G-41

ISSN 1180-5218

Legislative Assembly
of Ontario

First Session, 39th Parliament

Assemblée législative
de l'Ontario

Première session, 39e législature

Official Report of Debates (Hansard)

Wednesday 30 September 2009

Journal des débats (Hansard)

Mercredi 30 septembre 2009

Standing Committee on General Government

Mining Amendment Act, 2009

Comité permanent des affaires gouvernementales

Loi de 2009 modifiant
la Loi sur les mines

Chair: David Orazietti
Clerk: Trevor Day

Président : David Orazietti
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Wednesday 30 September 2009

Mercredi 30 septembre 2009

The committee met at 1604 in room 228.

MINING AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT LA LOI SUR LES MINES

Consideration of Bill 173, An Act to amend the Mining Act / Projet de loi 173, Loi modifiant la Loi sur les mines.

The Chair (Mr. David Orazietti): Okay, members. We're back to clause-by-clause consideration of Bill 173. Last day, we left off at government motion number 16. A recorded vote was called for. Government motion 16 is on the floor.

Ayes

Albanese, Bisson, Brown, Kular, Mangat.

The Chair (Mr. David Orazietti): All those opposed? The motion is carried.

Those are all the amendments for section 27. So shall section 27, as amended, carry? All those in favour? Opposed? Carried.

Section 28, Conservative motion 16.1. Mr. Hillier, go ahead.

Mr. Randy Hillier: Can I just take a moment here? I think we may have an error on our numbers.

Mr. Gilles Bisson: We're on 16.

The Chair (Mr. David Orazietti): Correct. Section 28; in your package, motion 16.1

Mr. Randy Hillier: I don't see section 28 in the—

Mr. Gilles Bisson: It's—what are you talking about? You need to look at the act, section 50, right?

Mr. Randy Hillier: Yes.

Mr. Gilles Bisson: In the old act, section 50 is what you're looking for. I take it what you're doing here, Mr. Hillier, is making it clear and explicit that you can't enter the land without permission. That's what you're up to here, right?

Mr. Randy Hillier: It looks like it. But I'm just saying I can't see 28.2 in Bill 173.

Mr. Gilles Bisson: Yes, it's there on page 11.

Mr. Randy Hillier: Page 11?

Mr. Gilles Bisson: Subsection 50 of the act is amended by adding the following section—

Mr. Randy Hillier: Oh, yes. Okay. Now I'm on the right page.

The Chair (Mr. David Orazietti): No problem.

Mr. Randy Hillier: I move that subsection 28(2) of the bill be struck out and the following substituted:

"(2) Section 50 of the act is amended by adding the following subsections:

"Exploration work

"(2.1) Despite subsection (2), the holder of a mining claim shall not enter upon, use or occupy any part of a mining claim for any exploration work on the claim unless the requirements in sections 78.1 and 78.2 and in the regulations have been met.

"Private land

"(2.2) Despite anything in this or any other act, neither the holder of a mining claim, nor the operator of a mine nor any other person, can acquire any right to use any private land without the express consent of the land-owner."

That's the big change in (2.2), and I think it should be fairly clear to everyone what the intent is. It gives the same right to all landowners as we approved for the Ontario Northland commission earlier in the committee clause-by-clause. It requires consent for any exploration work on private land.

1610

The Chair (Mr. David Orazietti): Any further comments? Mr. Brown, do you care to respond?

Mr. Michael A. Brown: We can't support this. If the intent is to deal with privately patented lands, this motion is not necessary. If it's about private surface right owners, Bill 173's scheme for the withdrawal of private lands from staking protects these lands from new staking, or Bill 173 would require exploration plans and permits for existing mineral exploration on claims and leases. There would be notice provisions for private surface owners and rehabilitation requirements and terms and conditions in exploration permits could be tailored to address specific concerns of surface owners. So we can't support this. It is dealt with already.

The Chair (Mr. David Orazietti): Any further comments?

Mr. Gilles Bisson: Clearly, what we heard in committee—I'm not going to go through all the various presentations—was a fairly strong sentiment, both within northern and southern Ontario, for people who own private property, and we're not just talking about those

who have crown mining rights but people who own their own mining rights—that there were a couple of bad apples in the bunch. First of all, I want to say that the majority of prospectors and people in the exploration industry normally will approach somebody and give proper notice, as they are required to under section 78 of the bill, and then they'll go in and make an agreement and then they will work with that agreement.

I think Mr. Hillier is trying to do something similar to what we're trying to do in one of our later amendments, to make it clear that you need to have permission so that you lock in that there needs to be an agreement of some type.

Now, my question is to counsel from the ministry, unless you, Mr. Brown, know the answer; you might and you can answer it. Is there any regulation further to the act that requires that—because under section 78 it does say that you have to provide notice if you're going to do any kind of exploration work. But does notice require an agreement under any section or regulation of the current act? I believe it does. That's what I'm not sure of.

Mr. Michael A. Brown: If Ms. Wyatt will help us.

Mr. Gilles Bisson: You may as well stay there because we're just going to keep on calling you back.

Ms. Catherine Wyatt: I get my exercise this way.

The Chair (Mr. David Orazietti): Good afternoon. Thanks for being here today.

Ms. Catherine Wyatt: We're referring to the current bill, and you have pointed out section 78, which is—

Mr. Gilles Bisson: Yes, 78 says you must give notice; right?

Ms. Catherine Wyatt: Right. That's the notice of intention to do ground exploration work we have now.

Mr. Gilles Bisson: Yes.

Ms. Catherine Wyatt: So having given that notice—what you may be thinking about is that if you go to lease, you've got to have a specific agreement with the surface rights owner. You can lease the mining rights, but just to do the exploration work, you have to give the appropriate notice.

Mr. Gilles Bisson: So you only have to give notice; you don't have to have an agreement, then? Even though most people get an agreement—

Ms. Catherine Wyatt: It makes sense to get an agreement, practically speaking, because you're going to be liable if you do anything.

Mr. Gilles Bisson: Okay. If that's the case—I was under the impression that you had to get the agreement. If you don't, I think this amendment makes some sense.

Does this present any kind of problem, the way that it's written currently, what's being suggested under (2.2)? It seems to me it's a pretty straightforward amendment. If under section 78 you have to have notice, this says that you have to have agreement.

Ms. Catherine Wyatt: The section of the bill we're talking about here has nothing to do with notice. It has to do with what rights come with a mining claim. So section 50 now sets out what rights the mining claim holder has.

Mr. Gilles Bisson: Yes.

Ms. Catherine Wyatt: And this is basically saying that unlike the way the act reads now—let's just take a look at that. Basically now, it gives the claim holder not title but the right to go on the land and carry out the work that needs to be done in order to keep the claim in good standing and to apply for a lease, if that comes along. I'm just looking at section 50 of the act as it exists now, which talks about the rights in claim, which is the section that is being changed here or proposed to be changed. So 50(1) talks about no right, title or interest but the right to work on the land, as is required under the act, to proceed toward a lease.

Subsection (2) talks about the surface rights, and the bill has changed this to say it's subject to the requirements of getting an exploration plan or permit where that's required. But it does give you the right to go on the land to do those things.

Mr. Gilles Bisson: Yes, but without an agreement.

Ms. Catherine Wyatt: So what I understand (2.2) to be saying—first of all, it talks about private land, so clearly if it's privately patented land where you own the surface and mining rights, that can't be staked and somebody can't go explore on it without your permission.

If you're talking about private surface rights with crown mineral rights, then this seems to be taking away not anything to do with notice or anything to do with consent to explore but any right to actually do anything on the surface, as I read it. But if that's not your intent—

Mr. Randy Hillier: Let me just be clear here: It says that on private land, "Despite anything" else in this act, "neither the holder of a mining claim, nor the operator of a mine nor any other person, can acquire any right to use any private land without the express consent" of the owner.

Mr. Gilles Bisson: That's what section—78? What are you reading there?

Mr. Randy Hillier: That's on the amendment on private land.

Mr. Gilles Bisson: Oh, okay.

Mr. Randy Hillier: Section 50 of the present act talks about the rights of a licensee, and it says that—again, if we look at the surface rights, 50(2): "The holder of a mining claim does not have any right, title or claim to the surface rights ... other than the right to enter upon, use and occupy such part or parts thereof as are necessary for the purpose of prospecting ...." And we make reference to the earlier section that says you need to have notification—that's in 78(1) and 78(2)—and now we're saying in addition to notification, there's also agreement.

Ms. Catherine Wyatt: Subsection (2.1) in the bill, which amends the current—

Mr. Randy Hillier: It's exploration work. It's the same wording in my amendment for (2.1) as in the bill.

Ms. Catherine Wyatt: So where the act now says that the holder has no right and title but the ability to go onto the land and use it for prospecting, this (2.1) is now going to make those lands subject to the new scheme, the new graduated regulatory scheme, for exploration, which is going to be the plans and permits, which we don't have

now. So that's being brought into what the claim holder can do on the claim, and any right to explore on those lands is subject to that plans and permits scheme as well.

I just would like to be clear, though, when you're talking about private land, what you intended by that.

Mr. Randy Hillier: Private land is land that is patented to an individual or a business that holds title to that land.

Ms. Catherine Wyatt: But in any event, you couldn't stake on those lands without permission, as I understand it.

Mr. Randy Hillier: Yes, because we—

Mr. Gilles Bisson: That was my question.

Mr. Randy Hillier: No, there are people who have private land, who have title to the land, but the crown retains mineral rights.

Ms. Catherine Wyatt: That's what I was trying to make clear. Okay.

Mr. Gilles Bisson: Can I ask a quick question? I know where you're going, but if it's private land and the person, not the crown, owns the mineral rights, where in the act does it say that you can't get access without agreement? Because section 78 deals with just the mining claim. You said earlier if it's private land, they can't get access unless they have agreement.

Ms. Catherine Wyatt: You can't stake it.

Mr. Gilles Bisson: That's right, and where is that in the act?

Ms. Catherine Wyatt: You can't get the mining rights to it. You have to go back to what's open for staking and what's crown land and so on.

Mr. Gilles Bisson: That's earlier in the act. Okay, so I trust you. So if it's private land, I can't stake without having permission.

Ms. Catherine Wyatt: Yes, because they're not the crown's mining rights any more. They belong to a private person. If you want to deal with their land, and they're a private owner—

Mr. Gilles Bisson: Yes, but if it's crown, that speaks to your issue. Got you, okay.

Ms. Catherine Wyatt: That does speak to that.

Mr. Gilles Bisson: That's why you're saying—ah, I get the argument now. Okay.

Ms. Catherine Wyatt: Right.

Mr. Randy Hillier: So this puts all surface rights owners on the same playing field. If they own their mineral rights and they want to lease them out or allow exploration, it requires consent of that private land owner if they own the mineral rights. If the crown owns the mineral rights, the same thing would apply: It requires the consent of the owner of the land.

1620

Mr. Gilles Bisson: So maybe what you need is an amendment to your amendment that makes it clear that we're talking about private land where the crown owns the mineral rights, which is northern Ontario, because it won't count in southern Ontario because we've taken all those away. I'd support that.

Interjection.

Mr. Gilles Bisson: So my question to the parliamentary assistant—because the argument here is that we're mixing apples and oranges, easily said. If we just clarify, what Mr. Hillier was talking about is private land to which the crown owns the rights, that it makes it clear it doesn't interfere with the private lands where you outright own the mining rights. It would only deal with private lands where the crown owns the rights. Would that be supportable? And if not, why?

Mr. Michael A. Brown: I've lost what we're trying to achieve here.

Mr. Randy Hillier: Protection and equality.

Mr. Michael A. Brown: Protection—

Mr. Gilles Bisson: Well, I think what we heard was—for example, in Thunder Bay, what was the name of the people—Shebandowan Lake or something like that? I forget the name of it. They made the point that they have private land to which the crown owns the rights. They wake up in the morning and there's somebody in there doing some exploration. It's not a nice thing to have if you're waking up on Monday morning at the cottage on your holidays and you've got somebody with a diamond drill in your backyard. I'm being a little bit facetious, but you know where I'm going, Mr. Brown.

The point is to try and capture that type of complaint that we heard through the committee hearings, which are, some people down your way—which has now been fixed because you're withdrawing the crown mining rights from southern Ontario. But for northern Ontario, to make sure that if there are crown mining rights to which there are private lands tied to it, you would have to have agreement, just as you do with private land where the person owns the mining rights. It would just make it consistent.

Mr. Randy Hillier: Maybe I can put it this way: This is exactly the same thing as what the government side argued for in favour of the Ontario Northland commission. In that argument, the government side argued that Ontario Northland must have final say on what happens on their property, even though the crown has title to it.

Mr. Gilles Bisson: And the same thing at other lands—

Mr. Randy Hillier: So this is the same argument. Why is it important for Ontario Northland to have final say on what happens on their properties? The same argument applies to an individual landowner. There needs to be consent before others enter upon and explore and do work on their properties.

Mr. Michael A. Brown: First of all, it would be quite possible to stake a claim on the property without ever setting foot on it.

Mr. Randy Hillier: Say that again.

Mr. Gilles Bisson: Under map staking.

Mr. Michael A. Brown: Under map staking, it would be quite possible to stake a claim without ever setting foot on it. There's no requirement that—

Mr. Randy Hillier: Well, that's a bit of a red herring.

Mr. Michael A. Brown: No, it isn't.

Mr. Randy Hillier: We're not talking about map staking here.

Mr. Michael A. Brown: We're talking staking though, aren't we?

Mr. Randy Hillier: We're talking about the rights of the licensee.

Ms. Catherine Wyatt: You're actually talking about the right of the licensee once the mining claim already exists in this section. So it has already been staked.

Mr. Gilles Bisson: Yes.

Mr. Michael A. Brown: It has already been staked.

Ms. Catherine Wyatt: So this is about exploration, presumably.

Mr. Gilles Bisson: Exactly. That's why I said it prevents you from putting a diamond drill in somebody's backyard. That's what I was getting at. Obviously, you can't do that if you haven't staked.

The argument is, we've already, in the bill, in the current act, spelled out that there's a whole bunch of places where you cannot do mining exploration without permission—a whole bunch of places: ONTC lands, certain lands within municipalities, railways, all that kind of stuff. It just brings private lands which crown mining rights are associated with in line with everything else. That's the way I see it. If I'm in northern Ontario and I own private land and somebody wants to come and do some exploration, I've got to be sort of saying, "Yeah, let's sign a deal," right?

Because if I've got private land, they would have to come and do it anyway—if I had private mining rights. If I own the mining rights on my private land, you've got to come and make a deal with me to do exploration, so why not make it the same for the crown? I guess that's the easiest way to put it for crown mining rights.

It has been one of the big complaints. There are really about three or four big issues that we heard through the committee hearings. This is one of them. That's why we're spending a bit of time trying to rassle this one down, because what we've heard from all kinds of people was that there are cases where exploration companies have accessed lands that are owned privately by an individual, and they didn't have a say about what was going to happen on their own land because the crown owned the mining rights and, quite frankly, as long as the person gives notice, they can be there. But if I own the private land and I own the mining rights, you can't do that. So it's just to make it consistent. I think it's a reasonable amendment, similar to something we wanted to do.

The Chair (Mr. David Orazietti): Any further comments from the government side, or do you want to add anything further on this, Ms. Wyatt? I understand the government's position, Mr. Brown, as you've made clear. Is there anything else you want to add?

Mr. Michael A. Brown: I think our position is clear on this, and we don't see that this is helpful.

Mr. Gilles Bisson: Which way would it not be helpful? How would it not be helpful?

Mr. Randy Hillier: Let me just—obviously, the government's position is not clear. The other day, you argued in favour of requiring permission and consent for people to explore on ONTC lands, right?

Mr. Michael A. Brown: We did.

Mr. Randy Hillier: So that corporation has certain protections, and that's what you argued in favour of, right?

Mr. Michael A. Brown: Yes.

Mr. Randy Hillier: This gives the same protection to any other corporation or any individual to the same extent that you argued for ONTC. So if you're not in support of this, your position is not clear—your position is contradictory—unless you're suggesting to everybody in this province that ONTC is a more valuable entity than people and more valuable than individuals.

Mr. Michael A. Brown: What we would suggest, in respect to ONTC, is that the section of the act that we are talking about is a reflection of the ONTC Act; that the two acts need to be consistent.

The ONTC has had this provision in the Mining Act for over 100 years, dating back to the days of the ONTC's predecessor, Temiskaming and Northern Ontario Railway, which was created by statute in 1902. So in the case of ONTC, the government is merely reiterating a section of the ONTC Act and the present Mining Act, which we're amending today, so that it remains consistent. There is no change. That's why the ONTC section is there: just to make sure we remain consistent between the two acts.

Mr. Randy Hillier: Well, I would say to you that the only thing that is consistent is the inequality in the application of law in your argument. You are giving—and you have given and granted—ONTC a privileged status that no one else enjoys. No one, no other company in northern Ontario or no other individual in northern Ontario would enjoy the level of protection and the equality of law that ONTC does, as prescribed under this act.

Mr. Michael A. Brown: Just to be helpful, the Temiskaming and Northern Ontario Railway Act vested certain lands for the railway in the railway commission as a trustee for Ontario. That act was amended in 1906 to say that the commission could deal with minerals and mining rights for any of these vested lands. The ONTC inherited that authority from the railway. The Mining Act provides that the commission has the authority to consent to mining claims on its vested lands consistent with this authority.

As to the proposal to enact a more general provision requiring the consent of any public or private land owner prior to the recording of the claim, it is our view that Bill 173 provides a comprehensive scheme to address landowner issues. Section 35.1 provides for the withdrawal of lands from staking where there is a private surface owner. Sections 29 and 30, as amended by Bill 173, would provide for the protection of various private and public lands from staking without the minister's consent. The general withdrawal provision under section 35

remains available to deal with other circumstances that may arise. Once staked, claims cannot be worked without an exploration plan or permit, which provides a further opportunity for landowners to work with claim holders to address concerns they may have about activities on their land. For these reasons, we are not supporting your amendment.

1630

Mr. Randy Hillier: You just stated that in 1906, the forerunner of ONTC was granted protection by statute for the ONTC to determine if there would be mineral exploration on their lands. The owner of those lands, ONTC, would have to consent. This act continues with ensuring and protecting that consent. How can you argue that that same consent is not valid or applicable to private landowners in the north?

This amendment ensures that private landowners give consent before work happens on their properties. You've argued that it's most important that ONTC have it. How can you tell the people in this province that they are second-rate, and every business and every private landowner is second-rate in your view, when it comes to ONTC? How?

Mr. Michael A. Brown: That is clearly not the case. As I pointed out, private landowners have a series of rights in sections 29 and 30 and in section 35.1. What we're talking about is a historical situation with the ONTC. I will tell the member that there would be similar sections for other railways in particular, probably through the federal acts that established the CPR, the CNR and all the various railroads that come through. There are differences, but railroads are different than other—

Mr. Randy Hillier: It's a crown corporation.

Mr. Michael A. Brown: Yes, it is.

Mr. Randy Hillier: That's all it is. It has no greater standing than any other crown corporation or any other corporation or any individual. You're telling me that we will have rankings in law of who is important and who is less important—that's what you're saying. And you're saying that because it's a historical fact—I would say to you that there's been a historical injustice—this government is not prepared yet to fix that historical injustice. They're prepared to let it remain under Bill 173, but make sure that their crown corporations have favoured status in law. You argued just the other day, and now you're arguing that black is white and white is black.

Mr. Michael A. Brown: I don't know what to say. I don't agree with you.

Mr. Randy Hillier: Well, do you know what? If I was in your position, I wouldn't know what to say either. How could I say anything to justify a contradiction? How could I say anything that would justify the hypocrisy of Bill 173 when it comes to private landowners and crown corporations? I would be struck soundless as well.

The Chair (Mr. David Orazietti): Anything else to add?

Mr. Gilles Bisson: To the parliamentary assistant, just to be clear on something myself: My understanding is that the current act says that if I'm an explorationist and I'm trying to access private lands to which the landowner owns the mineral rights, I need to get permission to be able to access those lands in order to be able to do exploration. That's what the current act says. Right?

Ms. Catherine Wyatt: To me? Sorry.

Mr. Gilles Bisson: Either one; doesn't matter.

Mr. Michael A. Brown: Try it again.

Mr. Gilles Bisson: If I own property and I own the mineral rights and you're the explorationist, you need to get my permission to come onto the property.

Mr. Michael A. Brown: Of course you do.

Mr. Gilles Bisson: Yes. So I would only end on this point before we go to the vote: Why wouldn't we do the same for somebody who owns private property to which the crown owns the mineral rights? It's still the same concept of a property owner's rights to the access and fair use of their property.

Now, is there an argument against it as far as access by the mining companies? Is there a fear that this would lead to a whole bunch of land not being available for exploration? Is that what the logic here is? I'm trying to figure out why you're saying no. Like, is there an argument to be made that if you did so, it would mean to say that a whole bunch of land would not be available to the mining industry for exploration? Is that the fear? That's the only reason I would think that you would say no.

Mr. Michael A. Brown: Well, part of the object of the Mining Act is to promote mining in Ontario, to provide the province and its people with the revenues, the jobs and the economy that you get when you have mines. If the crown owns the rights, it would seem to me that we have sections in this act which look after the private landowner, but that we want to encourage people, if we can, to prospect not just on the crown lands, but in northern Ontario on private lands.

If I'm a private landowner in northern Ontario, which I happen to be; I do happen to own my own—

Mr. Gilles Bisson: You what?

Mr. Michael A. Brown: I happen to own my own mineral rights.

Mr. Gilles Bisson: Yes, okay. That's fair. So do I.

Mr. Michael A. Brown: Most people do. I think that I would appreciate the opportunity of knowing if someone thinks there's some value there.

Mr. Gilles Bisson: Exactly. Agreed.

Mr. Michael A. Brown: So I don't really understand why we would want to do anything else.

Mr. Gilles Bisson: Well, no, that's exactly the argument, Mr. Brown. I don't want to slow this down. This is not about trying to slow this down. I'm just trying to make the point that—you and I both own property in northern Ontario. As you, I own my mineral rights. Nobody can come on my property and do exploration without my consent, period.

If you happen to buy a piece of property to which you no longer own the mining rights but it's the crown's, you could be in a situation where an explorationist would come onto your property and start to do exploration without your permission. So why wouldn't we give all

property owners the same type of protection? That's why I raised with Mr. Hillier that if the ministry feels that using the words "use any private land" is not explicit enough and we need to talk about private land to which the mining rights are owned by the crown, I'm fine with that. My argument is, we should treat property owners fairly no matter what.

That's why I ask the second question: Is there a reason why we don't want to do this? If we were not to give exploration companies the ability to get free access to private land, does that mean to say that somehow or other we would lose a whole bunch of opportunity for exploration? Because I don't know too many explorationists who wouldn't get permission. As a matter of fact, I don't know any.

Mr. Michael A. Brown: Claims, once staked, cannot be worked without an exploration plan or permit, which provides a further opportunity for landowners to—

Mr. Gilles Bisson: That's true, unless the crown owns the mining rights. If the crown owns the mining rights, once the claim is staked, by map or whatever, an exploration could—all they have to do is give notice to get onto that land. That's all they've got to do.

Ms. Catherine Wyatt: That's in the current act.

Mr. Gilles Bisson: That's right.

Ms. Catherine Wyatt: That's not what the bill says. The bill is bringing in the exploration plan and permit process, which will apply to crown mining rights where there's a mining stake.

Mr. Gilles Bisson: Okay, well, that's why I asked the question at the beginning of this. Now we're back at the beginning.

Ms. Catherine Wyatt: Yes. I thought we were getting a little confused with respect to the private property person who owns surface and mining rights and no one can explore on their land without their permission. But clearly they can't, because they won't have a mining claim on your land because they can't stake it because it's privately owned. There are no crown mineral rights, right? So that's completely separate.

1640

Mr. Gilles Bisson: That was not the argument. We're talking about people with crown—we're talking about people who have private land to which the crown owns the mining rights.

Ms. Catherine Wyatt: Yes. You were comparing private property owners to people with the crown and saying it was essentially the same.

Mr. Gilles Bisson: I'm saying, if I'm a private property owner, nobody can get access to my land. So you're now saying that under the new scheme, if I own property to which the crown owns the mineral rights—you're going to have to get permission, you're saying, under the new act?

Ms. Catherine Wyatt: What you're going to have to do is comply with the scheme that requires you to either file an exploration plan or get an exploration permit for most exploration activity.

Mr. Gilles Bisson: A follow-up question: Does the exploration plan or permit require permission from the private property owner?

Ms. Catherine Wyatt: Right now, all we've done is enable that process, and the details were to be worked out in regulations. That is something that we'd be consulting with folks on, as to how best to deal with that.

Mr. Gilles Bisson: So it's not explicit in the act, then?

Ms. Catherine Wyatt: No.

Mr. Gilles Bisson: So we're back to the main argument. If it is the intent of the government to protect private property owners by having this scheme where you have to get an exploration permit to be able to get access to do exploration—which is fine—why wouldn't we just clarify in the act, "You can't get access to private property to do exploration unless you have permission"? Because, it is the case, where I own the mining rights now—Mr. Brown and I are protected. Maybe Laura, if you bought some property now, maybe you wouldn't be protected.

So I ask: Will you agree to some form of amendment that would allow us to treat all private property owners the same so that they're protected? You cannot access that land for exploration unless you have permission. That's the question—yes or no—and then we'll move on. Is there a reason why we can't do that?

Mr. Michael A. Brown: We think their interests, at this point, will be well protected and that they will, through filing an exploration plan or re-obtaining a permit, they will obviously—I don't really know what we're gaining either way, and we believe that this is the correct way to treat this. It provides for some flexibility as we look for ways to have exploration activity with landowner knowledge—

Mr. Gilles Bisson: Knowledge, but not permission—that's the problem.

Mr. Randy Hillier: I find this really interesting that you're suggesting that this scheme of plans and permits will limit or would afford private landowners some level of protection, but it wasn't enough protection for the ONTC; there you made it explicit, right?

This bill is to promote mining in this province, and I would add, it is also the significant intent of this bill to end conflicts with mining in this province, so that mining can indeed continue on in a vigorous and robust fashion. We're seeing here that you're still allowing conflicts to be created because you are not requiring consent for private landowners where the crown retains mineral ownership. You're putting some groups, like the ONTC, off limits and giving them significant safeguards, you're giving a number of other safeguards for municipalities and cemeteries and a host of individuals or corporations, but you will not extend or apply those safeguards to everyone. What we're talking about here—let's be very clear: There's 0.4% of private land that falls in this category in northern Ontario—

Mr. Gilles Bisson: Yeah—you're right.

Mr. Randy Hillier: So we're not talking about a huge land mass. We're certainly not talking anywhere near the 42% of the province—

Mr. Gilles Bisson: The 0.4% percent in northern Ontario is pretty big; that's all I've got to say.

Mr. Randy Hillier: Sorry, 0.4% of private land, Mr. Bisson, not 4% of the total land mass.

Mr. Gilles Bisson: I'm supporting your argument.

Mr. Randy Hillier: I just want to be clear here that this is 0.4% of the private lands, far less than the 42% of the province that the government is proposing to take off limits from mining exploration under Bill 191.

Mr. Gilles Bisson: I think we have some movement here, so why don't we hear from the parliamentary assistant? Do we have movement?

Mr. Michael A. Brown: In southern Ontario, all mining rights are withdrawn. Staking rights are withdrawn, so it's not an issue, I don't think. In northern Ontario, I would suggest, though—and you might want to mull this over for a second—that if it requires absolute permission, regardless of the reasonableness of the scheme or the plan, whatever you want to call it, you may be essentially ceding the mineral claim to the landowner because he can just refuse and then take your claim. I don't think that would be in the interest of the industry or of the province of Ontario and would inhibit, I think, some legitimate prospecting and development opportunities in northern Ontario.

Mr. Gilles Bisson: That's why I posed the question the way I did a little while ago. I said, is there some reason why you think we should not grant absolute not just notification but permission to property owners that have crown mining rights, and you've just given an explanation that no, you think it will withdraw from the mining inventory—

Mr. Michael A. Brown: I'm just asking that you consider that. I think it's one of the considerations you might have.

Mr. Gilles Bisson: I ask myself the same question, because as I looked at the amendment and at the section I thought, if I'm the crown, do I really want to do this, because will I in fact be ceding my mineral rights? I understand your argument. But then I say to myself, back to the argument that Mr. Hillier makes, if it is currently the rule with 99% of private lands in northern Ontario having the mineral rights associated with them, it's not a big stretch to get the other 1% in. If it was the other way around, if the crown owned 99% of the mineral rights under private land, I think that argument has some validity. But we're looking at less that two per cent of private lands in northern Ontario to which the crown owns the mineral rights.

Mr. Michael A. Brown: It seems to us that if you're a private landowner in northern Ontario and you are concerned that someone may wish to have some kind of mining activity on your property, staking and then going through the process, what you should do is go to the ministry and ask for the crown's mining rights to be withdrawn or the staking rights to be withdrawn. That's what the remedy should be and that seems to make sense to me.

Mr. Gilles Bisson: You could do that, but it's not guaranteed that you would get the mining rights, right? To be clear, there's no guarantee that I would. So all of a sudden somebody takes interest and I own 30 acres up in Kamiskotia Lake, let's say, and I don't own the mineral rights—they're owned by the crown—there's no guarantee that if I apply to get those mineral rights, I'm going to get them. That's the problem. What we heard in Thunder Bay—what's the name of the lake again, Mr. Chair? You'd know better than I do. It's in your neck of the woods. What was it again?

The Chair (Mr. David Orazietti): I wasn't with committee—

Mr. Michael A. Brown: Wasn't it Shuniah?

Mr. Gilles Bisson: Oh, excuse me. It was Mr. Mauro. My mistake.

Mr. Michael A. Brown: Shuniah?

Mr. Gilles Bisson: Something like that. There were the people up in Thunder Bay and that was their issue. There were crown mining rights under their land.

Mr. Michael A. Brown: But if I recall, the representative of the community, once they were told that they would have the ability to ask for withdrawal, were not terribly unhappy with the situation.

Mr. Randy Hillier: So let me say this: If it is indeed the crown's intention to exercise that, should people request that the crown would withdraw, then why not just include it in the act that they are withdrawn?

Mr. Michael A. Brown: I'm suggesting to you that the crown has an interest and the people of Ontario have an interest, and so does the north have an interest, in seeing that if there is significant mineral content on those lands, the minister may decide that he wouldn't withdraw. I think that would be a remote possibility, but it is a possibility. I think the people of Ontario, particularly the people where I live, would want that to remain the same, that there is some discretion, that the minister could decide, if there was a huge possibility or a strong possibility that there are minerals to be found there and that they could be brought to market economically and provide jobs and opportunity for the communities of northern Ontario. They would want the minister to have the discretion that he has under the way we have the act organized at present. And it is different in northern Ontario.

Mr. Randy Hillier: I would say to you two things. First off, in my amendment, I used the word "consent"; you used the words "absolute permission." I don't know if there's anything other than absolute permission—permission is absolute. But I will say that if indeed you're about the rights in northern Ontario, I would suggest to the government that individual landowners, private landowners, where the crown retains the mineral rights at the present time—if the crown was really interested in finding minerals and bringing them to market, there would be no faster or better way to do it than to put those mineral rights back with those private landowners so that

there is an incentive for them to do the exploration on their own lands.

Mr. Michael A. Brown: I think we've had that debate.

Mr. Gilles Bisson: Oh, I hear you. Just for the record, the municipality that was before us, Shuniah—and I'm not pronouncing it well. It was Maria Harding, the reeve, who brought that point to us. It's a good thing that I have my notes.

The Chair (Mr. David Orazietti): Okay. I think we've heard the comments on this motion. I don't see any further comments. Conservative motion 16.1: We'll vote on this.

Mr. Randy Hillier: I'll ask for a recorded vote—

The Chair (Mr. David Orazietti): Okay, a recorded vote's been called for.

Mr. Randy Hillier: —and a 20-minute recess.

The Chair (Mr. David Orazietti): A 20-minute recess. I'd ask members to be back at 5:09.

The committee recessed from 1649 to 1709.

The Chair (Mr. David Orazietti): Committee members, we have a motion in front of us: 16.1, a Conservative motion. A recorded vote has been asked for.

Ayes

Bisson, Hillier.

Nays

Brown, Kular, Mangat.

The Chair (Mr. David Orazietti): The motion is lost.

Conservative motion 16.2—actually, one minute here: section 28. There are no other amendments in section 28, so shall section 28 carry? All those in favour? All those opposed? Section 28 is carried.

Section 29, Conservative motion 16.2. Mr. Hillier, go ahead.

Mr. Randy Hillier: I move that subsection 29(1) of the bill be struck out and the following substituted:

"(1) Subsection 51(1) of the act is repealed and the following substituted:

"'Surface rights on unpatented mining claim

"'(1) The holder of an unpatented mining claim has no right to the use of the surface rights except as permitted under this act.'"

Before I go any further, I would like to ask ministry staff for some clarification on a point here. My question is on unpatented mining claims; that's what section 51 refers to. Clearly, unpatented mining claims, in a broad sense, is crown land. But my question is, are there any types of land other than crown land where an unpatented mining claim could be recorded?

Ms. Catherine Wyatt: I can't think of it, no. because a mining claim is one that's staked on crown mining rights.

Mr. Randy Hillier: But this is—and my question is, when I read the definition of unpatented claims back at the beginning of the act, it's not just the crown mineral rights. I'll read the definition.

"'Unpatented,' when referring to land or mining rights"—in section 51 it says "unpatented mining claim." That's the heading for it. In the definition it says, "'unpatented,' when referring to land or mining rights means land or mining rights for which a patent, lease, licence of occupation or any other form of crown grant is not in effect." Because we've got some slightly—in the definition, it doesn't use the words "mining claim," but in section 51, it refers to unpatented mining claims. I'm wondering if there is any difference.

Ms. Catherine Wyatt: No. I have occasionally found the use of the term "unpatented mining claim" a bit confusing myself, but my understanding is that it is intended here to distinguish it from the case where a mining claim has proceeded on to a lease or, in the old days, a patent. Sometimes they would refer to it as a patent of a claim when they actually were referring to something different. So the unpatented mining claim is a claim that's neither a lease nor a patent, but it's a claim that has been staked out along available crown land.

Mr. Randy Hillier: Okay, so could—

Ms. Catherine Wyatt: So "unpatented" has its own definition for some reason, and that's getting a bit confusing, because there are other forms of tenure that might be considered different. But an unpatented mining claim is—

Mr. Randy Hillier: I guess my question is, can you have an unpatented claim on private property, where there is an owner of surface rights but the crown owns the mineral rights? Would that be an unpatented claim?

Ms. Catherine Wyatt: Yes.

Mr. Randy Hillier: It would be.

Ms. Catherine Wyatt: Yes. In fact, all mining claims are really unpatented, so that's why it gets confusing when you read the act. If it's not an unpatented mining claim—I mean, that is what a mining claim is.

Mr. Randy Hillier: Okay.

Ms. Catherine Wyatt: If it's patented, then they're usually referring to either a mining lease or patented mining lands that have come as a grant.

Mr. Randy Hillier: So what would be a—see, when I read this, "'patent' means a grant from the crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents." My reading of that is that patent grants—if it was a patented claim, then it would be on land that is owned by others.

Ms. Catherine Wyatt: Well, that's why we don't say "patented claim." A mining claim is unpatented.

Mr. Randy Hillier: Right.

Ms. Catherine Wyatt: If they're talking about patented land, it gets really confusing. Then it can either mean a leasehold patent, which would be a mining lease, or a crown patent sort of patent, which is your typical crown grant of fee simple. So if we're talking an unpatented mining claim, we're talking a mining claim that has been staked out in accordance with the act on land that was open for staking, which is crown mineral rights.

Mr. Randy Hillier: Well, it's unfortunate I didn't get a different answer, because if I got a different answer, then I could have maybe withdrawn this, but—

Ms. Catherine Wyatt: Oh, I thought you were going in that direction.

Mr. Randy Hillier: Well, I was. If "unpatented" could only be applicable to crown ownership of—but I understand now. It applies to crown ownership of minerals.

Well, maybe this will clear it up—

Ms. Catherine Wyatt: Okay.

Mr. Randy Hillier: I'll ask you this question: If I, as the owner of the mineral rights on my land, seek to do exploration work and extract minerals from my lands, what sort of permit would I have to get under the new act?

Ms. Catherine Wyatt: Well, you wouldn't be covered by a claim because you own those lands.

Mr. Randy Hillier: Yes. I would still have to get—

Ms. Catherine Wyatt: You would have to go to whatever other ministries might require you to—MNR, MOE.

Mr. Randy Hillier: But there would be nothing from MNDM for me to extract the minerals out of my own properties?

Ms. Catherine Wyatt: No.

Mr. Randy Hillier: Okay. Thank you very much for your clarification.

The Chair (Mr. David Orazietti): Any further comments?

Mr. Randy Hillier: Well, I'll just explain here a little bit. This is section 51, "Surface rights on unpatented mining claim," and it refers to—

Ms. Catherine Wyatt: Can I just clarify one thing? I mean, if you went all the way to a mine or something, then there are requirements further down the line on a patent where you own the mining rights.

Mr. Randy Hillier: Right.

Ms. Catherine Wyatt: But as far as this early staking and exploration—

Mr. Randy Hillier: Okay. So if I then open up a mine on my property to extract those minerals, you're saying it wouldn't be called a patented claim or an unpatented claim?

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Ms. Catherine Wyatt: At that further down stage, it's just a question of whether you're an owner or not. If you're developing a mine, then we'd be looking at closure plan requirements, potentially, for you to do mining.

At the level of advanced exploration or mine production, as long as you qualify as a proponent, and that includes an owner of mining lands, then you would have to comply with some requirements in this act. But that's at a bit of a later stage than I think you're talking about here.

Mr. Randy Hillier: But it would still be—this unpatented or patented claim would not have any—

Ms. Catherine Wyatt: Right, because they can't stake a claim or have a claim on your private land.

Mr. Randy Hillier: Okay. Let me get back to the amendment, then. Thank you for the clarification.

Under the bill right now, subsection 29(1), it says, "Subsection 51(1) of the act is amended by adding 'except the right to sand, peat and gravel' after 'surface rights'." My amendment says, "The holder of an unpatented mining claim has no right to the use of the surface rights except as permitted under this act." That whole subsection 51(1) goes through surface rights use with a mining claim.

Mr. Michael A. Brown: Is there a question?

Mr. Randy Hillier: Well, the motion is saying that under 51(1) and under Bill 173, it gives the holder of that unpatented claim the rights and usage of surface on private property. What we're saying here is that clause (1) would say that the holder has no right to the surface rights except—and we'll get through these amendments as they continue on—as permitted under this act. You'll see there are a number of other changes that I'm proposing here.

Ms. Catherine Wyatt: If I could maybe just clarify, because I think there might be some confusion about this. Subsection 51(1) is talking about giving the mining claim holder a first right to use the surface to develop the mining claim over any subsequent user. What this means is, the mining claim was there first. They have a right to use the surface ahead of anybody who comes along later and wants to use it. In other words, there's no private surface rights owner involved when we're talking about this section. This is intended to deal with crown land that's open, where there's already a mining claim.

Mr. Randy Hillier: Where does it say that—if this is intended for crown lands, then a number of these amendments will be withdrawn. But if it's not exclusive to that crown land—

Ms. Catherine Wyatt: It's the way it's set out, because it says that except as provided, the holder of an unpatented mining claim has the right prior to any subsequent right to use the surface rights. That means the mining claim is there and they get first rights over any subsequent person who comes along and says, "By the way, I want to use these surface rights for something else." That can't be done if there's already a private surface rights holder.

It's not intended to govern in that situation at all; it's intended to govern in the case where it's crown surface rights, crown mining rights and nobody else is there. There's a mining claim. Now somebody else is coming along, saying, "I want to use that surface. I want to use that property." What this says is that normally the mining claim holder who is already in place has first dibs, as it were, but we're setting out a process in the rest of 51 to talk about how to deal with conflicting land uses by other people who come along and want to do wind farms or something on the surface.

Mr. Randy Hillier: Okay. I'm going to withdraw this amendment. As I go through this, my reading of it is that

it was possibly for crown lands but not clearly stipulated. I think I'll withdraw 16.2.

The Chair (Mr. David Orazietti): All right, thank you. We can move to your next motion, which is 16.3.

Mr. Randy Hillier: And that will be withdrawn as well.

The Chair (Mr. David Orazietti): The next motion is NDP motion 16.3.1., before we come back to Mr. Hillier. Mr. Bisson, go ahead.

Mr. Gilles Bisson: I move that subsection 51(4) of the Mining Act, as set out in subsection 29(2) of the bill, be struck out and the following substituted:

"Minister's order to restrict part of surface rights

"(4) Despite subsection (1), the minister may by order impose restrictions on a mining claim holder's right to the use of portions of the surface rights of a mining claim if,

"(a) the portions of the surface rights are on lands that are considered by aboriginal communities to be sites of aboriginal cultural significance; or

"(b) any of the prescribed circumstances apply."

The argument is pretty straightforward. I made the argument the other day, and I'm not sure I want to go through the entire debate again. Simply put, it's to give First Nations the ability to determine what culturally significant sites are, so that they're in the driver's seat. They decide and they say, "This is a burial ground; this is ground that is significant to us, due to cultural reasons." They'd be deciding where those grounds are and would be able, by their own right, by notice of the minister, to withdraw those from staking.

Mr. Michael A. Brown: I will make an argument similar to the one I made the other day. What this amendment does is leave, as the member says, total identification of sites of aboriginal significance to aboriginal communities or Metis groups, or whoever, I guess.

What we would like to do is bring regulations that constitute the framework for deciding what those are; rather than deciding each individual one, have a consistent framework across all of the province to make these designations so that we have consistency. Then, whether we're in my part of the province or the northwest or wherever we happen to be, there's an agreement with aboriginal communities and Metis that these are the standards we will apply to decide cultural significance. So we'll have the same criteria used across the province in order to make these designations.

I think that is probably what would come out of a consultation with aboriginal communities, First Nations and Metis. We would proceed in that manner. We would not—and I don't think the member is suggesting that—have arbitrary decisions by various groups about what they might be. I think we do need standardized criteria for deciding what these areas of cultural significance may be.

Mr. Gilles Bisson: I guess we have a difference of opinion as to who should determine what is culturally significant. The argument that the parliamentary assistant makes is, we need a process that's established in which the crown has some control about what is culturally significant, and that you apply some standards so those standards are met across the province.

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I understand that. However, I guess where my difference of opinion would be is that I would want First Nations to develop that criteria. It's my sense that if you give First Nations this ability, they will have to develop the criteria. It's like, build it and they will come. I come from the opposite side of the argument. I don't believe that First Nations would abuse this. I think 99% of First Nations want development, just like 99% of anybody else wants development. They would be then put in the position of having to develop some criteria because it would necessitate some type of criteria. Where I'm coming from is that I'm confident that NAN and Treaty 3 and others would be able to do this and they would be the ones in the driver's seat.

Now, saying all of that, I hear the government's argument. My question to you is, in developing—part of the problem is in developing whatever the regs will be around this and what the criteria are. Is there any guarantee that First Nations will have a final say about what those criteria for what's determined to be significantly, culturally—I can't speak anymore; I'm getting like my friend all of a sudden. Is there any guarantee that, under your process, First Nations will have the say as to what is designated of aboriginal cultural significance?

Mr. Michael A. Brown: I suppose in all of life there are no absolute guarantees, but the government's position is that we believe that we and the aboriginal communities—First Nations, Metis—can arrive at a consensus position that the government can adopt. Failing that, I don't know how you solve it.

Mr. Gilles Bisson: I won't belabour the point. I think I've made my point. We have a difference of opinion. I think they should be in the driver's seat. You're saying that the government ultimately has to make the decision—

Mr. Michael A. Brown: The problem is, I'm not sure what your point is, because what you're saying is that it should be the First Nations. Which First Nations? What we're talking about is a consistent approach from one part of the province across the province, that the aboriginal communities come together to develop that consensus, and those criteria that have been developed by First Nation people, by Metis, by aboriginal people, are applied across the province by matching to the criteria that they have decided upon so that we have some consistency.

I'm not sure, under the member's suggestion, is he talking about individual First Nations? Is he talking about the various Metis organizations? We had a presentation from aboriginal peoples, I believe in Sioux Lookout, if I recall. What the government would like to do is, in consultation with our First Peoples, develop a broad consensus upon what these sites of cultural significance are and then we have a benchmark to apply to the area.

Mr. Gilles Bisson: I hear what your argument is and it's an argument put forward in the past. I just say that

from the First Nations perspective, they're not one homogeneous community as far as "nation." The sense from First Nations is that they've never given up their sovereign right to govern themselves, and the Mushkegowuk Cree or the Crees are a different nation than the Ojibwas. You may end up, yes, with a different policy from one part of the province to the other, but that's the nature of the First Nations community, so I guess we have a difference of opinion.

Mr. Michael A. Brown: I'm not sure we actually necessarily do, recognizing that certain aboriginal cultures have certain values that are different, perhaps, than others. I think that could be incorporated into a consensus position amongst First Nations, aboriginal peoples and Metis. I think what we want to do and what we're trying to do is encourage the First Nations, the Metis and the aboriginal peoples to provide us with the criteria that provides some certainty on these lands.

The Chair (Mr. David Orazietti): Mr. Hillier, go ahead.

Mr. Randy Hillier: Yes, I'd just like to add in here. When you look at this legislation, you can see why we've had so many conflicts in the past, and we can see why those conflicts are going to continue, in my view. We've talked about criteria and whatnot in previous debate on other amendments, but now we're into section 51, which talks directly and specifically about surface rights on unpatented mining claims. Here, there is no reference to the aboriginal communities. Somebody down the road will be able to point at different parts of this legislation and clearly say yes and no, that the aboriginal communities will be involved in developing criteria and making decisions.

So I may be supportive of the third party's amendment here because it does, once again, add some clarity and prevent the conflicts in section 51, surface rights on mining claims. We're now adding in the same thought and providing the same clarity for in the future when people are using this act, that yes, during the disposition of surface rights on mining claims there is—as the third party's amendment says, "the portions of the surface rights are on lands that are considered by aboriginal communities to be sites of aboriginal cultural significance." So we're putting that back in, in what happens with surface rights in the section where it's applicable. I think it provides clarity to people down the road.

Well, you can shake your head and you can frown and whatnot, but listen, we're dealing with the section about surface rights with mining claims. The amendment says, "Minister's order to restrict part of surface rights." We're including those aboriginal communities in that section. It's a good, significant and valid amendment.

Mr. Michael A. Brown: I see that Ms. Wyatt is anxious to help us with the interpretation.

Ms. Catherine Wyatt: I just wanted to clarify that, as I understand Mr. Bisson's motion, he isn't inserting the aboriginal considerations for the first time in his motion, if you see in Bill 173—

Interruption.

Mr. Randy Hillier: You're going to have to, with all the noise in the background—

Ms. Catherine Wyatt: In Bill 173, as it exists now, there is a subsection (4) which talks about restriction of service rights and speaks to portions of the surface rights on lands "that meet the prescribed criteria as sites of aboriginal cultural significance." So we are already taking into account aboriginal culturally significant sites in the bill. The difference is that Mr. Bisson is coming at it from a different direction as far as who determines when it's a site of aboriginal cultural significance and how we arrive at that decision.

Mr. Randy Hillier: Yes.

Ms. Catherine Wyatt: I just understood you to be saying it wasn't in the bill at all.

Mr. Randy Hillier: No, it says here that subsections 51(2), (3), (4), (5) and (6) of the act are repealed and then all these are included. Mr. Bisson's amendment reinforces the aboriginal component on surface rights, where it's not in those amendments right now in that part of the bill. Somebody will be able to argue under this section that we neglected to include or identify considerations from aboriginal communities.

Ms. Catherine Wyatt: I'm sorry, you're losing me again, because this is in the bill already.

Mr. Randy Hillier: In a previous section.

Ms. Catherine Wyatt: No, It's in 51(4).

Mr. Randy Hillier: Subsection (4) is repealed—

Ms. Catherine Wyatt: Well, that's in the motion.

Mr. Randy Hillier: —and the new (4) says—yes?

Ms. Catherine Wyatt: If you read the bill, you will see that subsection (4) now, as is in here, refers to surface rights restrictions where there are lands that meet "prescribed criteria as sites of aboriginal cultural significance." That's in the bill now. So that's there, and it's in section 51 about surface rights.

Mr. Randy Hillier: And the third party's amendment, "that are considered by aboriginal"—so he's—

Ms. Catherine Wyatt: I just kept hearing you saying it wasn't in the bill at all now, and people would look in future and wouldn't see it in here on surface rights, where it is. But okay.

Mr. Randy Hillier: Mr. Bisson?

Mr. Gilles Bisson: I made my point, and I think I've got a difference of opinion with the government. I'm fine for the vote.

The Chair (Mr. David Orazietti): Mr. Brown?

Mr. Michael A. Brown: I'm fine for the vote too. I think the government has made its point both here and the other day.

Mr. Gilles Bisson: Yes, and I will have further amendments later where I'll deal with this more substantively, so I'm not going to spend a lot of time on this particular—I think that it should pass. I will vote in favour, and I'm asking for a recorded vote when we get to that. But it's clear that you made your position and we have a difference of opinion.

Mr. Michael A. Brown: Agreed.

The Chair (Mr. David Orazietti): Anything further to add, Mr. Hillier?

Mr. Randy Hillier: We've talked about it. I think the government side shouldn't provide that consideration for aboriginal—that they're involved in making that determination. However, I side with the third party.

Mr. Gilles Bisson: Okay, thank you. I appreciate that.

The Chair (Mr. David Orazietti): All right. Seeing no further debate on this motion, NDP motion 16.3.1—

Mr. Gilles Bisson: Recorded vote.

The Chair (Mr. David Orazietti): A recorded vote has been called for.

Mr. Randy Hillier: And—

The Chair (Mr. David Orazietti): Are you asking for a—

Mr. Randy Hillier: I think we should take a 20-minute recess.

The Chair (Mr. David Orazietti): All right, members, we'll need to return to committee to vote on this motion on Monday or Wednesday, at our next scheduled meeting.

Mr. Gilles Bisson: Oh, we're done?

The Chair (Mr. David Orazietti): Committee is in recess until next time that we meet to vote on the NDP motion.

Mr. Gilles Bisson: Thank you.

The Chair (Mr. David Orazietti): Committee is adjourned for the day.

The committee adjourned at 1741.

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