and programs at this time, and proceeded (bottom of page 2):

"One area, at this time, that requires special attention is the north and the impingement of Hydro developments upon the north and its people. Solution to the accompanying problems, both economic and social, arising out of Hydro and northern developments is no simple easy matter. The problems require our undivided attention, imposing upon the Government a grave and pressing responsibility . . . Since Hydro developments are in the north, so our attention is directly proportioned to the impact of our Hydro developments upon the north."

As illustrating the Government's interest in the north he mentioned economic and manpower training ventures developed by the Government during the last six years, eg: Manfor, Churchill Prefab Plant, Minago Contractor, Channel Area Loggers, and co-operatives. He also referred to financial assistance given to private industry by Government agencies like Manitoba Development Corporation, Communities Economic Development Fund, Special ARDA and under The Development Corporation Act. In addition, new all-weather roads, Leaf Rapids Townsite, long-distance winter roads and remote air strips have had beneficial effects.

On Page 5 Mr. Schreyer makes the following statement:

"The growth of population in the north in the last thirty years has exceeded the capability of the area to support its residents by the traditional economic pursuits of fishing, hunting and trapping . . .

In order to support the remote northern communities substantial transfer payments have been necessary."

Turning to the Churchill-Nelson River project Mr. Schreyer said, beginning with the last line on page 6:

". . . there is no question of the program's justification in terms of the total objectives of the province. Hydro development in the north represents an immediate first requirement for the future of the north."

After referring to specific benefits which he said Hydro development provides, he said, near the bottom of page 7:

"It must be emphasized that the overall Churchill-Nelson development is an integral part of the economic development of the Province of Manitoba. The benefits derived provide an essential contribution to the economic wellbeing of all the province and in particular the north."

From the foregoing excerpts from the Statement there can be no doubt that Premier Schreyer is firmly committed to the overall development of the project, both the Lake Winnipeg Regulation and the Churchill-Nelson Diversion. While recognizing a number of effects detrimental to the Indian communities and the Indian way of life, he believes these to be of short-term duration and is convinced that in the long run the development will be of great benefit to the north, as well as to the rest of Manitoba.

The Premier's statement refers to the various physical effects of the Project which may be injurious to the residents and to the steps taken and proposed by Hydro to remove or mitigate these effects. On page 12 it is stated that the Government clearly recognizes its duty and responsibility and will undertake the actions called for thereby. Government policy in this regard is stated as follows:

"The Government's policy with reference to compensation and mitigation is that northern citizens affected by virtue of the diversion project will be treated fairly and with prompt dispatch."

In view of the difficulties and delays encountered by the Indians in getting information about the project, they question what is meant by "prompt dispatch" and they are greatly concerned that the word "fairly" in conjunction with "compensation and mitigation" will not be broad enough to cover such matters as damage to the environment and their lifestyle, which they regard as vitally important. To solve this problem will require a broad scale, sympathetic approach by Government, with some bias in favour of generosity of treatment. It will further require a great deal of patience on both sides if the end result is to be mutual goodwill and understanding.

On Page 14 appears the following:

"An aim of development is to give work opportunities to the people of the north, with participation of northern citizens in determining the specific opportunities which they wish to pursue."

The Statement then outlines several ways in which with Government support, the traditional occupations of fishing and trapping may be made more efficient and productive, also other types of work and industry which similarly may be developed and operated by the Indians. Clearly Mr. Schreyer envisages a future in which the Indian people will live more and more in a mixed culture, some following the traditional ways of their ancestors, some developing pursuits and ways adopted from the white man.

Mr. Martin's evidence (Transcript for September 22) amplified Mr. Schreyer's Statement of General Policies. He said that the compensation proposed was clearly intended to take care of damage to the economics of the environment which lessened the viability of the community. On this point he cited a draft arbitral agreement which he and Mr. Huband (who then acted for The Northern Flood Committee) had drawn up, under which, if the Government or Hydro and the Indian communities were unable to agree upon the compensation to be paid in respect of any matter, an independent arbitrator would be given wide powers to work out a solution and make recommendations to Government. If these recommendations proved unacceptable the arbitrator would have power to review the situation and make further recommendations. This draft agreement never became effective, being rejected by the Flood Committee on the ground that the Indians would not turn over to an outsider the power to make final decisions on such matters.

With regard to flooding of land, and referring specifically to Nelson House Community, he said (page 34) that:

"If this land is going to be flooded, the land will not be flooded until it is legally acquired, that the government is not attempting, nor is Manitoba Hydro attempting to go roughshod over the property rights of any of the citizens whether they be treaty or non-treaty, and as far as question number 7 (in the Panel's terms of reference) is concerned, if I could address myself to that, the 1966 agreement between the provincial and federal governments certainly does not give a mandate for the flooding of trapping, fishing or hunting areas."

Mr. Martin further said (pages 37, 38 and 39):

"Let me restate the position, Mr. Chairman.
The Indian people in terms of their reservation
land have the absolute legal right not to have
their land infringed upon

. . .

The Provincial Government has not got the right to
expropriate treaty lands. The federal government
has.

. . .

And the provincial government respects the legal
position in terms of land title, as evidenced by
treaty lands. If it turns out that the Indian
people on treaty lands are not prepared to sell
their land, then obviously that is their right.
And that right will be respected.

. . .

The position as I understand it, that has been taken
by the Minister of Indian Affairs, which is a
position that is subscribed to by the provincial
government, is simply that the legal right that is
contained in the Indian Act which would enable the
Minister to transfer that land to the provincial
government, will not be exercised by the federal
government unless the band at Nelson House are
prepared to facilitate the transfer . . ."

Later (page 79) Mr. Narvey referred Mr. Martin to the things he
had said in the foregoing excerpts, but stated that Mr. Martin
had said: "that the people at Nelson House do have an absolute
veto on any operation beyond the level essentially of what I
would call the high water mark." Mr. Martin answered by saying:
"I don't concede that anybody has any right of veto and I agree
with Mr. Green on that."

The Panel finds it difficult to reconcile this last statement
of Mr. Martin with what he said previously. In our view, if
the Band at Nelson House have a legal right not to have their
land flooded and if the Provincial Government has no right to
expropriate their land and if the Federal Government will not

give the Provincial Government the right to expropriate without the consent of the people at Nelson House, the refusal of the people there to sell or consent to expropriation would be a pretty effective veto against flooding their land.

Assuming that all the hypotheses mentioned in the preceding paragraph are factual the position would appear to be that, unless the Federal Government changes its position, Hydro has no legal right to flood reserve lands at Nelson House or elsewhere. The Indians would thus be in a strong bargaining position with Hydro, a fact of which they and their counsel are fully aware. However, the legal picture is not clear. As we stated earlier, Mr. Green, who like Mr. Martin is an experienced competent lawyer, gave us his opinion that the Federal Government was obligated by its 1966 Agreement with the Manitoba Government to authorize the flooding of such lands as might become necessary in carrying out the Project. It is for this reason that we stated the legal question should have been settled before any steps were taken that would lead to the flooding of Indian land.

We understand that in the last few months some discussions have occurred between Hydro officials and representatives of Nelson House Community concerning possible methods of mitigating the effects of anticipated flooding, but that little progress has been made towards an agreement. As it is now anticipated by Hydro that Southern Indian Lake water will begin to flow down the Rat River by August of this year, it is urgently necessary that a solution be found speedily. In order that negotiations may proceed on a basis fair to both sides, and particularly to the Indians, it is highly important that the legal position be made quite clear. We consider that steps should be taken immediately to this end.

Mr. Martin was questioned about the impact of the Project upon the Indian way of life. He stated that the Government was well aware of the fact that the white man's way of life had for many years been impinging seriously upon the Indian way of life, that this had raised a very difficult continuing problem for which there was no easy solution. He said the Premier's Statement shows the Government to be fully conscious of the problem. The Statement clearly recognizes that the native people should have the opportunity to continue to enjoy their traditional lifestyles, but they should likewise have a fair opportunity of changing these native lifestyles. The Statement further contains the following comments: The Government should not play the role of God, telling them they must do this or that. The native people themselves do not speak with a united mind as to

what their future destiny should be in the twentieth century. What the Government is attempting to do is to keep the options open. It is a very grave problem.

Mr. Green was also questioned about damage to the Indian life-style. (See page 93 of transcript for September 23):

"Mr. Smith: Has it (meaning the Summary Report of the Canada-Manitoba Study Board) taken into account what I might describe as any damage done to the way of life of the native people in that area?

Mr. Green: The social dislocations -- there was no value except in terms of lost income on the social implications that the project would create. Not because there is no value in the communities or in the problem of the communities, but in my view, and this is a judgment from the study, the people of this province through their government have the responsibility to deal with those social implications in any event. And may I say sir, that up until 1969, and I do not blame any particular government, or any particular political party, it is my opinion that these people have been seriously neglected and have had serious social dislocations and have had serious problems as a result of what was being done until that time. We would have to change that as responsible government, whether we proceeded with the Churchill River Diversion or did not, and in my view we have a better chance of changing it by virtue of our proceeding than if we did not.

Mr. Smith: I gather then that the government now feels itself responsible for dealing with social dislocations and trying to find a proper solution.

Mr. Green: Absolutely sir. As a matter of fact we have set our objective as the following: that we have to compensate for direct income loss or anything that can be tangibly compensated for as normally determined by a court of law, and on the assumption, not that the people own the property, but that they are entitled to be the way they are -- in other words, we go beyond what a court of law would do. That we have the responsibility to see to it that there is an option to provide that way of life which is traditional to the people, if they so desire it,

and that we have a further responsibility of increasing options which were not there before. We accept that as a responsibility and that is our objective and that is what we intend to do by virtue of our responsibility to the native people involved."

Mr. Green agreed with Mr. Martin that it was Government policy, indicated in Mr. Schreyer's Statement, that the Indians should have a free option to continue in their traditional ways or adopt the white man's ways. However, he gave his personal view that giving the Indian a special status a hundred years ago had been a mistake, for both the Indian people and the rest of us, and that the only real future for the Indian was to become totally integrated into the mainstream of Canadian life, while retaining their own special characteristics as do the many other ethnic groups in the Canadian mosaic.

Both Mr. Martin and Mr. Green denied that the Indian people as a whole wished only to retain their ancient culture and that they were desperately afraid that their way of life would be seriously damaged and even destroyed by the Hydro Project. Mr. Green said that in discussions with native people in the course of many visits to the north he had not found this to be so. Nor had he received that impression from the Northern Flood Committee. On the contrary, he had become convinced that a great many wanted to have more of the advantages and benefits of general Canadian life. These people were not opposed to the Project, though they naturally wanted adequate compensation for any damage sustained by reason of it. Mr. Martin said that if a plebiscite were taken among the native people of the north, on the acceptance of the Project, it would be approved by the majority. We only say that we did not get a similar impression from any of the Indians who spoke to us at the Panel Hearings. Those who favour the development were conspicuous by their absence. In our opinion, based on what was said by the many Indians who spoke at the Hearings, and acknowledging that we may be misled to some extent by not having heard from any who think differently, the feelings of dismay, anxiety and anger among the Indians are certainly more widespread and express a deeper genuine concern than Mr. Green and Mr. Martin deem to be the case.

Neither Mr. Martin nor Mr. Green would in any way concede that what Hydro was doing in the Churchill-Nelson Project was destructive of the environment or of the Indian way of life. They admitted that the Project caused some dislocations and losses, but viewed those results, insofar as they were economic,

as being temporary, for which adequate compensation was the Government's policy and would be paid. In their opinion the benefits to the north far outweighed the detrimental effects.

Mr. Green said the Government had considered the beneficial and detrimental aspects of the Project as now planned and had made the decision to proceed with it. Prior to this decision a major change had been made in the original plan, by reducing the amount by which the level of Southern Indian Lake was to be raised by about 24 feet. He agreed that minor additional adjustments or modifications might still be made to it but he could see no basis on which the Government would reverse itself. In his opinion no real change in the concept would be acceptable to Government. It was also clear from Mr. Martin's evidence that in his opinion the Government was committed to the Project. He did say, however, and this seemed to be only his personal opinion, that if it should be the will and wish of the people of Manitoba that the Churchill diversion should not take place, nothing had been done that would prevent the cancelling of the diversion (pages 81 and 82 of transcript for September 22). He indicated that in that event water from Lake Winnipeg would still make the development of the Nelson substantially justifiable on economic grounds, though there would not be maximum economic justification (page 102).

In response to something John Wavey of Split Lake said about fooling the public, Mr. Martin said (page 98):

"I would not want to hear you say that the Manitoba Government or the Manitoba Hydro is trying to fool the public, because I would like to assure you in the most precise manner that that is not the intention of government or Hydro, that the government is most interested in listening to, as they have all the way along, constructive suggestions as to what should be done by government with reference to the problems that have arisen and will arise with reference to the diversion project."

Mr. Green was asked by His Grace Bishop Allan if, and when, the 47 recommendations contained in the Summary Report would be expedited. He replied (page 113):

"Some, sir, have already been expedited. It depends on the recommendation. Some can only be looked after, after we get the effects of what the program is doing. Some are being looked at now. We are - the staff is presently looking at some

of the recommendations and there is going to be, I gather, a meeting with the staff of Environment Canada, to see which can be implemented. But if you look at those recommendations -- one refers to the water intake at Churchill -- that is now being looked at. One refers to the ice conditions in the Outlet Lakes -- that is being -- the Hydro took cognizance of that, some relate to clearing which were looked after during the progress of the organization (sic?), some referred to setting up a compensation system and an appeal system, those things have been suggested and are under way and we have offered -- some of that is being complicated by the supposed federal government action -- but we have offered to have that arbitrated by the Minister of Indian Affairs, Mr. Chretien, or Mr. James Richardson. So we have done some of them, some of them can't really be handled until the project goes into operation, so you see what the actual problems are.

Mr. Allan: In which case it may be too late to do anything about it.

Mr. Green: If -- none of the Study Board recommendations do not imply that the project will continue -- some of the Study Board recommendations are how to deal with things when they arrive and when they arrive they have to be dealt with, but you are right, there may be things that result from the project which cannot be changed."

The passage just quoted points up something that the Panel heard a number of times during the Hearings and with which we are in full agreement, viz: whenever a large project which may entail grave detrimental effects upon the environment or upon people is being considered it should be the regular practice, carried out without question as a matter of course, before a final decision is made to proceed with the project, and certainly before any construction work is commenced, to hold frank and full discussions to cover all aspects of the project in as much detail as is then known. This should be an absolute minimum in all such cases. If this course is followed there is a reasonable prospect that out of full, frank discussion, with all the cards on the table, there will emerge changes in the plans that will eliminate or substantially lessen the anticipated ill effects. As Mr. Martin put it, referring to the problem before us, it

would have been much better if the things the Panel was attempting to do late in 1975 had been done ten years ago.

The Complaint of the Manitoba Fly Fishers Association

The prime concern of the Panel has been with the Indian and Metis people of the north, they being the people who feel in the greatest danger of loss from economic and social dislocation. But our inquiry was not confined entirely to Indian and Metis problems.

One brief which indicates that some people other than Indians and Metis may have legitimate complaints about the way in which Hydro has sometimes acted, was filed by the Manitoba Fly Fishers Association (Exhibit 9).

The Association is greatly concerned less the northern brook trout may be eliminated entirely from the lower Nelson River watershed. The brief states, on page 1:

"This species of brook trout was once an important source of food to Indian people of the area. Today, the trout has enormous significance for naturalists and anglers. With the exception of lake trout, this unique species of brook trout is the only trout or char indigenous to the province."

These trout spawn in the late summer and early fall in the headwaters of the tributaries of the Nelson River. The Limestone River is one of the more important of these tributaries. Over the last four years the Association has from time to time urged ministers in the Manitoba Government to ensure that trout migration would not be interfered with. Not long before the Panel Hearings the Association discovered that Hydro had constructed an earth-fill dam across the Limestone River, with culverts inadequate to accommodate maximum river flows. They fear that trout migration was severely restricted in that river in 1975, and possibly eliminated. Last August the culverts had apparently been clogged or damaged. Fish were unable to get through, as was observed by biologists who were there.

It seems that the dam is a temporary structure and is being or is to be replaced by a permanent structure that will not

be a barrier for migrating trout. If so, the problem may be a one year phenomenon. It seems, on the other hand, that farther down the Limestone River another dam is being constructed, to create a reservoir for a construction camp and the Association understands that the installation in this dam of structures to permit passage of fish is a matter of considerable doubt.

The Association's brief is highly critical of the Government for permitting Hydro "to dump tons of rock and earth into one of North America's finest wilderness trout rivers without the installation of adequate culverts." It further states that Hydro planners have shown a flagrant disregard for the environment in this matter. The conclusion is expressed that ignorance, apathy and incompetence exist in critical areas in both Government and Hydro. The Association expects that the Limestone River fiasco will be repeated many times, on other tributaries of the Nelson River.

Once more the Panel is unable to make a proper assessment of the facts as there was no one from Government or Hydro present at our hearings to be questioned about the facts. If the facts as stated in the brief are correct it appears to us that Hydro acted without sufficient care in constructing the first dam and without much thought about the environment. In our opinion it would be a significant loss to the north and a great pity if this magnificent fish should disappear from our waters.

Answers to the Seven Questions

Posed by the Task Force

All that has been said in this report might have been greatly expanded, with many more references to specific items of information given us by individual witnesses. Again, perhaps we should have made much more direct use of briefs that were filed as exhibits. All of these made interesting reading, and many of them were informative, thought provoking and persuasive. They have assisted us greatly in our task.

It is our view that the report should not be permitted to expand into several hundred pages, something that could easily have happened. We consider that for the purposes of this inquiry it is best that the report be as concise as feasible, while still setting out the essential facts with reasonable accuracy. This we have tried to do.

We turn now to the seven questions for which, by our terms of reference, we were directed to seek answers:

1. What are the social and environmental costs of this project to the community as a whole? To whom will go the costs and to whom will go the benefits of this project?

It is to be noted that the question does not relate to financial costs, which will be very high and which will be borne in the first instance by Hydro and the Government and ultimately by all Manitobans who use electric power.

Social and environmental costs cannot be segregated from economic costs, because unless the economy of a district is still able to support the people who live in it the district becomes non viable, and no matter whether the social and environmental costs are light, heavy or tragic, the people or some of them may be forced to move.

We have seen what the principal social and environmental losses will be. First, in total some thousands of miles of shoreline, much of it lush with vegetation (over 2,000 miles of shoreline on Southern Indian Lake along) will be flooded. It will take an indefinite number of years for similar shorelines to become established at the new level. In the meantime moose, deprived of their favourite foods, will become fewer and more difficult to find. Muskrat, beaver and other animals will be forced to find other locations for their homes. Particularly serious will be the situation in part of the Outlet Lakes area, where it is planned to lower the water level suddenly by several feet in the late fall and raise it again two or three weeks later. The result may be that where this is done beaver and muskrat may disappear permanently.

Second, land on which many millions of cubic feet of standing timber is located will be flooded, causing the loss of the timber now there and all that would have grown in the future. Instead of beautiful forest there will be vast numbers of dead trees in the water, standing, floating or sunken, a situation that will take a great many years to clear. In the meantime there will be great quantities of debris in the water, interfering with navigation and more seriously with fishing, whether by net or by trolling. Soil erosion and thermo erosion of permafrost will cause discolouration and pollution of lakes and streams for an uncertain period of years. Many spawning areas for fish, notably whitefish, will become unsuitable because the water has been made too deep, or by reason of debris or water pollution.

As we have seen, to the Indian the beauty of the forest, rock, shoreline, clear lake and river water, and all that grow and live therein, are part of him and he of them. To have this environment damaged, rendered stark and ugly, unusable, wholly or partially, even temporarily by him or by animals, fish or birds, is a very serious loss, both socially and environmentally, to him as an individual and to his community. In addition to his disquietude and fear on this score, is the fear that, for at least a period of uncertain duration, his community may be rendered non viable.

These costs, or losses, will not fall upon the people of Manitoba as a whole. They will fall upon the people of the north, by which we mean essentially the Indian and Metis people. The economic costs, of course, may be transferred in part to all Manitobans, through welfare payments and expenditures incurred in moving people to better locations and in devising and setting up, in collaboration with the Native people, new industries and other means of making the north more productive.

The benefits of the project will enure to all of Manitoba. At first most of the benefits will accrue to the populous south of the province, because of the much greater variety of uses there for electricity, but in the north electricity is important for light, communication, other domestic purposes and is confidently expected to be used increasingly in industry as new activities develop and new mines and forests industries come into production. This will not happen overnight.

2. Has there been a withholding of information for the purpose of proceeding with the least impediment? Has the information as to environmental and social impact, true economic cost and realistic electricity demands been made available for public scrutiny?

We have here two distinct questions. Dealing with the first, it is clear to us, subject to our having heard only part of the evidence that might have been given, particularly on behalf of Hydro that the Indian and Metis communities had very little early information about what was being proposed and that since 1969, while much more written material was furnished to them and a number of meetings were held with them, somehow the full impact of the project and the time schedule for its implementation were not brought home to them in a fashion adequate to acquaint them fully with all the effects the project would bring upon them. On the evidence it appears that information was never refused, but sometimes there were delays of many

months duration before answers to questions were delivered. It further appears that, generally speaking, no explanation for the delays was given to the native people. And all the time Hydro was pushing ahead with construction, endeavoring to keep up with its time schedule.

In the light of all these circumstances it is in no way surprising that distrust of the project continued to grow and that the native people suspected there was a purpose in not supplying information promptly, that purpose being to avoid delays in construction which could arise from unpalatable disclosures.

On the other hand, suspicious circumstances are not enough to permit an inference to be drawn properly that the thing suspected is correct. No reason for the slowness in answering questions is disclosed in the evidence, let alone that it was for the purpose postulated in the question. On the contrary we have the positive statements of Mr. Green and Mr. Martin that both Government and Hydro desired and intended to make all relevant information available to the communities. In addition, it would not be difficult to think of other explanations for the delays that occurred. The simple truth is that we have no real evidence tending to contradict the statements of Mr. Green and Mr. Martin. This being the situation, regrettable as the delays have been and contributory as they continue to be to the Indians' sense of frustration and exasperation, we cannot find that they have been motivated by the purpose alleged.

Looking at the second question, we do not think Hydro can be faulted for projecting growth of power demand in Manitoba that would utilize all the power developed as a result of the project by the end of this century. The history of power demand since just after the beginning of the century has been, at least until three or four years ago, continuous and remarkably steady, through periods of heavy immigration, rapid population growth and business expansion, as well as periods of population stagnation and business recession. This has been publicly well known for many year. It was reasonable for Hydro to conclude that the steady rate of growth over so many years was likely to continue and that preparations to meet that demand should be made. Mr. Ken Narvey's examination of the growth picture in very recent years raises some doubts about the rate of future growth, particularly since Manitoba's experience has been very similar to the overall North American experience, but in the years studied by him the rate of growth has fluctuated sharply. We agree with him that it is too soon to draw any firm conclusions about growth patterns in the next twenty-five years.

With respect to environmental and social impact and true economic cost, we conclude from the evidence that Hydro has never fully appreciated the full effect of the project upon the environment, nor the full true economic cost of it, particularly to the people of the north. Like nearly all the rest of us, Hydro people find it difficult to understand the Indian's view of all nature, including himself, as one, and therefore to appreciate the intensity of his feelings concerning destruction of portions of his environment and about social dislocations. This comment may be applied, with less force, to some Government personnel. Only on this hypothesis can we see a logical explanation for the degree of distrust, suspicion and at times in certain places downright animosity that has grown up among the native people, notwithstanding the expressed desire of both Government and Hydro to deal fairly with them.

The full extent of these consequences of the Project not being fully understood, it is obvious that not all that is involved has been made available to public scrutiny. It may be, and we hope it will prove to be true, that some of the excellent briefs presented us, by both individuals and organizations, well researched and thoughtful in content, will be of some help in closing the gaps in our knowledge and understanding of our native citizens.

3. Have the people of the northern communities most immediately affected been duly consulted?

The emphasis here must be on the word "duly". In our view, in order for us to say that people who will be most seriously affected have been duly consulted, full discussion with them on a completely frank basis would need to be held before any final decision to proceed was made.

We find that this prerequisite was not adhered to in this case. In the last three or four years of the Conservative Government there were some discussions with northern people, but the only occasion on which discussion in which it could be said the affected people were duly consulted was in January 1969. On the 7th day of that month public hearings were commenced in the community of South Indian Lake, and were continued in Winnipeg on January 27 to 29. These hearings were in relation to the effects of the project, as then proposed, upon South Indian Lake. Between January 7th and January 27th an interim license was issued to Hydro to proceed. Thus a decision to go ahead with the project was made at a time when the hearings were unfinished, and in fact when only a small part of what would be said had been presented.

Following the advent to power of the N.D.P. Government in the following June the whole project was reviewed and as a result a significant change was made in the extent to which the level of Southern Indian Lake was to be raised. The increase was reduced from about 34 or 35 feet to about 10 feet. With this major change, the Government made the decision to go ahead. No public hearings have ever been held since January 1969, if we except the hearings of this Panel in September 1975.

In the period since 1969 representatives of Hydro have had many meetings with Community Representatives in the north. Further, members of the Government, in particular Premier Schreyer and Mr. Green, have made many visits to the north for the same purpose. Unfortunately, as we have seen, notwithstanding these many meetings, and the various reports and documents distributed to the Indian communities, the full effects of the project were not brought home to them. Indian speakers stated that meetings with Hydro consisted largely of Hydro telling what was going to happen and that the effect on them would be either nil or not much. This suggests that the Indians had very little input in seeking modifications of the project which they regarded as important. The almost total lack of evidence from Government and Hydro on this point produces an unsatisfactory situation.

In the result, on the evidence available to the Panel, we must conclude that the people of the northern communities, though many discussions were held with them, were not "duly" consulted.

4. Has the severe social dislocation anticipated in the north been given its deserved priority by Manitoba Hydro and the Manitoba Government? Particularly has the Canadian stance of cultural pluralism been given sufficient consideration by Manitoba Hydro and Manitoba Government in view of the unique but also realistically progressive forms of cultural continuity of the Indian and Metis peoples?

Having regard to the small amount of evidence we received from Hydro and Government on the first part of this double question and what was said on their behalf it is pretty obvious that neither of them has ever considered the social dislocation anticipated from the problem to be as severe as it appears to us to be. Certainly they have not and do not now think it nearly as serious as do the Indians and Metis who spoke to us. This being so, in our opinion they have not accorded the problem as much priority as it deserves. If they had done so, their approach to it would have been at once less critical and more

sympathetic and the native people would have been much better informed. Thus the native people would have had a more solid factual base on which to assert their concerns and the proposals they felt would remove or at least mitigate the injury of which they were fearful. In the end some of the project's ill effects would probably have been ironed out, while those yet unsolved could now be tackled in an atmosphere of mutual trust and goodwill.

In our view the Canadian stance of cultural pluralism does not mean a separate existence for each culture, distinct and apart from all others. The concept is that together we make up one nation, with peoples of many cultures maintaining their own particular traditions, ideas and customs, but in touch with others who have differing cultures, so that people of each culture will come to understand and appreciate those adhered to by others. In course of time it is to be expected that some of the best or more adaptable customs and ideas of each culture group will come to form part of the culture of other groups, to the great enrichment of our national life.

The Government of Manitoba has shown good consideration for at least part of what is involved in the concept of cultural pluralism. Through a number of programs it has sought, by training, advice, encouragement and opportunity to bring to people of the north various kinds of knowledge and skill lying within the white man's culture. It has also expressed its strong desire that the traditional lifestyle of the northern people be available for all those who wish to continue in it. Some encouragement has been given to this end, but both in this area and in that of bringing western skills and knowledge to the Indians, a great deal remains to be done. The task will be long and progress often disappointingly slow, but in our opinion it must be pursued with conscientious steadiness and a great deal of intelligent understanding until Indian, Metis and whiteman are able to live together in harmony, each respecting the other, with understanding of and tolerance for their differences.

So far as the information given to us goes, all of the Government's programs and efforts have been directed towards conferring benefits upon or inculcating skills in the native people. We have heard nothing to indicate that we, the Euro-North American people, might learn much of value from the Indian and Metis. From our experience on this Panel, those who know these people best consider such an attitude to be totally wrong. They believe we have a great deal to learn from them that would benefit us in many ways. The process of building cultural pluralism is far from being a one-way street. This fact must be fully accepted and acted upon.

5. Does the plan involve the flooding of Treaty lands? If so, have the authorities followed a path which recognizes the rights of the communities affected?

The short answer to the first part of this question is: Yes, but not to the extent feared by the people in several communities. The only community in which flooding of Treaty lands will be of serious consequence is Nelson House, where, in periods of high water, Hydro estimates some 2,000 acres may be under water. The Indian estimate is much higher, indicating flooding of about 4,000 acres. Mr. Martin indicated that where it is necessary to flood Treaty land, the land will be purchased and that it will not be taken and flooded without the consent of the Indians and payment of proper compensation. He further stated that neither the Province nor Hydro has the right to flood Indian lands. This policy is unobjectionable in theory. However, Hydro has proceeded with construction as if there was no doubt that the necessary land would be acquired, though so far as our information goes, no offer to purchase Indian land at Nelson House has yet been made and certainly no consent to a sale has been given by the community of Nelson House. As the water in Southern Indian Lake has been built up, perhaps to the limit of 10 feet, and the control structures at South Bay and Notigi have been built, all part of the overall plan, and as the opening of the gates at South Bay and Notigi, for the purpose of bringing the Diversion Route into operation will raise the level of Footprint Lake sufficiently to flood some of the Reserve land, this procedure looks very like getting off the mark too soon, as if the acquisition of the land was a foregone conclusion, almost a fait accompli. We do not consider that this procedure shows proper recognition of or respect for Indian rights.

6. What specific problems are seen to confront each community immediately affected by the project?

Our answer to this question is to be found in many places in this report. In general the problems are similar but vary considerably in intensity. The problem of flooding at South Indian Lake was such that the whole community has now been moved, though fortunately not far. This particular problem has perhaps been solved to the reasonable satisfaction of the community. At Nelson House, the effect of anticipated flooding of reserve land is a matter of very great concern. This problem urgently requires that negotiations be commenced in earnest, because, as we understand the law and Government policy, unless a solution acceptable to the Nelson House community is found, there may be a complete impasse insofar as the present diversion route through Footprint Lake and Nelson House is concerned. At Cross Lake a number of buildings will require to be moved.

The most serious overall economic problem relates to traplines, many of which have been flooded around Southern Indian Lake, north of Notigi and in some parts of the Outlet Lakes area. Many more will be flooded if and when the water of Southern Indian Lake is turned loose down the Rat and Burntwood Rivers. The problem of destruction of and damage to traplines by rising water is added to by difficulty of access to many of them caused by navigation problems due to logs and other debris, dams and other man-made obstructions, and by difficulty in finding accessible landing spots. Finding new trapline locations that promise comparable productivity to those lost, reasonably accessible and not too far away, may often prove difficult.

In part of the Outlet Lakes Area the effect of the project may prove permanently disastrous to beaver and muskrat populations, by reason of the proposed sudden lowering and later raising of water levels in the late fall, with consequent freezing of beaver houses and muskrat homes.

In all places where the water rises as much as a few feet the shoreline feeding grounds of moose will be lost, moose will become scarcer and more difficult to find.

Standing, floating and sunken logs and other debris will in many places be a serious impediment to fishing, causing loss of nets and gear. Changes in water level will wipe out the spawning grounds of certain fish, notably whitefish, which like to spawn on a clean sandy lake bottom where the water is fairly shallow. Pollution of water by scoring of earth banks and melting permafrost is likely to have further detrimental effects on fishing.

The most feared effect in all the communities is more than economic. It is the fear that their environment will be so damaged as to destroy their whole way of life. In our view this is a genuine fear, perhaps excessive, perhaps not.

7. Does the publicized 1966 Agreement between the Provincial and Federal Governments give a mandate for the flooding of trapping, fishing and hunting areas, and for the interference with navigable waterways?

The above mentioned agreement contains no provisions about trapping, fishing and hunting areas. Practically all of these are on Provincial crown lands or waters, and are under Provincial Government jurisdiction. But the Provincial Government has stated its policy to be that if trapping rights by way of registered traplines are interfered with, proper compensation

will be paid. Hunting and fishing areas are in a different position. The right to hunt or fish will not be taken away by the project, though the catch may be less in some areas by reason of it. Probably the most satisfactory way to deal with this question would be a comprehensive program to wipe out the detrimental effects of the project upon fish, and upon game animals and birds in the area.

There has been some interference with navigable waterways but not sufficient evidence has been brought to our attention to enable us to reach conclusions as to its extent.

Before turning to the recommendations the Panel desires to make there is one further matter that calls for our attention.

Several of the briefs presented to us expressed a strong opinion that the majority should not always have its way. In effect they contended that where something is considered by a minority group to be of vital importance the majority has no right to ride roughshod over their wishes. Some put the position in stronger terms, stating that in such circumstances the majority has no right whatever to interfere with the rights of the minority. This view may be contrasted with that of Premier Schreyer, in whose opinion the rights and interests of minority groups must be respected and every effort made not to inflict injury on such groups, but that if a solution of differences acceptable to both sides cannot be found, a point will be reached at which the benefit of the great majority must take precedence over the benefit of the minority group.

In these differing points of view we have one of the classic dilemmas of democratic society, how to harmonize the rights and interests of the majority with sharply conflicting rights and interests of individuals and minority groups. Too often in North America the rights and interests of minority groups, notably groups of native people, have received short shrift at the hands of the majority.

We are in full agreement that the majority should not ride roughshod over a minority, but we do not believe that anything so drastic should ever be necessary. The interests of the majority can be reasonably well secured without extreme action. Similarly, given an attitude of goodwill on both sides the interests of the minority can be protected. In the present case, if the necessary goodwill exists, the consequences feared by Indians and Metis can be greatly reduced if not eliminated altogether in the long run. Even in the short

run much can be accomplished by open, frank and full discussion, by moving people where necessary, to safer and at least equally good living quarters as those they formerly occupied, by taking steps to restore fishing and navigation facilities, to allot traplines as productive and accessible as those lost or damaged, and to improve the habitat of fish, aquatic animals and birds, and by other measures designed to prevent deterioration of the environment and to improve its quality -- all these things to be done in addition to adequate compensation on a generous scale for all losses or damage sustained by reason of the project, including social and environmental loss.

RECOMMENDATIONS

1. We recommend that steps be taken without delay, if necessary through the courts, to determine what the rights of the Indians are with respect to their Reserve lands. Included in this determination is the resolution of the question whether Indian Bands or their Councils can take proceedings in court in their own names or whether such proceedings must be taken by or in the name of Her Majesty the Queen in right of Canada.

2. We do not recommend that the whole project be abandoned. If this inquiry or one of similar nature had been instituted seven or eight years ago, it is quite possible that ideas for alternative developments would have been forthcoming that would have aroused less fear and been less damaging to the environment, both economic and social. Possibly also, if no other alternative proved feasible, the timing of the project might have been altered, leaving more time to work out adjustments and reduce dislocation. However, no such inquiry was held and our concern must be with the situation as it is today.

Two factors have led us to our conclusion:

- (1) The Government, having appraised the project in the light of the information in its possession, having concluded that the energy that would be produced by it would be of very great value to all of Manitoba, has spent an enormous amount of money on the development, almost all of it borrowed. We have not a confirmed figure for the total invested to date, but from statements

made to us it seems likely that it is \$1,500,000,000 or more. To abandon the project now would place the burden of that great debt on the people of Manitoba, without any revenue from the investment to pay it. Interest alone, on the debt, would be in the neighborhood of \$150,000,000 per year, or about \$150 for every man, woman and child in the province. Further, the energy problem, instead of being solved for many years to come, would have to be faced anew, with the certainty of substantially higher costs for its solution from any other known sources of power production. For the Government to abandon the project at this late date would be to admit a colossal mistake, with financial consequences that would certainly shake and might even destroy confidence in the ability of Manitoba to manage its own affairs. Incalculable damage might be the end result. It is unrealistic to believe that the Government would be willing to face the consequences of abandonment except in circumstances in which it had come to the conclusion that not to do so would be even worse.

- (2) The Government's firm opinion, insofar as the evidence before us indicates, is that the whole project will prove very beneficial to the whole province, including the north and its native people. In our view the economic and social dislocation caused by the project will be greater and of longer duration than Government and Hydro appear to think. Yet we cannot disagree that in the long run electric power, new roads, better water transportation, improved communications and new industries, will bring substantial benefits to the northern people. This conclusion is subject to certain steps being taken, as recommended below.

While we do not think it would be realistic to recommend that the whole Nelson-Churchill Project be abandoned, we do think there is good ground for recommending that the Government give serious consideration to abandoning the Churchill River Diversion, or at least postponing it to a later date. Such a course would leave all the power potential of the Nelson available for development, from which source, power sufficient for Manitoba's needs during the next 10 to 15 years could be obtained.

If, as time passes, the need to utilize the waters of the Churchill should become transparently clear the diversion route could then be opened up. This would not entail great expense, as the necessary structures are either already completed or nearly so. There would also be the alternative of developing Churchill River power at generating sites on the river, if that course should seem more desirable at the time when the decision has to be made.

One important advantage of at least postponing the diversion is that it would provide 10 to 15 years in which to devise methods by which its deleterious impacts upon environment and people could be greatly reduced if not eliminated altogether. Those years should be utilized persistently from the very beginning to ensure the best possible result.

Should the Government consider adopting the idea of postponing the Churchill diversion, certain financial results would need attention. Sale of excess power outside the Province might be curtailed in quantity or in length of time. The burden of the capital cost of the project already incurred would have to be carried without some of the revenue anticipated to be earned from the diversion. This could lead to some increase in Hydro rates. The panel lacks practically all the information needed to gauge the extra costs that would be involved.

3. We recommend that negotiations on an urgent basis be instituted and carried on with all reasonable dispatch to settle the bases and amounts of compensation that will be paid to those who have suffered or will suffer economic loss or social and environmental damage from the Project. No amount agreed upon or paid should be regarded as final until the project has been completed and all the economic, social and environmental consequences can be and have been properly assessed. In the meantime all settlements or payments made should be interim only, subject to renegotiation if new or additional damage has been suffered, which justifies additional compensation. While it is impossible to measure accurately in terms of money the value of environmental loss and social dislocation, it is not impossible to award money compensation that will satisfy people that the matter has been considered fairly. Courts have always awarded damages for various injuries or wrongs where no accurate measurement in money was really possible. Items of this kind, which are of greater significance to Indian and Metis people than to the white man, should not be ignored. Compensation for them should be paid on a fair basis.

For the purpose of ensuring that discussions and negotiations with native people will have a reasonably good chance of resulting in satisfactory agreement, it is of vital importance that persons conducting them be familiar with and sympathetic to the native way of discussion and decision making. Unfortunately it seems that all too frequently in the past this has not been the case.

4. We recommend that every feasible effort be made to preserve Nelson House Community in its present location. This will involve replacement of flooded and flood endangered land by other nearby land at least equal to the land replaced in economic and environmental value. Flooded and damaged traplines belonging to members of the community or to the community itself should be replaced by others at least equally accessible and productive. To the extent that this is not accomplished the deficiency should be allowed for in the compensation paid for interference with or damage to traplines. If it should be found impracticable to maintain the community in its present location in as viable a condition as before, it should be re-established at Hydro's expense in a new location where its continuance will be fully as viable as it has been historically in the present location. All of these things should be settled by agreement resulting from frank and open discussion between Hydro and representatives of the community with the object of concluding arrangements that are genuinely acceptable to the members of the community.

5. We recommend that, together with adequate compensation, measures in mitigation of damage now being sustained or anticipated be stepped up. At present the debris problem is being tackled by collecting quantities of it into sheltered bays and by clearing certain limited portions of lake and river shore areas that will be flooded, also by clearing a number of spots for landing of boats and canoes. In our view a program of clearing standing dead timber and removing flooding timber over a period of years is desirable, so that in the not distant future the beauty of the landscape and safe navigation for canoes and boats will be restored. Such a program would also have some beneficial effect on fishing.

Prompt steps should be taken to preserve nesting and feeding areas, particularly of geese in the lower Churchill River.

Hydro engineers and officials should instruct and educate their foremen and crews to exercise great care to reduce injury to the environment and to avoid such injury wherever possible.

Cases like the earth and rock fill in the Limestone River preventing brook trout from reaching their spawning grounds would thus be avoided.

A much more difficult problem which, because of its importance, needs much thought and close attention, is the attitude of many white men who come to the project area towards the native people. The many incidents that occurred at Gillam, a few of which are mentioned in this report, indicate that the construction people took over that area, treating the Indians, as stated to the Panel, like second-class citizens in their own town. Such conduct, though no doubt largely thoughtless, can only estrange and antagonize the Indian, and lose all the benefits that friendship and goodwill can bring to all people in the north.

6. Apart from remedies for things caused by the project or noted as it has been proceeded with, we recommend the following proposals for consideration by the Government as measures first to improve the viability of the traditional Indian way of life and second, to make it less difficult for those Indians who desire it to fit fully into the white man's form of civilization.

- (1) We were told that the fisheries in the north were becoming less and less productive. One witness, whose evidence, in part, has been mentioned earlier, Mr. David Young, said with regard to fisheries, in response to a question from Professor Watkins (transcript for September 23 at page 17):

"You can't expand the fisheries very much until somebody figures out a way to do it. As a matter of fact the fisheries in northern Manitoba is failing and will shortly collapse utterly as it will in Saskatchewan and in all places except on the major lakes like Athabaska, Great Slave and Lake Winnipeg."

Mr. Young's experience and background, in government service and as a specialist in resource management have led us to regard his words seriously. Even if his view is more ominous than the situation warrants, we believe the Government should make strenuous efforts to restore and build up this important source of Indian revenue and sustenance. We are not expert in the methods which would offer the best hope of success but offer two suggestions. Stocking of formerly highly productive lakes with appropriate types of fish might be useful, also the provision of suitable spawning areas.

- (2) We also recommend steps be taken to improve the habitat, in selected areas, of beaver and muskrat. In this connection one of our Indian witnesses, after stating that his trapline had been lost by flooding, said that he would have to establish a beaver farm and muskrat farm, intimating that he would need some assistance to do so. We have no evidence about the prospect of a successful business being set up in this way, but the fact that an Indian trapper spoke of it as a practical matter suggests to us that it is worth investigating.
- (3) With the growing development of the north greater efforts will be required to enable Indians and Metis who so desire to qualify for many varieties of skilled jobs, requiring technical and professional training. We learned from several sources that, as historically has been the case, the employment of Indians in work on the project has been confined almost entirely to various kinds of common labour. Further, construction jobs for Indians are not only limited in character but also temporary in duration. As these jobs come to an end over the years until the completion of the project near the end of this century, native people who have enjoyed higher wages for several years and have been separated from their traditional vocations for that period, may find it very difficult to readjust to their former way of life. At the same time there may be no wage paying jobs available to them. Anticipation of this situation by Government and plans to meet it are essential to the continuance of healthy community life in the north.

What has been said in the previous paragraph indicates situations which are obviously not good enough if Indian people are ever to feel that they really are part of our society, on an equal footing with everybody else.

Here we have a difficult, long range problem, which is both a social problem and one of education. Indians growing up in their northern communities, largely isolated from the white man's civilization, do not readily accept the idea that they should spend several years, after completing elementary or high school, studying to prepare themselves

for a kind of work which, though they are told is important, useful and remunerative, they know nothing about and which is foreign to their whole experience and that of their community. The desired end result can only be attained through long continued, patient effort by persons who know and understand the Indians. It must be anticipated that progress will be slow, with many setbacks and disappointments for both the Indians and those engaged in their education. For the most part development must necessarily proceed in stages. It is much easier to interest a person from a totally different culture in something whose purpose he can see and readily understand than in working with intellectual concepts he has never heard of.

The Manitoba Government understands what we have just said, as evidenced by the kinds of training and types of work described in Premier Schreyer's Statement of General Principles, as instances of what has been done during the past eight or nine years to improve the qualifications of Indians for skilled work. Our recommendation is that the Government continue and expand its program. In this way, more and more Indians will become qualified for better and more responsible positions. It is to be expected that gradually, as this process grows, both they and the white man will recognize that they can qualify for every kind of work in the white man's world, including all the arts and professions.

As stated, the road will be long and hard, but it is not an impossible road. And it is well worth travelling with all the intelligence and patience both of us can muster, for the final objective is that those Indians who wish it will become fully integrated in the general society of Manitoba, much as other ethnic groups have done and are doing, still retaining much of their own inherited culture and through it enriching ours. At the same time for those Indians who wish to continue living in their own communities, whether in or off a Reserve, and following their traditional pursuits of hunting, trapping and fishing, that form of life will be available and, hopefully, more viable and less hazardous.

7. For our last recommendation we return to the problems raised by resource development. The Churchill-Nelson River development is not the first, nor will it be the last development giving rise to serious questions about its impact upon the environment and upon people. It is simply the largest and most contentious to date, in Manitoba. Most of the large scale developments proposed or undertaken in recent

years have been resource developments in the north, but there is no reason to believe that projects with significant impact will not make their appearance elsewhere in the province. Nor will such projects be confined to Hydro electric developments. Without attempting to put any limit on the nature of future project proposals, we think of gas and oil pipelines, paper mills, hydro plants and nuclear energy plants.

The discoveries of oil and gas in Canada's Arctic regions indicate the possibility cannot be ignored that at some future date a serious proposal will be made to build a pipeline to the south through Manitoba. Again, unless the capacity of the paper and sawmill plants at The Pas is substantially enlarged there is a real likelihood that, again at some future date, a proposal will be made for a second plant to be built in the north. The evidence obtained during the C.F.I. inquiry clearly indicated that there were enough trees in the area leased to C.F.I. to provide timber in perpetuity equal to at least twice the capacity of the plants at The Pas.

Nor can we think it impossible that, perhaps a few years before all the plants to be erected under the present project are expected to be fully utilized, a proposal may be put forward for one more large hydro development in the north. Mr. G. W. Malaher, in the course of his appearance before the Panel on September 24, told us that at a meeting in January, 1969, he raised with Mr. Bateman, then Chief Engineer of Hydro, the question whether Hydro had been considering the harnessing of the South Seal, North Seal and perhaps the Wolverine Rivers in conjunction with the Churchill-Nelson project. Mr. Bateman said this was correct but that it was too costly and would not be done and he could forget about it. However, Mr. Malaher said that the use of the South Seal and its diversion into Southern Indian Lake had since then been mentioned twice by Hydro.

Mr. Malaher's fear is that within 15 or 20 years this project will come to the forefront. If it is designed to produce the maximum amount of power it will, in his opinion, comprise bringing both of the Seal Rivers, the Wolverine and one or two more together, diverting and channeling them together into Southern Indian Lake. In the process an enormous lake, some 300 miles long, from north to south, would be created. From his description the effects upon the environment and animal life would be vastly worse than those of the Churchill-Nelson project. The lake would in his opinion be so large as to affect the climate of Manitoba.

More dangerous in the range of its possible ill effects would be the construction of nuclear plants. It seems clear that up to this date no foolproof method of eliminating danger from radiation has been devised. Recently three nuclear engineers, who between them had made many nuclear reactors, were reported to have resigned from their posts because of the dangers inherent in the plants they had been making and their waste-products. The consequences of exposure to nuclear radiation are so tragic in terms of human life that in our opinion it would be even more important where a nuclear plant is proposed than in any of the other kinds of projects mentioned above, that prior to any decision being made to proceed, there be a thorough examination of the project from every point of view, with full consideration of the opinions, objections and suggestions of people likely to be most affected by it.

Manitoba Hydro is currently gearing up a nuclear power department. This indicates that in the opinion of Hydro's top management the next development in Manitoba in the area of energy is likely to be through the use of nuclear power. In view of the inherent dangers associated with nuclear reactors and their residuary waste products, we must hope that hydro's establishment of a nuclear department does not mean that this province is giving no thought to other possible sources of energy. At this date we believe it would be wise for Hydro to keep all options open and to investigate, along with nuclear studies, the feasibility of such steps, among others, as establishing large scale conventional thermal power plants, or the use of solar or biomass energy. It is highly important that we do not become totally committed to one course of action, excluding all others, until we have found, after thorough investigation of alternatives, that one is in fact the best for Manitoba.

We believe that if the public were asked now (after being informed of the risks of nuclear power) whether they wanted nuclear power to be pursued, or some of the possible alternatives, they might plump for keeping all options open as long as possible. On the other hand, if Hydro establishes its large nuclear department and spends large sums on research and in designing various nuclear plants, without thoroughly examining other possibilities, it will become pretty firmly committed to nuclear development. Then, if in 1984, for example, Hydro should ask the public whether they want:

- (a) a 500 megawatt nuclear plant on the Winnipeg River, or

- (b) a 1000 megawatt nuclear plant on the east side of Lake Winnipeg,

with a third alternative in the form of a brown-out in 1995, there would be no real choice other than nuclear power. It might well be too late at that date to conduct the studies necessary to determine whether a better source of power is available, in time to beat the brown-out deadline.

In our opinion, the public should have some input into the question of nuclear power development at this early stage, rather than seven or eight years hence, at which date their views may be quite irrelevant, because by that time the issue may, for all practical purposes, have been decided.

We recommend that a permanent body be established by the Manitoba Government, whose function would be to investigate and advise upon all projects from which it may be anticipated there will be injurious impacts upon the environment or upon persons or particular groups of people. It would be appointed by Order-in-Council under statutory authority and would report directly to the Executive Council, not to a particular minister, since its investigations might relate to any one or more of a number of Government Departments. We recommend that it function under rules that include the following:

- (1) It would be its duty to launch an investigation whenever instructed to do so by Government or any minister.
- (2) Its duties would involve following up any information it receives about a project that is being considered, to ascertain whether it is one that should be investigated. If it decided the project should be investigated it would have the power to launch the investigation without being instructed to do so, but would be required to advise the Clerk of the Executive Council of its action, with the reasons therefor, and the Clerk would bring the matter to the attention of the Premier as Chairman of Council.
- (3) The investigation would inquire into all aspects of the project that might affect the environment injuriously or interfere with the economic or social well-being or lifestyle of persons or particular groups of people. This is of special importance where the legal rights or the economic and social interests or lifestyle of Indians or Metis may be affected by the project.

- (4) The investigating body and its staff would be paid such remuneration as is authorized by Order-in-Council. It would have the power to engage the services of experts appropriate to the project under investigation, at reasonable rates of remuneration, such experts to be paid by the Government.
- (5) In the course of the investigation, which should be carried out as expeditiously as possible, consistent with its objectives, public hearings would be held at suitable locations, at which representatives of the project's sponsors and of those who may be affected by it, would be present, representations and arguments would be heard from all persons desiring to speak, including persons whose only direct concern is the protection of the environment or of the rights of minority groups, like Indians and Metis.
- (6) Every effort would be made to resolve differences between the project sponsors and those making objections to it. If complete agreement were reached the investigating body would so report to the Executive Council, stating the basis of the agreement. If, on the other hand, an impasse should develop and no agreement could be reached, the investigating body's report to the Executive Council would report accordingly, pointing out the issues upon which agreement had proved impossible. The report would also contain recommendations for disposing of the issues and might contain a recommendation that the project should not be permitted to go ahead or should be cancelled.
- (7) In any event the project would not be permitted to proceed until the agreement of all parties had been reported to the Executive Council or, failing agreement, the decision of the Government had been made.

The intention is that the investigating body, in carrying out its functions, would be free of Government control, while recognizing that it could not be more than advisory, since the final decision must always be in the hands of the elected Government.

If the Government should be prepared to accept and act on the foregoing recommendation for a permanent investigating body, to function in the manner indicated, we anticipate that enabling legislation may be needed, particularly as our proposal is

intended to cover projects of private corporations or persons as well as those of a Government agency or the Government itself.

In the opinion of the Panel, an investigating body, functioning in the manner outlined, should ensure that negotiations and public meetings, carried on openly and with full disclosure of all known relevant facts, would promote confidence and goodwill, and a reasonable spirit of give and take, so necessary for an amicable settlement of difficult problems. They should be able to prevent a repetition of the deplorable situation which developed in the present case, where distrust, confusion, frustration and downright anger have been very apparent, and not wholly on one side. These feelings have rendered sensible negotiations extremely difficult. All parties must do their utmost to ensure that such a situation does not arise again.

A list of the Exhibits filed during the Panel's inquiry, 54 in number, is contained in an Appendix to this report. Knowledge of their contents will contribute significantly to a full understanding of what we have said herein.

Respectfully submitted to The Interchurch Task Force on behalf of the Panel.

(Signed) C. Rhodes Smith
.....
Chairman

March 29, 1976

PANEL OF PUBLIC ENQUIRY INTO
NORTHERN HYDRO DEVELOPMENT

LIST OF EXHIBITS

<u>Number</u>	<u>DESCRIPTION</u>
1.	Lake Winnipeg, Churchill and Nelson Rivers Study Board: (a) <u>Summary Report</u> (b) <u>Technical Report</u>
2.	C.A.S.N.P. <u>Bulletin</u> (Vol. 15, No. 3 - Dec., 1974).
3.	The <u>Manitoban</u> (special supplement Nov., 1974).
4.	Overview Planning Institute - Evaluation of <u>Summary Report.</u>
5.	Northern Flood Committee: Correspondence adopting Overview's <u>Summary Report Critique.</u>
6. (a)	The Honourable Sidney Green's Reply to Task Force Invitation (Sept. 11, 1975)
6. (b)	Enclosed Documentation: 1. Crippen Report on Lake Winnipeg Regulation - January 31, 1970. ii. Underwood McLellan Report on Churchill River Diversion - February, 1970. iii. Manitoba Hydro Task Force Report on Expansion of Generating Capacity in Manitoba - October, 1970. iv. Report of Gillespie, Slaney and McTaggart- Cowan re Clearing Program - August 8, 1972. v. Remarks which I made in the Manitoba Legis- lature in 1973 regarding this project, during debate of the Estimates of my Department. vi. Debates of the Public Utilities Committee for the years 1970 to 1975 respecting the project.

- vii. Letter which I sent to persons enquiring about the project.
 - viii. Letter sent by Manitoba Hydro regarding the project.
 - ix. Manitoba Water Commission Report on Lake Winnipeg Regulation - Volumes I and II.
 - x. Summary Report - Lake Winnipeg, Churchill and Nelson Rivers Study Board - April, 1975.
 - xi. Letters and brochures sent to the affected communities.
 - xii. Letter from Premier Schreyer to the Prime Minister of Canada, dated July 31, 1974.
 - xiii. My address to the Canadian National Hydrology Symposium - August 13, 1975.
- 7. Department of Indian Affairs Statement to Task Force including Sept. 18, 1975 letter from The Honourable Judd Buchanan.
 - 8. Mr. Murray Wenstob Brief.
 - 9. Manitoba Fly Fishers' Brief.
 - 10. Mr. K. Emberly Brief.
 - 11. Briefs by Professor Gary Gransberg: (a) "The Persistence of Traditional Culture at Norway House"; (b) "The Impact of the Churchill River Diversion Project and The Regulation of Lake Winnipeg upon The Culture of the Cree".
 - 12. Northern Flood Committee: Submission of the Technical Committee.
 - 13. Mr. Manfred Rehbock Brief (Overview Planning Institute).
 - 14. Brief by Members of Immanuel United Church.
 - 15. Brief by Sperling Citizens Group.
 - 16. Manitoba Environmental Council Brief.
 - 17. Brief by Mr. Lloyd Lenton.

18. Brief by Professor A. M. Lansdown.
19. Pollution Probe Submission.
20. Premier Schreyer's Sept. 19th Letter to The Honourable C. Rhodes Smith.
21. Premier Schreyer's "Statement of General Policies - A Focus on the North".
22. Mr. Walter Mink - "Easterville Brief".
23. Statement by Mr. Jimmy Spence.
24. Statement by Mr. Jerome Nicklas.
25. Statement from Theological Colloquium held Sept. 19 - 20, 1975 at the Pastoral Institute, University of Winnipeg.
26. Statement by Mr. Henry Spence.
27. Thesis Summary - Mr. M. Orecklin.
28. The INDIAN ACT.
29. TREATY NO. 5.
30. "The Impacts of the Churchill-Nelson Diversion Project on the Nelson House Indian Reserve" prepared for the Northern Flood Committee by The Lombard North Group.
31. "Report on Navigation on the Minago River" prepared for the Northern Flood Committee by The Lombard North Group.
32. "Investigation into Water Levels and Navigation at Nelson House", prepared for the Northern Flood Committee by The Lombard North Group.
33. Mr. Ron Wallace - "A Paper Further Advocating the Establishment of a Canadian Environment Review Board".
34. President's Report - Cross Lake Local for Council, August 26, 1975.
35. September 18, 1975 Letter from the Honourable Sidney Spivak to Mr. Justice C. Rhodes Smith.

36. Canadian Catholic Bishops' 1975 Labour Day Message
"Northern Development: At What Cost?"
37. Documents Circulated by the Manitoba Naturalists
Society, January, 1973, including The Destruction
of Manitoba's Last Great River by R. Newbury and
G. Malaher.
38. Statement by Mr. George Paupanckes on behalf of the
Cross Lake Christian Society.
39. British North America Act.
40. Agreement Between: The Dominion of Canada and The
Province of Manitoba RE: TRANSFER OF THE NATURAL
RESOURCES OF MANITOBA. (December 14, 1929).
41. Northern Flood Committee Brief "The Public Interest,
Treaty No. 5, Hydro Development, etc."
42. September 9, 1975, Letter from Dr. Ahab Spence,
President, Manitoba Indian Brotherhood to Rev.
Bryan Teixeira, Interchurch Task Force.
43. "MAN IN THE NORTH TECHNICAL PAPER - COMMUNICATIONS
STUDY". Part 1 & 2, by The Arctic Institute of
North America.
44. REPORT of the ROYAL COMMISSION INQUIRY INTO NORTHERN
TRANSPORTATION - Province of Manitoba (1969).
45. Mennonite Central Committee Statement (including
correspondence with the Honourable Judd Buchanan).
46. Statement by Rev. G. H. Hambley.
47. Statement by Mr. Adam Dick.
48. Brief presented by Mr. Mark Ingelbrigtsen on behalf
of the Churchill River Sub-Committee, Local Govern-
ment District of Churchill (including Sept. 16, 1975,
communication from Mr. Judd Buchanan).
49. Documents submitted by the Northern Flood Committee:
(a) Band Council Resolutions & Community Petitions
supporting the Committee;

(b) Correspondence between legal counsel, Martin/McAffrey (Feb. 21, 1975; April 25, 1975; May 12, 1975; May 15, 1975).

50. Manitoba Metis Federation Paper: "SOUTH INDIAN LAKE -- TO BE OR NOT TO BE".
51. "POWER FROM THE NELSON" - Manitoba Hydro Publication.
52. Anthropological Papers: (a) "Native People in Areas of Internal National Expansion: Indians and Inuit in Canada" by D. E. Sanders;
(b) "Forced Relocation: An Evaluative Case Study" by John S. Matthiasson;
(c) "Caught in the Middle: two Cree communities and the Southern Indian Lake hydro electrip power controversy" by John S. Matthiasson.
53. "The Rate of Growth of Manitoba Demand for Electricity" by Kenneth M. Narvey.
54. Letter from The Honourable Sidney Green to the Panel Chairman dated October 2, 1975 enclosing chronological list of documents with dates of their release. The list is dated January 31, 1975.

APPENDIX I

Interchurch Meeting on Impact of the Churchill River Diversion on the Northern Communities held on November 25, 1974, St. Mary's Academy.

Ladies and Gentlemen:

I would like to thank you for your invitation. I must confess that I was surprised when I got it, though. For the diversion is under way. It is practically an accomplished fact. And so I asked myself: What can I, and what can the Churches do at this late date? However, then I remembered that the prophet Nathan was sent to King David after he caused the killing of Uriah. So I thought: Who am I to question timing?

Let me assure you that I have no intention of casting myself in the role of that old prophet. The reference to Nathan was rather inspired by that moving little story he told about the rich man who took and butchered the only little ewe lamb of the poor man.

"The Lord sent Nathan the prophet to David, and when he entered his presence, he said to him: "There were once two men in the same city, one rich and the other poor. The rich man had large flocks and herds, but the poor man had nothing of his own except one little ewe lamb. He reared it himself and it grew up in his home with his own sons. It ate from his dish, drank from his cup and nestled in his arms; it was like a daughter to him. One day a traveller came to the rich man's house, and he, too mean to take something from his own flocks and herds to serve his guest, took the poor man's lamb and served that up." David was very angry, and burst out: "As the Lord lives, the man who did this deserves to die. He shall pay for the lamb four times over, because he has done this and shown no pity". Then Nathan said to David: "You are the man."

This story has a disturbing parallel in the issue at hand; disturbing for the rich people of southern Manitoba. And that brings me to the first point: Is this a valid parallel?

Are we, in the south, who are indeed rich compared to the native people in the north, are we robbing them of their scant resources for our benefit? Or is that just rhetoric? Is a truer parallel rather the one suggested by the governments and Manitoba Hydro and recently by Mr. Buchanan, the Federal Indian Affairs Minister, who referred to his neighbours in Ottawa who had to give up the front 20 feet of their lots so that the street could be widened in the general interest. The principle underlying Mr. Buchanan's parallel was expressed with considerably more tact by the former premier of Manitoba, Mr. D. L. Campbell, when he said: If it has been established that the diversion is in the general interest of Manitoba as a whole, then that interest should prevail over the interest of the local people.

Now, it is not an undisputed issue whether indeed the best interest of Manitoba is served by the diversion as presently planned. However, that issue involves many complex environmental, social and economic problems. I rather doubt that the Churches as a whole wish, or indeed should take a position on that particular aspect. Let us, therefore, give the government for the moment the benefit of the doubt and assume that, on the whole, Manitoba stands to benefit from the diversion. Does that then settle the issue?

Many, - I would suspect the majority of the people of Manitoba - would be inclined to say: it does. They would say: What is left to decide is only the amount of compensation the people up north are entitled to. This is normally decided by negotiation or, failing this, by the courts. That is the normal procedure in matters of expropriation and similar issues where the rights of individuals are subordinated to the interest of the community. It is the only way in which a community can operate in this day and age.

What is the proper analogy? The slaughtered ewe lamb or the 20foot front yard expropriation? This is the crucial point as far as the Churches are concerned. On it hinges the morality of the diversion.

Let us investigate whether the expropriation analogy stands up. Let us do that by examining three basic assumptions that underlie the moral principle invoked, namely, that the interest of the community may at times take precedence over the rights of the individual or the minority. But let it be clear that I speak of the morality of the issue, not about its legality.

The first basic assumption is of course, that historically a community of interest and mutual concern in fact exists between those who benefit and those whose rights are about to

be extinguished. Consider this unlikely example: Suppose that the United States were to announce the Canada's policy of keeping its resources for future generations of Canadians is contrary to the best interest of the North American community as a whole. And suppose that the U.S. would then proceed to "expropriate" - in some form or other - our oil and gas resources. Would we accept the interest of the larger community as having precedence and restrict our argument to claims of compensation? I would think not. And our indignation would not be directed in the first place against the illegality of the action but against the immorality thereof. For we would repudiate the so-called North American community as a sham which merely serves the interest of one party.

In my opinion, the community between the native communities and Manitoba as a whole has historically been a legal fiction. Historically, these people have been squeezed out and pushed back whenever that was considered to be of advantage to us; they have never been recognized as equals; they have been and still are, a foreign element in our white culture. To justify the extinction of any of their rights on the basis that we and they are part of the same community of interest and mutual concern, in a real sense, to me rings hollow.

The second basic assumption is that the members of the community receive equal treatment in similar circumstances. I have on several occasions pointed to the difference in the treatment of Lake Winnipeg and Southern Indian Lake. Both are components of the same Nelson River Power Development Scheme. For Lake Winnipeg the principle was adopted that hydro-electric development should not result in a raise of the lake level to the detriment of cottage owners and other interests. That decision was not based on economics; it was a policy decision based on environmental, social and political considerations. I do not disagree with that policy decision, but I want to point out that the natural environment and the natural resources of the people along Southern Indian Lake were not afforded the same consideration; they were valued only as a marketable commodity and in a comparison with the extra cost of power development they lost out. Is it right then to speak of a community of interest and mutual concern?

The third basic assumption which allows the interest of the larger community to take precedence over the individual rights is the possibility of adequate compensation. For expropriation is not legalized robbery. It may be true that in actual practice there are problems. There is always room for considerable difference of opinion on what constitutes adequate

compensation when intangible values are at stake. Nevertheless, the inevitable shortcomings of actual practice, where one may get too much and another too little, do not negate the underlying principle: expropriation is an exchange of property, rights or whatever, which on the basis of the evidence is considered to be a fair exchange.

Opponents of flooding Southern Indian Lake have from the beginning claimed that whatever compensation was in evidence in the plans of Manitoba Hydro or the Government, it appeared to be wholly inadequate. Indeed, the inadequacy is not so much a matter of quantity but of quality. The problem is this, that money or things money can readily buy, such as houses, docks, etc., is not compensation at all for the loss of a natural resource. For that natural resource is not regarded by the people as just a means of making money; it sustains a specific life style and supports a community - a living entity with a history, a present and a future, not just a collection of individuals.

To date that claim of inadequacy-in-principle has not been refuted. Let me illustrate that point. Last week I spoke with the director in charge of the Federal-Provincial impact study, who told me that the fish productivity was estimated to be reduced by 15% on the average. Depending on the inflow and outflow pattern the loss could be higher or lower in some years. I asked him what compensation was envisioned for this reduction in the resource base of the communities. At first he did not understand my question, for his answer was that the productivity of the lakes had been seriously underestimated in the past. Consequently, the anticipated decline would not be reflected in reduced quotas and the diversion would not affect the cash income of the fishermen. I pointed out that the people, at least those I had spoken with in South Indian Lake, seemed to be far more concerned about the future of their children than about their present cash income and I told him that I considered this atomistic approach to the compensation problem to be wholly out of line with the sensible value judgement of the local community. He did not disagree with this viewpoint but said: We have not taken this into account.

I find it disconcerting that the compensation will deal only with loss of income, not with the resource loss. For the outstanding problem in the North is the inadequate resource base. Eroding that base still further is not something that can be compensated for by handing out money. And if it simply

is not possible to compensate in some form or other for the loss of resources, then the question arises: Is it right to divert the river?

On the basis of this threefold test I must conclude that the expropriation analogy is wholly invalid. Mr. Buchanan may have been legally correct; morally he does not have a leg to stand on.

The ewe lamb analogy, on the other hand, is strongly reinforced by the methods that, from the beginning, have been employed in the issue. The first time the people in South Indian Lake found out that a diversion was contemplated was when surveyors pounded stakes in behind their houses and said: That's where the water is going to be. After the high level diversion was stopped, the Schreyer government made the decision to go ahead with the medium level diversion without first conducting an impact study on environmental and social consequences. Such a study has only recently been completed and the results have not yet been released. This procedure suggests that we are determined to get the benefits of the diversion regardless of the cost to the local people; regardless of whether it is at all within our power to provide adequate compensation.

I must prevent a possible misunderstanding. At times the issue has been presented as a dilemma between kilowatts for a power hungry economy and the wishes of a small community to continue a traditional way of life. That is not correct. We can obtain all the energy Manitoba wishes to consume without raising Southern Indian Lake. We can even do it without diverting the Churchill at all. We are embarking on this project as planned, not because it gives us more power but because it gives us cheaper power. We are sacrificing the environment and reducing the resource base of the northern communities for the sake of money. Granted, it is a lot of money, but it is well within our ability to do otherwise.

Another lame argument, often heard is that the Hydro development merely accelerates the transition from a traditional to a modern life-style, which was inevitable in any event. The preliminary report on the social and economic impact study, therefore, speaks euphemistically of the Hydro project as a catalyst in several places. One could counter this view by pointing to the fact that human life is in a continuing state of decay so that a bullet could also be termed a catalyst which merely accelerates an inevitable process. But the real problem is not one of pace. The real problem lies in the colonial attitude, which sees in the havoc we have wrought in

other cultures merely evidence of the necessity that they become like us. This attitude is reflected in the report I mentioned especially in the suggestions of the sociologists on how the transition process can be made more smoothly. I quote one of their recommendations: ". . . there is an apparent need for the community of South Indian Lake to learn new decision-making, problem solving, communications and community-life skills. Therefore it is recommended that the Department of Northern Affairs negotiate with the Manitoba Human Relations Centre with a view (of) contracting with the Institute to initiate a development process in South Indian Lake as soon as possible". Does the diversion issue itself furnish proof of our superiority in decision-making, problem solving, communications and community-life skills?

I come back to the question I posed in the beginning: What is left for the Churches to do at this late date?

I have to begin by being negative: I think that the communities involved are going to experience the full impact of environmental, economic and social disruption, no matter what we do. I expect the impact to be worse than is predicted by the studies recently completed for these studies understandably assume a high level of effort by all parties in achieving success in amelioration programs. Actual levels of effort are likely to be considerably lower for a number of reasons. For example, the recommendation of shore line clearing featured very prominently in the McTaggart Cowan task force report as a means of reducing the environmental damage and as a means of providing alternative employment. At present the argument seems to be - and quite reasonably so - why spend so much money on shore line clearing when the prospects of recreational development on the flooded lake are so poor? A similar argument could well be used to justify raising the lake level above the presently proposed elevation of 847: the shore line is flooded already, a few extra feet will not make that much difference. At one time the limited productivity of the lake was used to support the contention that the South Indian Lake community led a dead-end way of life with no future for the younger members. Now it is believed that the fish productivity has been underestimated by a factor 2; also the wildlife resource is believed to be very much underutilized. But in the context of compensation it appears that the new assessments may well be used to argue for less rather than for more compensation.

I am afraid that it will be very simple to find plausible arguments that justify greater disruption and less compensation. It will also be difficult for the people involved

to react positively to a situation fraught with disruption and disappointment. Nevertheless they will share in the blame for any program that goes wrong and for any compensation that turns out to be wasted money.

What then can the Churches do? I think that this depends first of all on the attitude of the Churches in the moral issue I have tried to outline. If the Churches reject my contention that the expropriation analogy is invalid, if they accept that Manitoba does not only have the legal right to proceed but also the moral right to ask that our interest in lower power rates prevail over the interests of the northern communities, then the Churches should stay out of this issue. If, on the other hand, Manitoba's decision to go ahead as planned is wrong in a moral sense, then the Churches have have no choice but to speak up in language that cannot be misunderstood.

I would not expect the Churches to judge whether the project makes economic sense; I would not expect them to declare themselves on issues of resource development or the quality of the environment except in rather general terms. Even the social development of the native communities is a topic where Churches are well advised to tread carefully. But the Churches cannot avoid the moral issue involved in the Churchill River Diversion, nor may they avoid being very specific about it.

And, regarding the question of extending real and practical help to the communities involved, the first step is to stand openly and officially and wholeheartedly beside them. Only then can the work of restoration begin.

C. Booy
Winnipeg.

APPENDIX II

A Statement from the
THEOLOGICAL COLLOQUIUM ON "DEVELOPMENT IN THE CANADIAN NORTH"
held at the Pastoral Institute, University of Winnipeg
September 19 - 20, 1975.
Delivered to the Panel of Public Enquiry by Rev. Bob Haverluck.

We seek to speak and act
out of our knowing of ourselves in relationship to Christ,
our Lord and brother.
We as all men are children of God, created by God.
As God's creatures, we are a part of his creation of earth,
water and sky.
To be spirited by God means that we must recognize our
creaturehood fully, for our existing does not fly above
the earth.
God's love forces us to make known that all creatures
are no more and no less than God's creatures. And those
oppressed by the rulers of this present age are his special
concern.
Therefore, where the rights of creature man to respect is
denied--we must help him demand it.
Where powerful creature men presume in their carpeted offices
of political and economic power to take advantage of the
powerless--we must object.
We must call the powerful to stop mocking the Creator Lord God,
by refusing to respect the dignity of the lived-words
(and the generations) of his quieter creatures.
Those with the greater power, have the greater account-
ability--and must not make themselves less than men by being
destructive of whole communities of fellow creatures.

Our faith in the Christ, Lord over every government,
corporation and power in-forms our motivation and our vision.
Out of our concern we are moved to state specifically--

(1) Development must not be simply pushed through by a
dominant group with their offices and public relations
departments, but must be made subject to all people's
welfare as understood through genuine consultation with
people most involved with paying the personal cost.

(2) It is not acceptable that our cultural life style, predicated on gain, possession and greed--with its structured ignorance of distinctions between real and false needs be perpetuated. We do not accept that every form of production and marketable commodity should be uncritically accepted as worthy of consuming our resources and our people's livelihood.

(3) We reject the process that says that the northern native communities in this province should have the so-called "freedom" (Mr. S. Martin) of having their cultural identity washed away and the material opulence and effluence be perpetuated. We reject that native people should be made to pay the cost, the high cost of "cheap power". Cheap power for whom?

(4) We question the wisdom of establishing a power grid with the U.S. economic empire. We question whether Manitoba does not create (along with Canada as a whole in other resource industries) a dependence which might serve to justify whatever intervention the powerful deem necessary.

(5) We maintain that in one very real sense the so-called "minority" status of the native people is misleading. For strictly speaking the native people are not a minority, but are part of the world's 2/3 majority whose homes, whose dwellings are called hinterlands and renewable resources; and are 'used' and exploited by concentrations of industrial, political and military strength.

(6) We support the Federal Department of Indian Affairs earlier demand that Manitoba negotiate with the "Northern Flood Committee" as representing the five member communities and the three other affected communities.

(7) We urge that mechanisms be established to guarantee and supervise current promises and specifications on the limits of the project, so as to avoid raising water levels even further. For in past instances the problem has not been so much one of legislation, as effective implementations.

(8) We recommend that no more energy projects be initiated without PRIOR public hearings. (This should be a general principle in major developments of every kind). For it is just not good enough that officials with crocodile tears continually deny basic democratic procedures and later express regret.

(9) Finally I close with a statement considered at the Theological Colloquium--a statement of God to the prophet Habakkuk concerning the acquisitive urban dwellers of an earlier time.

"Trouble is coming to the man who grossly exploits
others for the sake of his House,
to fix his nest on high
and so evade the hand of misfortune.

You have contrived to bring shame on your House
by making an end of many peoples
you have worked your own ruin."

APPENDIX III

Dissenting Comment on Final Report

There is much to agree with in this report. It is both humane and sensible. Its recommendations deserve serious attention of governments.

Where it errs is in its refusal seriously to analyze the most persistent argument used by developers, private and public, which is that large-scale resource projects serve the "public interest". The "Indian interest" is then disposed of either by saying, in effect, that it must regrettably be overridden, or by asserting that in some long-run sense the two interests are really identical. The present Report tends to take the latter route, and on occasion assumes a paternalistic tone that must be repudiated.

The rhetoric of the developers must be exposed for the propaganda that it is, for it prevents us from seeing the fundamental issues which it manages to obfuscate. On the one hand, the appeal to the public interest is a means to mask the possibility that some portion of the populace may be having their rights and interests gravely damaged. When used to over-ride the interests of Native people, it may, at its worst, legitimize racist attitudes and risk cultural genocide. On the other hand, it masks the motive of the developers which, when private enterprises is simply the pursuit of profit, and when public entities seems often to be the pursuit of growth for its own sake. In practice those motives largely amount to the same thing and, in any event, neither motive necessarily has much to do with serving the public interest, much less the Indian interest.

For too long the Indian interest has been sacrificed on the altar of the public interest, or what Professor J. E. Chamberlain of the University calls "the common good" in his penetrating study of White attitudes toward North American Natives called The Harrowing Of Eden. He eloquently summarizes the use of this technique over the centuries:

It was for the common good that the Western lands were opened up for settlement even as the Eastern lands had been settled, it was for the common good that treaties were signed, and often broken, and that

provision was made in these treaties for roads, way stations, trading houses and forts, which could be built at governmental whim on lands reserved for Indians, it was for the common good that rail and road links were established through Indian lands to link East and West, it was for the common good that Indian hunting and fishing rights, guaranteed by treaty or solemn promise, were revoked to make room for people, or things (such as dams) to serve peoples, or programs (such as conservationist schemes) to satisfy people, it was for the common good that Indians were herded like cattle, treated like children, swatted like flies, and quarantined like animals suspected of having rabies.

Yesterday in James Bay, the Cree were coerced into a settlement involving extinguishment of their aboriginal rights to the land in the name of the public interest. Today, the Dene of the Mackenzie District in the Northwest Territories are told that a pipeline may have to be built prior to a land settlement--in the public interest and the common good. Right across Canada, Indian people are having large projects pushed down their throats with government officials telling them that "the greater good" must take precedence over the regional interest of a handful of people.

Nothing has really changed, and when we look at projects such as Northern Hydro Development in Manitoba we should avail ourselves of the lessons of the past and present and realize the risk of being conned by the rhetoric of the developers, and their friends. And let there be no mistake that the government's witnesses before the Enquiry, Messrs. Martin and Green, made frequent resort to this tactic the better to evade the harsh reality of what has been done to the rights of the Northern Natives of Manitoba by the Hydro Development. In Premier Schreyer's statement read by Mr. Martin, and in the comments of Messrs. Martin and Green there are recurring references to "the Province as a whole", "Manitoba citizens as a whole", "the welfare of the people of the Province as a whole", "the needs of the Province as a whole", "all of the people" and so on. Not surprisingly, the Indian interest tends to get lost in the midst of such populist appeals. The proper "rights of the majority" tend to be pushed to the point of becoming a veritable "tyranny of the majority".

There are a number of reasons for rejecting a simplistic use of the "public interest" when we look at Hydro Development in Northern Manitoba.

1) The Project is not only designed to meet projected Manitoba demand, since a surplus will result for export to the United States. There is a sense, then, in which what is involved is a choice between U.S. energy needs and an impact on Indian people in Manitoba. Now, it so happens that there is abundant evidence that the U.S. is incredibly wasteful and irrational in its use of energy; for a recent and excellent critique of U.S. energy use, see Barry Commoner in the New Yorker, February 2, 9, and 16, 1976. It follows that the Government of Manitoba (and of Canada) may be sacrificing the interests of Indian people for no better reason than that the United States has no rational energy plan.

2) The assertion that the people of Manitoba will benefit from the greater availability of electricity makes sense, but it is spurious to argue that the Indian people will benefit from the Project because they also use electricity. If the Province of Manitoba wishes to make electricity available to the Native people of the North--and its accessibility approaches a fundamental human right in this day and age--it obviously does not have to build gigantic projects of the Churchill-Nelson variety. It is very much to be doubted, to say the least, that Northern Native people would invent a project like this because of a felt-need for marginal increments of electrical power.

3) Massive energy projects create jobs, some of which are likely to go to Native people; in any event--so the reasoning goes--they are given an opportunity to take wage-employment. Wage-employment is certainly in the public interest of non-Native society, as presently structured, but for the Indian people, as Chamberlain cogently argues, it may be no more than the most recent version of the Whiteman's panacea for Indians--whether they want it or not. Giving Indians a choice--between the traditional activities and wage-employment--appeals to the liberal sentiment that choice is a good unto itself, but at least in this case it raises more questions than it answers. Specifically, did the Indian people ask for such a choice? May not the "side-effects" of the Project so undermine the traditional land base as, in fact, to coerce Indian people into the wage economy? Must it be the lot of the Indian, as it is the lot of the Whiteman, to define freedom as the right to toil for others? May there not be a third way, that is neither simply traditional activity

nor wage-employment with Hydro or other non-Indian controlled enterprises, namely, Indian economic activities under Indian control? And how do projects like this one contribute to that unless the occasion of large projects affecting Indian land should further be the occasion for the working out of a new land settlement with the Indian people? The failure to do this, or even to imagine the possibility, is a fundamental critique of the Manitoba Government and the Canadian Government. The hour is now late for proper redress, but is never too late to make a just and equitable settlement with Indian people, and that spirit should pervade this Report and its recommendations.

4) It is an easy step from "integrating" people into the wage-economy to integrating them into the whole baggage of White society, indeed, the former already implies much of the latter--and using the educational system the better to get them there. The Indian interest is disposed of, literally, and all that is left is the public interest. It is, of course, the most insidious of all solutions to the real dilemma of accomodating minority rights. Nor are matters helped by the pretense that this is no more than permitting the Indian to opt in to "cultural pluralism". No matter how we choose to interpret the latter, and no matter what we believe its virtue to be for the great majority of Canadians, we must never let that cause us to forget that the Native people have special rights. They are the original inhabitants, preceding even the "founding nations", and their special situation is recognized even in the British North America Act. A statement about cultural pluralism, no matter how enlightened, that may be wholly appropriate to immigrant peoples from diverse backgrounds cannot be held to be similarly appropriate to Native people, who in the nature of the case are not immigrants. Immigrants can reasonably be expected to adopt much of the mainstream of Canadian life, and cultural pluralism is an invention of the old immigrants and the new immigrants to protect the latter against excessive assimilation into the folkways of the former. As such it is simply irrelevant to Indian people. It is for the Indians themselves to decide on the extent of their involvement with us, not for us to preach the virtues of cultural pluralism to them.

5) The most profound issue that the appeal to the "public interest" raises--and one that is perhaps particularly relevant to a Panel appointed by the Churches--is whether, in a moral or ethical sense, "the greater good" can even be served if the interest of some people are ridden over roughshod. For the rest of us, we must either plead ignorance, or bear the guilt, or assert the rightness of oppression; none of these can be

said to leave us better off.

Manitobans, perhaps, have particular reason to be sensitive to the line of reasoning of this comment. What we have called the "public interest" when applied to Canada as a whole is, of course, the "national interest". Once upon a time, the latter was called, somewhat pompously, "the purposes of the Dominion" and in that guise was used as a club to deny Manitobans full provincial rights for six decades.

Mel Watkins
Yellowknife.